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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
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. Helen Lloyd Coonan

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 Barnaby Thomas Gerard Joyce
Deputy Leader of the Nationals—Senator Hon. Nigel Gregory Scullion
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 John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert
Family First Party Whip—Senator Steve Fielding

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

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

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

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

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

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

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

Leader of the Opposition
Deputy Leader of the Opposition and Shadow Treasurer
Leader of the Nationals and Shadow Minister for Trade,
Transport, Regional Development and Local Government
Shadow Minister for Broadband, Communications and the
Digital Economy and Leader of the Opposition in the
Senate
Shadow Minister for Innovation, Industry, Science and Re-
search and Deputy Leader of the Opposition in the Senate
Shadow Minister for Infrastructure and COAG and Shadow
Minister Assisting the Leader on Emissions Trading De-
sign
Shadow Minister for Foreign Affairs and Manager of Oppo-
sition Business in the Senate
Shadow Minister for Finance, Competition Policy and De-
regulation and Manager of Opposition Business in the
House
Shadow Minister for Energy and Resources
Shadow Minister for Families, Housing, Community Serv-
ces and Indigenous Affairs
Shadow Special Minister of State and Shadow Cabinet Sec-
retary
Shadow Minister for Human Services and Deputy Leader of
The Nationals
Shadow Minister for Climate Change, Environment and
Water
Shadow Minister for Health and Ageing
Shadow Minister for Defence
Shadow Minister for Education, Apprenticeships and Train-
ing
Shadow Attorney-General
Shadow Minister for Agriculture, Fisheries and Forestry
Shadow Minister for Employment and Workplace Relations
Shadow Minister for Immigration and Citizenship
Shadow Minister for Small Business, Independent Contrac-
tors, Tourism and the Arts

Hon. Malcolm Turnbull MP
Hon. Julie Bishop MP
Hon. Warren Truss MP
Senator Hon. Nick Minchin
Senator Hon. Eric Abetz
Hon. Andrew Robb MP
Senator Hon. Helen Coonan
Hon. Joe Hockey MP
Hon. Ian Macfarlane MP
Hon. Tony Abbott MP
Senator Hon. Michael Ronaldson
Senator Hon. Nigel Gregory Scullion
Hon. Greg Hunt MP
Hon. Peter Dutton MP
Senator Hon. David Johnston
Hon. Christopher Pyne MP
Senator Hon. George Brandis SC
Hon. John Cobb MP
Mr Michael Keenan MP
Hon. Dr Sharman Stone MP
Mr Steven Ciobo MP

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

Shadow Minister for Financial Services, Superannuation and Corporate Law
Hon. Chris Pearce MP

Shadow Assistant Treasurer
Hon. Tony Smith MP

Shadow Minister for Sustainable Development and Cities
Hon. Bruce Billson MP

Shadow Minister for Competition Policy and Consumer Affairs and Deputy Manager of Opposition Business in the House
Mr Luke Hartsuyker MP

Shadow Minister for Housing and Local Government
Mr Scott Morrison MP

Shadow Minister for Ageing
Mrs Margaret May MP

Shadow Minister for Defence Science and Personnel
Hon. Bob Baldwin MP

Shadow Minister for Veterans’ Affairs
Mrs Louise Markus MP

Shadow Minister for Early Childhood Education, Childcare, Women and Youth
Mrs Sophie Mirabella MP

Shadow Minister for Justice and Customs
Hon. Sussan Ley MP

Shadow Minister for Employment Participation, Training and Sport
Dr Andrew Southcott MP

Shadow Parliamentary Secretary for Northern Australia
Senator Hon. Ian Macdonald

Shadow Parliamentary Secretary for Roads and Transport
Mr Barry Haase MP

Shadow Parliamentary Secretary for Regional Development
Mr John Forrest MP

Shadow Parliamentary Secretary for International Development Assistance
Senator Marise Payne

Shadow Parliamentary Secretary for Energy and Resources
Mr Don Randall MP

Shadow Parliamentary Secretary for Indigenous Affairs
Senator Marise Payne

Shadow Parliamentary Secretary for Disabilities, Carers and the Voluntary Sector
Senator Cory Bernardi

Shadow Parliamentary Secretary for Water Resources and Conservation
Senator Fiona Nash

Shadow Parliamentary Secretary for Health Administration
Senator Mathias Cormann

Shadow Parliamentary Secretary for Defence
Hon. Peter Lindsay MP

Shadow Parliamentary Secretary for Education
Senator Hon. Brett Mason

Shadow Parliamentary Secretary for Justice and Public Security
Mr Jason Wood MP

Shadow Parliamentary Secretary for Agriculture, Fisheries and Forestry
Senator Hon. Richard Colbeck

Shadow Parliamentary Secretary for Immigration and Shadow Parliamentary Secretary Assisting the Leader in the Senate
Senator Concetta Fierravanti-Wells
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 9.30 am and read prayers.

PARLIAMENT HOUSE: BREASTFEEDING

The PRESIDENT (9.30 am)—In the last parliament, the House of Representatives Standing Committee on Health and Ageing reported on an inquiry into the health benefits of breastfeeding. One of the recommendations was that the Speaker of the House of Representatives and I take the appropriate measures to enable the formal accreditation, by the Australian Breastfeeding Association, of Parliament House as a breastfeeding friendly workplace.

I am pleased to inform the Senate that the parliamentary departments have been successful in attaining accreditation as breastfeeding friendly workplaces. They will receive certificates from representatives of the Breastfeeding Association at a morning tea in Parliament House on 17 October. In attaining accreditation, the parliamentary departments have put in place policies demonstrating a commitment to breastfeeding and have also made available suitable facilities. Two small rooms in Parliament House—one in the Senate wing and the other in the House of Representatives wing—are available for mothers to breastfeed their babies or express milk at work.

The press gallery and other licensees in Parliament House will be advised that press gallery members and staff may also use the rooms. The rooms are also available for use by the staff of members and senators.

PETITIONS

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

Abortions

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

Whereas,

1. item 16525 of the Health Insurance (General Medical Service Table) Regulations 2007 provides for the payment of Medicare funds for the performance of second trimester abortions, that is, abortions as late as 26 weeks of pregnancy;
2. Medicare funds have, since 1994 paid $1.7 million for 10,000 second trimester abortions;
3. babies as young as 21 weeks gestation have been born alive and subsequently flourished;
4. 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 822 citizens)
Petition received.

Wielangta Forest

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.33 am)—by leave—I present a petition which has been organised by Ms Stephanie Kirk from Armidale, New South Wales, with more than 1,000 signatures. The petition calls for the protection of the Wielangta Forest, the swift parrot, the Tasmanian devil, the Tasmanian wedge-tailed eagle and the Wielangta stag beetle. I ask that this quite remarkable work by this young lady from Armidale be tabled.
BUSINESS
Rearrangement

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

That the following government business orders of the day be considered from 12.45 p.m. till not later than 2 p.m. today subject to the agreement by the Senate to exempt the bills from the provisions of paragraphs (5) to (8) of standing order 111:

- Archives Amendment Bill 2008
- International Tax Agreements Amendment Bill (No. 2) 2008
- Broadcasting Legislation Amendment (Digital Radio) Bill 2008

Question agreed to.

Rearrangement

Senator LUDWIG (Queensland—Minister for Human Services) (9.34 am) I move:

That, on Thursday, 16 October 2008:

(a) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with;

(b) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 4.30 pm shall be government business only; and

(c) divisions may take place after 4.30 pm.

Question agreed to.

NOTICES
Postponement

The following item of business was postponed:

General business notice of motion no. 233 standing in the name of Senator Xenophon for today, proposing an order for the production of a document relating to the Productivity Commission, postponed till 10 November 2008.
was released from the ruling Mughal Emperor, and

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

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

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

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

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

Question agreed to.

MAJOR GENERAL JANAKA PERERA
AND MRS PERERA

Senator HUTCHINS (New South Wales) (9.37 am)—I move:

That the Senate—

(a) condemns the terrorist attack in the north of Sri Lanka on 6 October 2008, which killed 28 people and injured more than 80 people;

(b) notes and expresses its sadness at the assassination in this attack of the former Sri Lankan High Commissioner to Australia, retired Major General Janaka Perera and his wife;

(c) notes the significant contribution that Major General Perera made as Sri Lanka’s High Commissioner to Australia;

(d) expresses its condolences to retired Major General Perera’s four children, three of whom live in Australia;

(e) condemns all acts of terrorism and the use of child soldiers in the conflict;

(f) expresses its deep concern about increasing violence in Sri Lanka and the worsening humanitarian situation; and

(g) urges all parties in Sri Lanka to work towards a political solution that meets the legitimate aspirations of all Sri Lankans.

Question agreed to.

COMMITTEES

Agricultural and Related Industries Committee

Extension of Time

Senator PARRY (Tasmania) (9.37 am)—At the request of Senator Heffernan, I move:

That the time for the presentation of the report of the Select Committee on Agricultural and Related Industries into pricing and supply arrangements in the Australian and global fertiliser market be extended to 2 December 2008.

Question agreed to.

MILLENNIUM DEVELOPMENT GOALS

Senator HANSON-YOUNG (South Australia) (9.37 am)—I move:

That the Senate—

(a) notes:

(i) the important work being done by the international ‘Make Poverty History’ campaign and the tireless effort of the many non-government agencies, faith groups, community organisations and individuals working around the world to end poverty, and

(ii) the impact that poverty has on child and maternal health;

(b) recognises:

(i) the 2008 United Nations report on the Millennium Development Goals that highlights maternal mortality decreased by less than 1 per cent between 1990
and 2005, far below the 5.5 per cent annual reduction needed,

(ii) more than half of the 29 developing countries are not on track to achieve the child health goal or the maternal health goal, and

(iii) each year, 34,000 mothers and more than 400,000 children die in our immediate region; and

(c) calls on the Government to work with each of the key maternal health agencies in the region, to identify the core funding arrangements they require, to ensure that Australia is actively promoting the need to reduce the current child and maternal health mortality rate in developing countries.

Question agreed to.

**DALAI LAMA**

Senator **BOB BROWN** (Tasmania—Leader of the Australian Greens) (9.38 am)—I seek leave to amend general business notice of motion No. 251 standing in my name by changing paragraph (b).

Leave granted.

Senator **BOB BROWN**—I move the motion as amended:

That the Senate—

(a) notes that the eighth round of the Sino-Tibetan dialogue is due to take place in October or November 2008;

(b) recognises the Dalai Lama’s ‘middle way’ approach to autonomy for Tibet within China; and

(c) appreciates the offer by the People’s Republic of China to host the dialogue and wishes both parties a successful breakthrough and outcome.

Question agreed to.

**ABC RELIGION REPORT**

Senator **BOB BROWN** (Tasmania—Leader of the Australian Greens) (9.39 am)—I move:

That the Senate—

(a) notes ABC Radio National’s decision to axe the Religion Report, the Media Report and the Sports Factor;

(b) notes that:

(i) the Religion Report is one of the most important programs on the Australian Broadcasting Corporation (ABC) with a rapidly growing international audience, and

(ii) this program broke the Peter Hollingworth scandal, has applied critical analysis of the Exclusive Brethren, Anglican, Catholic and Muslim religions amongst others and provided insightful commentary of various religions over many years; and

(c) calls on the ABC management:

(i) publicly to reveal all formal and informal criticisms made against this program over recent years, and

(ii) immediately to make public the reasons for this decision.

Question agreed to.

Senator **PARRY** (Tasmania) (9.39 am)—by leave—In supporting the intent of this motion and reinforcing our concerns about the ceasing of religion reports on Radio National, the coalition want to put clearly on the record that we do not support the negative insinuations contained in part (b)(ii) of this motion.

**NATIONAL CARERS WEEK**

Senator **SIEWERT** (Western Australia) (9.40 am)—I move:

That the Senate—

(a) notes:

(i) that the week beginning 19 October 2008 is Carers Week,

(ii) that there are more than 2.5 million carers in Australia today, and

(iii) the release on 14 October 2008 of a report into carers by the Australian Bureau of Statistics which stated that:
(A) almost half of all carers provided care for more than 40 hours per week, the equivalent of a full-time job, and
(b) more than 15 per cent of carers reported difficulties in paying bills and more than 20 per cent had borrowed money; and
(b) calls on the Government to ensure that carers are provided with greater access to respite services and financial support to ensure they are able to continue in their vital work.

Question agreed to.

COMMITTEES
Publications Committee
Report
Senator McEWEN (South Australia) (9.41 am)—On behalf of Senator Carol Brown, I present the sixth report of the Senate Standing Committee on Publications.

Ordered that the report be adopted.

BUDGET
Consideration by Estimates Committees
Additional Information
Senator O’BRIEN (Tasmania) (9.41 am)—I present additional information received by committees relating to estimates.

The list read as follows—
Education, Employment and Workplace Relations Committee—1 volume
Environment, Communications and the Arts Committee—2 volumes
Rural and Regional Affairs and Transport Committee—1 volume

DAIRY ADJUSTMENT LEVY TERMINATION BILL 2008
TRADE PRACTICES AMENDMENT (CLARITY IN PRICING) BILL 2008
First Reading
Bills received from the House of Representatives.

Senator LUDWIG (Queensland—Minister for Human Services) (9.41 am)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading
Senator LUDWIG (Queensland—Minister for Human Services) (9.42 am)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

DAIRY ADJUSTMENT LEVY TERMINATION BILL 2008

The Dairy Adjustment Levy Termination Bill 2008 will amend the Dairy Produce Act 1986 to finalise the Dairy Industry Adjustment Program. The Adjustment Program was established in 2000 by legislation supported by both sides of the Parliament.
To finalise the program the Bill will allow the Government to wind-up the Dairy Adjustment Authority and the Dairy Structural Adjustment Fund.

The Bill makes consequential amendments to remove references to the adjustment program in other Acts and repeal of the Acts that established the Dairy Adjustment Levy.

The Bill clarifies that activities associated with the closure of the program can be considered a cost of the program and that surplus levy funds will be returned to the Consolidated Revenue fund.
Importantly the Bill will allow the Government to terminate the Levy, paid by consumers on fresh milk, in a manner that minimises over collection. In doing so, the passage of this Bill will reduce the levies paid by Australian consumers.

**Termination of the Dairy Adjustment Levy**

The Levy has funded a number of adjustment measures to help farmers adjust to the removal of state and Commonwealth government price support measures.

These measures included 32 quarterly payments to around 13,000 individual dairy businesses over 8 years. The last scheduled quarterly payment was made in April 2008.

Given the Adjustment Program has fulfilled its purpose it is timely to terminate the eleven cent per litre consumer levy on fresh milk sales, which has funded the program.

Revenue from the Dairy Adjustment Levy is appropriated into a trust fund, which is administered according to statutory obligations, and a statutory funding agreement between Dairy Australia Limited and the Commonwealth.

Initial outlays related to the Adjustment Program exceeded income from the levy. The then government decided to use commercial loan arrangements rather than Budget funding to meet these initial costs.

While final payments have been made to farmers, the levy continues in order to pay off loan debts.

Once the levy has generated enough revenue to bring the Adjustment Fund into balance, I can remove the levy under provisions in Schedule 2 of the Dairy Produce Act 1986.

**Avoiding over collection**

The Dairy Adjustment Levy generates around $20 million per month and takes around 60 days to fully flow from consumers to the Adjustment Fund.

The Act requires the Minister to give 28-days notice before removing the levy. But the legislation provides that notice can only be given against receipted revenue.

Because of the notification process and the delay in collections being receipted, levy termination arrangements set out in the Act currently would result in around 50 million dollars being collected in excess of what is needed.

It is not acceptable to continue to collect up to 50 million dollars from consumers once the job for which it is collected is funded.

The Government is committed to terminating the levy as soon as is practical.

The amendments will allow me to consider levies paid, but not yet receipted into the adjustment fund, when declaring a levy termination date. It will also allow me to reduce the levy termination notice period from 28 to 7 days.

The department will work with milk processors to ensure this happens and that the levy is removed in a seamless manner.

The Government expects the removal of the levy to be passed onto consumers. Any complaints or suggestion of anti-competitive conduct in relation to removal of the levy will be dealt with by the Australian Competition and Consumer Commission.

**Wind-up of the Dairy Adjustment Authority**

The Dairy Adjustment Authority was established as a statutory authority under the Agriculture, Fisheries and Forestry portfolio in 2000. The Authority was created to make eligibility determinations for payments to farmers under the two largest components of the Program.

At the peak of its operations in 2000, the Authority had 83 contracted staff and a number of consultants. The Authority now has four part-time staff.

This downsizing reflects that the Authority has substantially completed its functions and can now be wound up.

I would like to acknowledge the work of the Authority and its staff over the past eight years, particularly Dr John Drinan, who recently retired from his position as Chief Executive.

Dr Drinan and the Authority have worked closely with my department over the past 18 months to finalise the Authority’s operations. From 1 July 2008 the Secretary of the Department of Agriculture, Fisheries and Forestry assumed the role of Chief Executive of the Authority.
The amendments will allow me to wind-up the Authority by Ministerial declaration after it has completed its 2007-08 annual reporting requirements and transferred its records to the department. I expect to make this declaration by early in 2009.

After the Authority is wound up, the Department of Agriculture, Fisheries and Forestry will assume the powers and functions of the Authority. This will primarily include record keeping, reporting on its 2008-09 operations and finalising any outstanding payments to farmers.

**Closure of the Adjustment Fund**

The Act provides that all revenue raised by the levy must be appropriated to the Adjustment Fund.

If this mechanism remains in place, all levy collected surplus to the needs of the Adjustment Fund must be paid to Dairy Australia.

Accordingly, this Bill amends the Act to allow the Minister to stop the flow of levy funds from the Commonwealth to the Adjustment Fund after enough revenue has been collected and the deficit in the Adjustment Fund has been eliminated.

The decision on exactly when to stop the appropriation of levy funds to the Adjustment Fund, held by Dairy Australia Limited, will be made in consultation with Dairy Australia having regard to the present debts and future liabilities of the Adjustment Fund.

Amendments will also provide for the closure of the Adjustment Fund, for Dairy Australia Limited to return surplus funds to the Commonwealth following the completion of the Program and allow surplus levy funds to be transferred to the Commonwealth.

The closure of the Fund will signify the finalisation of the Program.

**Other amendments**

Revenue generated by the levy can currently be spent on a number of legislated activities, including administration of the Program. The Bill will confirm that activities associated with the wind-up of the Authority are appropriately considered in the administration of the Program.

Wind-up activities include transfer of hardcopy files to the department and staffing costs.

I have mentioned that all scheduled quarterly adjustment payments have been made. There are a small number of outstanding payments due to administrative matters like incorrect bank details, and uncertain estate arrangements where a recipient is deceased.

The Bill includes a provision to ensure that any outstanding payments to farmers at the time the Adjustment Fund is closed can still be paid after the Authority is wound up.

The department will administer these payments. Until its wind-up, the Dairy Adjustment Authority will continue to finalise the small number of outstanding payments that exist.

**Consequential amendments and repeals**

A number of Acts require amendment as a consequence of the Dairy Adjustment Levy Termination Bill 2008.

Consequential amendments in this bill will remove references to the Adjustment Program and its various components. Affected legislation includes:

- Income Tax Assessment Act 1997,
- Remuneration Tribunal Act 1973, and

Additionally, the Bill allows for the repeal of the three Acts that set the rate of the Dairy Adjustment Levy, namely the:

- Dairy Adjustment Levy (Customs) Act 2000,
- Dairy Adjustment Levy (Excise) Act 2000, and
- Dairy Adjustment Levy (General) Act 2000.

**Conclusion**

This Bill will allow the government to finalise the Dairy Industry Adjustment Package. The Package was established to help farmers adjust to the removal of state and Commonwealth government price support measures. The objectives of the Dairy Industry Adjustment Package have been realised and it is appropriate to wrap up both the administrative arrangements and terminate the consumer levy as soon as is practicable.
I therefore urge the swift passage of this legislation through the Parliament and commend the Bill to the Senate.

TRADE PRACTICES AMENDMENT (CLARITY IN PRICING) BILL 2008

The Trade Practices Amendment (Clarity in Pricing) Bill 2006 enacts an important measure which will ensure that consumers throughout Australia can be certain of the total price they have to pay for goods and services, before they enter into a transaction.

Component pricing is the practice of displaying the price for a product as the sum of multiple parts. This practice has the potential to draw consumers in to purchases based on prices that do not fully reflect what they will ultimately have to pay. The Bill would clarify the existing approach to the regulation of component price representations.

Component pricing is currently regulated primarily by section 53C of the Trade Practices Act 1974. Section 53C provides that, where a corporation makes a representation about part of the price of a product, it must also state the cash price. The term ‘cash price’ is not defined.

In 2002, the Federal Court held that section 53C does not require disclosure of a total price, provided that consumers do not have to make a complex calculation to determine the total price. The meaning of ‘complicated calculation’ is not clearly defined and what is complex will vary between consumers.

In April 2005, the Ministerial Council on Consumer Affairs discussed the potential detriment caused by the use of component pricing where a total price is not clearly identifiable and resolved to support reforms to the Trade Practices Act. This Bill delivers on that resolution.

It is fundamental that every consumer knows how much they are going to pay when they make a purchasing decision. This Bill will ensure that when a business states the partial price of a product they will also be required to state the total price as a single figure, to the extent that it is known and quantifiable at the time the representation is made.

This Bill does not prohibit component pricing; businesses can continue to list components of a price. What this Bill will do is ensure that wherever it is quantifiable, a total single price must also be provided; and in general, it must be displayed at least as prominently as the most prominent of any component of price.

Currently the law may allow a business to state, for example, a price of $200. Then in the associated fine print it states that there are also taxes, fees and charges of $99. This could even be the case even when the taxes, fees and charges are compulsory.

So the real cost of those goods is $200 plus $99 — $299 — this is the minimum amount that a consumer could pay for that product.

This government believes that the total the consumer will pay must be prominently stated. Not just lost somewhere in a footnote, but in most cases, as prominently as the headline price that is advertised. This means that if a consumer is drawn to the $200 price, the actual price, $299, is also abundantly clear.

When this is the case the consumer will know the true cost of the goods right from the start giving effect to the original intention of section 53C.

Consumer detriment

This is an important issue, which has a real impact on Australian consumers.

We are all familiar with the consternation that is caused when compulsory elements of a price are not included in representations to consumers. Advertising of cheap airfares is probably the most widely recognised form of component price advertising. It is not appropriate that additional compulsory fees and charges are disclosed in fine print disclaimers, particularly when those additional compulsory charges may be significantly larger than the component price that is highlighted.

There is evidence that consumers are frequently concerned by the misapprehensions that component pricing can create. The Australian Competition and Consumer Commission, the ACCC, has informed me that during 2007-08, they have received around 430 complaints relating to component pricing. In addition, during the current year to date, I understand that Consumer Affairs Victo-
ria has also received around 250 complaints about component pricing. I am sure that the seven other offices of fair trading have received similar complaints. No doubt there are many other consumers who have been confused by the absence of a clear total price and did not complain to a regulator at all.

This government wants to make sure that these consumers’ concerns are addressed by enacting a new provision which ensures that the total price is prominently stated wherever possible and not buried in the fine print.

Provisions of the Bill

This Bill will replace the existing section 53C—and its associated criminal offence provision, section 75AZF—of the Trade Practices Act.

The new provision will apply to all representations about price made by a business to consumers. Where a representation is directed towards consumers and businesses, it will be within the scope of the provision. However, the provision will not apply to representations made exclusively between businesses.

The Bill requires disclosure of a single figure minimum total price, to the extent that it is quantifiable at the time of the representation concerned. In practice, the total price that a consumer will pay may depend on optional extras or bundled products that the consumer chooses to purchase—clearly, these decisions cannot be known by a business in advance. Where there are a range of compulsory but varying charges which the consumer can choose from a disclosure of the type, ‘from $500’ will remain an acceptable representation of price.

The total minimum quantifiable price must be stated as prominently as the most prominent of any other price amounts relating to the purchase. This prominence requirement does not only apply to written price representations. The total price must be as prominent in relation to television or radio advertisements where the price might be spoken as well as, or instead of, a written figure.

There is one exception to this prominence requirement in the Bill, in the case of contracts for services which provide for periodic payment. In this case the total cost of the services over the life of the contract must be stated, prominently, but does not have to be as prominent as the periodic component price.

For example, a company offering a one-year contract for services with monthly payments of $29. This Bill will require the business to state in a prominent way that the total payable is $348 for a year; however the monthly figure of $29 may be more prominent in this case. This still allows consumers to see how much that service is really costing them. It allows them to ask themselves if that’s really what they want to spend that money on. In this regard the Bill can help foster competition between substitutable goods and services by making the true cost more clearly known.

Business considerations

While the objective of these amendments is to prevent consumer detriment, there are a number of practical considerations that have been incorporated to assist business in complying with the new provisions.

First, businesses are only required to state the minimum quantifiable consideration for supply. This means that if a business genuinely cannot determine what the taxes—or some other component of the price—on a purchase will be when they make a price representation, they would not be required to state them in the total price. Of course businesses still have to comply with other sections of the Trade Practices Act. They would still have to make it clear what type of additional charges would be incurred.

Second, the Bill provides an exemption for charges relating to sending the goods from the supplier to the customer. Such charges, which include genuine postage and handling charges, need not be included in the single figure total price, although they may be included if the business wishes to do so. However, where the only way the goods can be purchased is by delivery, and the costs are known, those costs must either be included in the total or disclosed in the representation as a separate amount.

Third, financial services will not be covered by this Bill. Currently, section 12DD of the Australian Securities and Investments Act 2001 mirrors section 53C of the Trade Practices Act. The Government does not propose to amend the ASIC Act. This will allow the current disclosure regime for
the financial services sector to continue. Given
the extensive disclosure regimes that apply spe-
cifically in relation to financial services, the Gov-
ernment believes that amendments to section
12DD of the ASIC Act would create uncertainty
for business about their disclosure requirements,
without providing any significant benefit to con-
sumers.

Fourth, this new provision will not apply to repre-
sentations which are exclusively between bodies
corporate. Generally, business customers are less
likely to rely on headline prices than general con-
sumers. Any benefits associated with clearer
pricing practices would be likely to be out-
weighed by reduced flexibility in businesses’
ability to determine the most appropriate format
for representing prices.

So, this is a balanced measure from a Govern-
ment which understands the regulatory burden
and seeks to minimise its impact on business
wherever possible while delivering the best out-
come for consumers.

This Bill will ensure that consumers will know
how much they are really going to be asked to
pay when they see an advertisement in the news-
paper, on television, or are given a quotation.

This measure increases transparency in pricing
and further empowers consumers to make the best
purchasing choices possible.

**Minor and technical amendments**

The Bill also makes minor and technical amend-
ments to correct previous drafting errors in the
TPA. These can be categorised into three types.

First, the Bill amends the extended application
provisions at section 6 of the Trade Practices Act
to cross reference the pyramid selling section
provisions at Division IAAA of Part V, rather
than the repealed section 61.

Second, the Bill clarifies that breaches of product
safety and information standards made under
section 65E may be a criminal offence.

Third, the Bill amends section 75 of the Trade
Practices Act to provide that State and Territory
fair trading laws equivalent to Part VC operate
concurrently with the TPA.

Ordered that further consideration of the
second reading of these bills be adjourned to
the first sitting day of the next period of sit-
tings, in accordance with standing order 111.

Ordered that the bills be listed on the No-
tice Paper as separate orders of the day.

**FINANCIAL SYSTEM LEGISLATION
AMENDMENT (FINANCIAL CLAIMS
SCHEME AND OTHER MEASURES)
BILL 2008**

**FINANCIAL CLAIMS SCHEME (ADIs)
LEYV BILL 2008**

**FINANCIAL CLAIMS SCHEME
(GENERAL INSURERS) LEVY
BILL 2008**

**First Reading**

Bills received from the House of Repre-
sentatives.

**Senator Ludwig** (Queensland—
Minister for Human Services) (9.43 am)—I
move:

That these bills may proceed without formali-
ties, may be taken together and be now read a
first time.

Question agreed to.

Bills read a first time.

**Senator Ludwig** (Queensland—
Minister for Human Services) (9.43 am)—by
leave—I move:

That the provisions of paragraphs (5) to (8) of
standing order 111 not apply to these bills, allow-
ing them to be considered during this period of
sittings.

**Senator Bob Brown** (Tasmania—
Leader of the Australian Greens) (9.44
am)—We will not oppose that, but I do note
with very great concern that not only will the
cut-off not apply to this enormous legislation
but there will be no Senate committee of in-
quiry, and I expect that the government will
be justifying that process. Given the circum-
stances, we are not going to oppose the mo-
tion, but it does put enormous pressure on
the Senate to handle very complicated legis-
lation with an enormous impact on the na-
tion. I want to register the concern that the Greens have that there is no consultation with the public, with business, with the sectors that are particularly involved in this process, and that, we submit, is not good parliamentary procedure. The government has a very serious responsibility here for any untoward effects coming out of this legislation because we are not going through the normal prudent process of a proper Senate inquiry into legislation of this magnitude.

Senator LUDWIG (Queensland—Minister for Human Services) (9.44 am)—I table a statement of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statement incorporated in Hansard. I note Senator Brown’s comments and thank him for his concurrence.

Leave granted.

The statement read as follows—

Purpose of the Bills
To introduce measures to protect depositors and policyholders in the event of a failure of a financial institution by making provision for a Financial Claims Scheme applying to general insurers and authorised deposit-taking institutions, and broader crisis management arrangements to enhance the options available and facilitate the management of financial institution failures.


Reasons for Urgency
The Australian financial system is strong, well-capitalised and well-regulated, as indicated by the Australian Prudential Regulation Authority.

In light of ongoing market turbulence and announcements made by other countries in recent days it is necessary to give confidence that Australian deposits are safe and to ensure that all available arrangements are in place for financial system regulators to deal with any distress that may occur in the financial system.

(Circulated by authority of the Treasurer)

Question agreed to.

Second Reading

Senator LUDWIG (Queensland—Minister for Human Services) (9.46 am)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

FINANCIAL SYSTEM LEGISLATION AMENDMENT (FINANCIAL CLAIMS SCHEME AND OTHER MEASURES) BILL 2008

In recent weeks the global financial crisis has entered a new and dangerous phase, with inevitable consequences for the Australian economy.

Over the past 12 months we have witnessed the unfolding of significant dislocation in global financial markets which had its beginnings in the US sub-prime mortgage market.

This has led to unprecedented actions being taken by central banks and Governments around the world.

The need for early and decisive action by Governments was a central theme of all of my discussions at the IMF and G20 over the weekend.

Minister’s also noted the importance of countries moving in a coordinated fashion, so as to avoid being negatively impacted by the responses of others.

As a result, a number of Governments have moved in the past few days to strengthen their banking systems and protect depositors, including Australia.

We have not experienced the same degree of dislocation as in other markets, but, as I have said on many occasions, we have not been immune.

The Australian banking system continues to demonstrate its resilience to the international financial market turbulence.
Australian authorised deposit-taking institutions (ADIs) remain sound, well-capitalised and well regulated with high asset quality.

No depositor of an institution supervised by APRA, or before that the Reserve Bank, has ever lost money.

Nevertheless, confidence is fragile following the failures of a number of large international institutions and has caused significant falls in global equity markets and elevated spreads in international and domestic funding markets.

Our job in this time of unprecedented turbulence is to ensure the confidence in Australian financial institutions is maintained.

We also have a responsibility to ensure that our strong institutions are not placed at a material disadvantage to the weaker institutions of other jurisdictions as a result of the actions of other governments.

The Government has therefore announced unprecedented action to deal with developments in global markets to ensure stability for Australia’s financial system, to maintain our institutions’ ability to attract new funds for investment in the Australian economy, and to enhance and strengthen Australia’s regulatory framework for managing financial institutions in distress.

The Financial System Legislation Amendment (Financial Claims Scheme and Other Amendments) Bill 2008 implements the measures announced by the Government on 12 October and 2 June this year.

It legislates for the Government’s guarantee of deposits in Australian banks, building societies and credit unions and Australian subsidiaries of foreign-owned banks.

This will operate for a period of three years and is being implemented as part of the Financial Claims Scheme.

As noted by the Prime Minister on Sunday, the Government will examine a cap on the guarantee after three years.

The Financial Claims Scheme covers deposits offered by ADIs and general insurance products offered by Australian Prudential Regulation Authority (APRA) regulated insurers in the event of an institutional failure.

It will ensure that depositors and beneficiaries under an insurance contract have access to funds in a timely manner following the failure.

The Bill also includes changes to the regulatory framework to enhance the powers of APRA to more seamlessly manage distressed financial institutions.

**Interaction of deposit and wholesale borrowing guarantees**

In addition to the guarantee on deposits, the Government will also guarantee eligible wholesale borrowing of Australian banks, building societies and credit unions and Australian subsidiaries of foreign-owned banks.

The Government is consulting on the interaction between this guarantee on eligible wholesale borrowing and the guarantee on deposits.

If desirable, the Government will proceed with measures to clarify the intersection of these guarantees and facilitate their operation.

This intersection is particularly important in relation to the market for short term bank securities.

The Government will ensure that the short term money market remains viable and that the deposit guarantee does not provide disincentives for market participants from operating in this market.

**The Context**

While global market conditions have heightened the need for change, some measures being introduced have a history that dates back to the recommendations of the HIH Royal Commission in 2003.

A review in 2005 by the Council of Financial Regulators—which includes the heads of the APRA, the Australian Securities and Investments Commission (ASIC), the Reserve Bank of Australia (RBA) and the Treasury—found a strong case for introducing a mechanism to provide both depositors in ADIs and policyholders in APRA-regulated general insurers with access to their funds in a timely manner should a financial institution fail.

In 2006, the International Monetary Fund (IMF) encouraged jurisdictions to improve their management frameworks and recommended that Australia continue to develop formal processes to
manage the failure of institutions and broader disturbances.

In April this year, the Financial Stability Forum in its Report of the Financial Stability Forum on Enhancing Market and Institutional Resilience recommended that governments worldwide should review and, where necessary, strengthen deposit insurance arrangements.

And at the IMF and G20 meetings I attended at the weekend, it was widely agreed that countries should review and enhance the protections offered for their depositors.

Given the broad reliance on financial institutions in undertaking day-to-day economic activity, the ramifications of financial institution distress and current international events are significant.

**The Financial Claims Scheme**

The Financial Claims Scheme, in the event an institution fails, will provide depositors in ADIs with timely access to their funds and ensure that eligible general insurance policyholders have their claims met.

The Financial Claims Scheme will be administered by APRA.

**ADIs**

Deposits in Australian deposit-taking institutions will be guaranteed for a period of three years.

Until 12 October 2011, the Financial Claims Scheme will cover these products regardless of the currency in which they are held.

The Financial Claims Scheme will cover these products offered by authorised deposit-taking institutions including Australian subsidiaries of foreign owned banks.

After three years the general provisions of the Financial Claims Scheme will come into operation.

At that point, the Government will consider the introduction of a cap applying to the payments to depositors under the scheme.

**General insurance**

For eligible beneficiaries under a general insurance policy, the Financial Claims Scheme will mean that if their institution fails they will continue to receive compensation for claims, equivalent to the value of their claims less any excess or deductible amounts.

Policyholders will retain insurance coverage for a 28 day period to enable them to find an alternative insurer.

**Funding and recovery of payments**

The Bill provides appropriations for the Financial Claims Scheme to cover the full guarantee.

However, this is not a handout for the benefit of shareholders, company executives or other creditors at a cost to taxpayers.

APRA will recover monies through the liquidation of the failed institution, with APRA to stand in place of those depositors and policyholders assisted by the scheme.

In the unlikely event that recovery of all monies was not possible, the legislation provides a mechanism for a levy to be imposed on remaining ADIs or remaining general insurers.

This mechanism is introduced under the Financial Claims Scheme (General Insurers) Levy Bill 2008 and the Financial Claims Scheme (ADIs) Levy Bill 2008 which I am also introducing today.

**Broader crisis management arrangements**

Turning to other arrangements...

Not only do failed institutions require appropriate management of their closure, in times of crisis there will also be a need to effectively manage institutions in distress — at a time when an institution is not insolvent.

Recently we have witnessed a range of measures being utilised overseas to permit the business of an institution to continue.

The Bill builds on existing transfer of business provisions to provide powers that can be used to facilitate resolution options in a wider range of circumstances.

For example, these might include the acquisition of the business of a distressed institution by a healthy institution.

It introduces new measures to allow APRA, a statutory manager or judicial manager to facilitate the recapitalisation of a distressed ADI, general insurer or life insurer, such as by issuing new shares to a new investor.
The Bill also introduces a number of measures to significantly improve the prudential framework applying to general insurers.

The Bill provides APRA with an improved capacity to initiate external management of general insurers.

The Bill will bring APRA’s powers for general insurers in line with those currently existing for life insurers, and again provide consistent powers to deal with failing institutions across the ADI, general insurance and life insurance sectors.

APRA will have the power to apply to the Court to appoint a judicial manager for a distressed general insurer, whose duty will be to protect policyholders and maintain financial system stability.

APRA’s power to intervene in the external administration and winding up of a general insurer in distress will also be strengthened to protect policyholders’ interests.

It is also proposed that statutory and judicial managers be required to inform and consult with APRA where their actions may impact on financial system stability when discharging their responsibilities.

**Conclusion**

This Bill is historic, and it forms part of a concerted multi-nation response to the impacts of the global financial crisis.

Never before has the Australian Government moved to protect depositors in the way we are doing today.

The Government has a commitment to working families, to ensuring the economic prosperity of the nation, and to ensuring the security of our financial system.

This Bill goes some way towards meeting these objectives.

The Bill substantially enhances the prudential framework, it puts in place the financial claims scheme, and it gives APRA the powers to respond more swiftly and decisively to deal with institutional distress.

The measures in the Bill will allow ordinary Australians, and their financial markets, to move ahead into the future, with confidence.

Further details are contained in the explanatory memorandum.

**FINANCIAL CLAIMS SCHEME (ADIs) LEVY BILL 2008**

As I noted in my second reading speech to the Financial System Legislation Amendment (Financial Claims Scheme and other Measures) Bill 2008, APRA will recover monies through the liquidation of the failed institution, with APRA to stand in place of those depositors and policyholders assisted by the scheme.

In the unlikely event that recovery of all monies was not possible, the legislation provides a mechanism for a levy to be imposed on remaining ADIs or remaining general insurers.

This mechanism is introduced under the Financial Claims Scheme (ADIs) Levy Bill 2008.

Further details are contained in the explanatory memorandum.

**FINANCIAL CLAIMS SCHEME (GENERAL INSURERS) LEVY BILL 2008**

As I noted in my second reading speech to the Financial System Legislation Amendment (Financial Claims Scheme and other Measures) Bill 2008, APRA will recover monies through the liquidation of the failed institution, with APRA to stand in place of those depositors and policyholders assisted by the scheme.

In the unlikely event that recovery of all monies was not possible, the legislation provides a mechanism for a levy to be imposed on remaining ADIs or remaining general insurers.

This mechanism is introduced under the Financial Claims Scheme (General Insurers) Levy Bill 2008.

Further details of the Bill are contained in the explanatory memorandum.

Debate (on motion by Senator Ludwig) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.
COMMITTEES
Community Affairs Committee
Report

Senator SIEWERT (Western Australia) (9.47 am)—I present the report of the Senate Standing Committee on Community Affairs entitled Building trust: supporting families through disability trusts, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT—by leave—I move:
That the Senate take note of the report.

It is with great pleasure that I present this report to the Senate. I am actually very pleased to be the one who is presenting the report to the Senate, because it was the Greens that referred this issue to the community affairs committee for inquiry—with very strong support from the coalition and the government, I will add.

The issue of special disability trusts is a very important one for the community, and for the disability community in particular. As we all know, the previous government moved to change the Social Security Act to enable the establishment of special disability trusts. Unfortunately, what has happened is that some fundamental problems have been built into the legislation that have prevented members of the community taking up disability trusts. While there have been a lot of inquiries to FaHCSIA about how to establish trusts, at the time of starting the inquiry only about 26 such trusts had been established. Some of the key things that have been blocking the establishment of these trusts have been, for example, the quite strict eligibility requirement, which has meant that a lot of people have been unable to set up trusts. As I understand it, those people with children who have intellectual disabilities in particular have had quite a bit of trouble setting up trusts. It is important to reiterate why these trusts are important: these trusts are so that parents can set up a financial mechanism to ensure that their children are looked after into the future after the parents have passed on.

Some of the things that have been preventing these trusts being set up are the eligibility criteria and the very strict limits on what the trusts can be spent on—for example, they are only to be spent on issues that relate specifically to someone’s disability. How can you separate someone’s general wellbeing and care from their disability?

Other issues relate to capital gains. The rules that operate for these trusts, for example, are quite different from the rules that operate for anybody else who is trying to buy their own home. For example, one of the key areas is to enable somebody to own a home under this trust. If a person with a disability whose home is owned through a trust needs to move and sells their home, they have to pay capital gains tax on it. However, if you or I want to move and are selling our homes, we do not have to pay capital gains. Those are just some of the examples of the problems with the trusts.

I am very pleased to say that the report makes a series of 14 recommendations. The last but by no means least important recommendation—or most important, for that matter—is that we change the name of ‘special disability trusts’, because people felt that calling them special disability trusts actually stigmatises the trusts. So we think we need to look at renaming them, to something like ‘disability support trusts’, for example, so it is clear what these trusts are about.

Some of the key recommendations of the report are: changing the eligibility criteria for these trusts and increasing the asset limit. At the moment the asset limit on the trusts is half a million dollars. That is not considered
adequate in this day and age—I should point out that this is another unanimous report of the community affairs committee; we strive very strongly for unanimous reports in the community affairs committee—so we are recommending that the limit on the trusts be set at $1 million. We are also advocating that people do not have to pay capital gains tax on their homes in the trust. There are a set of key recommendations around that.

We are also recommending that what the trust can be spent on is broadened. We recommend:

... that the allowable uses of special disability trusts be expanded to include all day-to-day living expenses that are met to maximise the beneficiary’s health, wellbeing, recreation and independence.

This is a very important recommendation. As I touched on before, one of the problems that people have been raising about the trusts is the very limited nature of what you can spend the trust money on. We are saying that it needs to be for the whole of the person’s wellbeing—for their recreation, so that people can actually go on a holiday like able-bodied people can. Imagine if you could not go on a holiday—if you could not afford to go on a holiday. A person who is the beneficiary of a trust cannot use their money to go on a holiday. How ridiculous is that? So we are recommending that they be able to use the trust on recreation and—very, very importantly—indeed. It is very important for a person to be able to use this money to enable their independence.

We also recommend:

... that unexpended income from a special disability trust be able to be contributed, on a pre-tax basis, to a superannuation fund for the trust beneficiary.

We think that is very important. There are also other issues. Would you believe that a person buying their first home with this trust cannot get the First Home Owner Grant, even though it is their first home? Yes, I see Senator Cormann looking at me, but a person trying to buy their first home through this trust cannot get the First Home Owner Grant. The committee think that is an issue of concern as well, so we are recommending that that also be changed.

There are other issues. If the trust earns a little bit of money and it is not expended that year, it has to pay the highest marginal tax rate. Again, we do not think that is fair, considering what we are trying to do here. It seems to me that, when setting up the trusts, we lost sight a little of the fact that this is to enable somebody to have a decent life and be supported in living with their disability. So we think that we need to relook at that to make sure that the trusts are really delivering for the purposes for which they were set up in the first place.

Just before I finish, I would like to very quickly acknowledge ex-Senator Kay Patterson, who established these trusts. She was the minister responsible at the time when we first started discussing setting up these trusts, and she put a great deal of effort into this. She presented very, very valuable evidence to the committee and is very, very keen to see the legislation amended to deliver what was intended in the first place. She was very clear that many of the things that she suggested were what the government at the time was trying to achieve. I would really like to acknowledge her contribution to the debate and her contribution to making these trusts work.

I strongly commend this report to the Senate and to the government. I beg the government, please, to take these recommendations on board now. I know they have the disability expenditure team and review looking at this issue, but we have looked at it. We know what we need to do. Please, government,
take on board these amendments and recommendations now. Let us get this fixed so that this facility is actually delivering outcomes for people with disabilities and their parents and carers.

Senator BOYCE (Queensland) (9.55 am)—I rise to support wholeheartedly the comments of the Deputy Chair of the Senate Standing Committee on Community Affairs, Senator Siewert, on the report *Building trust: supporting families through disability trusts*. It certainly was through her efforts that this inquiry happened at the rate that it did, and it was desperately needed. I would also like to thank everyone else on the committee for the work that was done and particularly the witnesses, who went to a lot of effort to be involved and to give us their thoughts in a very organised way. I am always particularly grateful when people with disabilities or the parents of people with disabilities can take the time from lives that are often very, very time poor to assist the Senate community affairs committee with its inquiries.

I feel that I was in a somewhat unique position with regard to this legislation. I was a member of the ministerial advisory council established by the then minister, Senator Kay Patterson, to guide how these special disability trusts would be established and the input around them. As Senator Siewert said, it would make a fascinating test case, I think, to look at what can happen to intentions between when they leave the minister’s desk and when they arrive as legislation somewhere else.

The ministerial advisory council was composed of people like me, parents of people with disabilities, experts in the field of trust law and public servants, so we had a broad coverage. We were very, very keen to make these trusts as workable and as easy to use as possible. Unfortunately, what we ended up with was very bound around, very constrained legislation that did not fulfil what were considered to be reasonable eligibility requirements, nor did it fulfil what were considered to be reasonable uses to make of the money. As Senator Siewert has pointed out, it was almost impossible for what we ended up with to be of any use, particularly to people with intellectual disabilities. All the allowable uses of the trust money, in the main, ended up being for care and accommodation. Certainly, if you needed specialised equipment or specialised medical services, you could probably use the trust moneys for those, but, if you were not sick but had a disability, there was very little you could do with the funds from the trust. In fact, we heard evidence during the inquiry of situations where the trust had bought a house, a home, for someone but then there was a quibble as to whether the trust funds could be used to purchase the refrigerator for that house because, of course, everyone needs a refrigerator—it is not relying on your disability to need a refrigerator. But where do those funds come from if they cannot come from the trust? We had something that was neither fish nor fowl.

The way this trust legislation ended up working was that it tended to simply reinforce the somewhat paternalistic attitude that governments over years and years have had towards people with disabilities. This was also bound around to ensure that people behaved themselves and that there was no room in there for anyone to behave in an independent fashion. I am always somewhat bemused by the fact that we can give people the dole without being too concerned that they are going to misspend it. We cannot do the same for people with disabilities. We hedge all their funds around because the first assumption—not the last assumption but the first assumption—that is often made is that those who care for people with disabilities will exploit and abuse them. I agree that
people with disabilities are vulnerable and they do need protection, but the attitude that is often implied towards people with disabilities and their carers is that they are all out pretty much full time to rort the system. As I think most of us know that is absolutely not true, and we need to proceed with this matter urgently.

Senator Siewert pointed out that our very first witness was the former minister, Senator Kay Patterson, who pointed out that what had transpired here had certainly not been what she had had in mind in the first place. These trusts would, if our recommendations were accepted, allow people to have up to a million dollars indexed in the trust plus a primary place of residence. Senator Patterson was the one who pointed out the complete and total inequity which under our current laws says that if you do not have the intellectual capacity to own a home in your own right you are penalised for that by having to pay capital gains tax and other duties that no-one else has to pay on their own principal place of residence. This is not reasonable or fair, and we are recommending that that be one of the most urgent changes made.

When the trust laws were first put out, I travelled around sometimes with Senator Patterson telling people about what the possibilities of this trust were and you found that lots of parents and carers of people with disabilities, lots of people with disabilities themselves, were blown away at the prospect that they might have to find the limit you can have in the trust—which I think is $532,000 at the moment. People were saying, ‘There is no way known that I will ever have $532,000.’ No, it is ‘up to’ $532,000 and we took evidence that $200,000 would be a starting point for a trust. But then you run into the problem of how to save up that amount of $532,000—or we hope it will be a million. You cannot put it in the trust because unexpended income is taxed at the very punitive 46½ per cent rate, so you cannot save it in the trust. If you save it outside the trust you create the situation where you will come to fail the income and asset tests applying to people with disabilities. So again we would set it up as a catch-22 that did not assist people with disabilities.

These changes to the special disability trusts are very positive if we can have the principle accepted that, irrespective of your ability to own your principal place of residence in your own name, it should not be subject to capital gains tax. If we accept the principle that people who receive the disability support pension meet those criteria and are eligible to take on the trusts, we will vastly improve the situation, as we will if we accept that this money can be used by the trustees to build a good life, irrespective of what that means. I am not quite sure why we are always not quite so concerned about people with disabilities having good lives rather than okay, average, bread and butter, never anything more lives. There seems to be almost a punitive attitude in some areas towards people with disabilities enjoying the sorts of things that everyone else has a right to enjoy. The way these trusts need to function is to see them almost like a form of superannuation for people with disabilities. We do not object to superannuants having the capacity to have a bit more than people just on the pension. I do not see why we cannot apply it to this situation and I would support Senator Siewert in pointing out that getting this legislation through and changing these trusts so they are taken up by families is urgent.

Senator BERNARDI (South Australia) (10.05 am)—In rising to speak to this report on disability trusts by the Senate Standing Committee on Community Affairs I would like to reflect on the effectiveness of how the committee actually operates. I am not a full member of it; I am a participating member.
In my experience, it is a true model of how cooperation can actually make great outputs and a meaningful difference to people's lives. The members of the committee take their responsibilities very seriously and they work very hard at working together to get the very best possible outcome. One of the issues that the committee deals with is disabilities. They have done so in this report in talking about special disability trusts and working to get an outcome that could potentially make an enormous difference to the lives of the tens of thousands of Australians who do it tough and for the carers who look after them and who are concerned for the future of those with disabilities. We have to recognise that in dealing with disabilities we have to do things better. Governments should continually strive to deliver better services and make available greater options to those who are living with disabilities and their carers.

Special disability trusts will have a continuing and growing importance in how we manage the affairs, the flexibility and the options of those who are affected by them or who could benefit from them. They were a great idea—introduced by Senator Patterson—whose time will come. The initial legislation that was introduced does need to be changed to reflect an enhanced or more beneficial outcome, and that is really what this report does.

The committee have worked very effectively. Their approach to this matter was outstanding. All the witnesses and committee members are passionate about making a difference in the lives of those with a disability and ensuring that we can provide the best possible services for them. The recommendations, as has been canvassed at length by Senator Boyce and Senator Siewert, deal with such important issues as accommodation. We have gone to great lengths in the coalition government, but also I acknowledge it is the Rudd government's intention, to make sure Australians can still own their own home and stay in their own home when they can. The committee want that option to be available for those with a disability. We need to make sure that they benefit from the same sorts of tax benefits or benefits that other Australians do, and particularly where there may be an inequity such as where their assets are controlled through a trust structure like a special disability trust.

The other important thing is that the committee have recommended that compliance be reduced for these trusts. We have based this on the assumption that people do the right thing most often. They want an effective outcome. We should not be looking for the needle in every haystack; we should be assuming that people are going to do the right thing. Through a not onerous but rigorous compliance regime, we can ascertain where any malfeasance occurs. I commend the committee on this report. I think they have done an outstanding job, and I urge the government to enact these recommendations. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

FINANCIAL SYSTEM LEGISLATION AMENDMENT (FINANCIAL CLAIMS SCHEME AND OTHER MEASURES) BILL 2008
FINANCIAL CLAIMS SCHEME (ADIs) LEVY BILL 2008
FINANCIAL CLAIMS SCHEME (GENERAL INSURERS) LEVY BILL 2008

Second Reading
Debate resumed.

Senator COONAN (New South Wales) (10.10 am)—These bills, the Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Bill 2008, the Financial Claims Scheme (ADIs) Levy Bill 2008 and the Financial Claims
The Scheme (General Insurers) Levy Bill 2008, have been brought before us in order to establish a financial claims scheme to provide an unlimited, explicit guarantee for bank deposits. It is probably fair to say that most people in Australia had a reasonably based assumption that there was already in place at least an implicit guarantee that their bank deposits, particularly with the major banks, were guaranteed. But these bills contain significant mechanisms to both maintain and build confidence in Australia’s financial system. Australia does have a depositor protection scheme in place whereby authorised deposit-taking institutions must have in place assets held in Australia equal to or more than the deposit liabilities that they have. Depositors in this country also have first claim to the assets of an authorised deposit-taking institution. But in these uncertain times greater assurance is required, particularly to assure depositors with institutions other than the big four banks that their deposits are safe, because authorised deposit-taking institutions also include building societies, credit unions and so on.

I think it is fair to say that Australia is in a far better position than many other countries to withstand the shocks from the financial crisis. We have heard that assurance given repeatedly over the past days and weeks. Our financial system is safer than many and we are therefore better prepared than most other countries to withstand the financial crisis. I have to say, however, that that does not result just from luck. In fact, the soundness of Australia’s financial system reflects some 10 to 12 years of responsible economic management and the application of targeted and carefully calibrated financial principles by the previous Howard government.

Australia’s financial institutions have served the economy well and continue to do so. The Reserve Bank is keeping an eye on inflation and providing systemic stability to underpin our entire financial system. Senators will recall that the Australian Prudential Regulation Authority, which was set up in 1998 by the Howard government as a result of the Wallis inquiry recommendations, provides careful prudential supervision that perhaps is not present in some overseas systems. The supervision is of a systemically important kind. It supervises institutions such as authorised deposit-taking institutions and life and general insurance companies. The Australian Securities and Investments Commission is providing oversight of corporate law. It has been called on recently to make some judgement calls in relation to the issue of short selling during the month of September. And the Australian Treasury oversees policy development and forecasting at both macro and micro level. So these institutions interact and coordinate to ensure that our economy does have strong prudential regulation and supervision, and their roles are complemented by the competition regulator, the Australian Competition and Consumer Commission.

These institutions were, as in the case of APRA, created or, as in the case of others, had their mandate strengthened by the coalition when in government, and I think we can be confident that the measures contained in these bills will be competently administered by the appropriate one of these institutions, the Australian Prudential Regulation Authority. In the highly unlikely event that an Australian institution collapses, these bills will provide depositors with the security that their funds will be available to them in a short period of time. The guarantee will apply for three years to all deposits in authorised deposit-taking institutions. The scheme will also provide compensation to eligible policyholders of general insurance in the event of a failure by a general insurer. Finally, the bills strengthen APRA’s ability to manage a distressed authorised deposit-taking institu-
tion, general insurer or life insurer should that be required. In addition, the two related bills provide for the imposition of a levy on authorised deposit-taking institutions and on general insurers in the event of the activation of the Financial Claims Scheme in relation to the failure of an ADI or general insurer.

However, there are some risks with these bills that need to be addressed by the government, in our view. While we do support the bills—and I stress that—we also recognise that there are risks in providing such a guarantee to depositors. As with all areas of government, the bills require careful analysis and will require prudent management once they are passed. While the bills before us have been under consideration, it would seem, for some months, the idea of a financial claims scheme has now considerably changed in scope from the original capped scheme which proposed a limited explicit guarantee of $20,000. That was about timely access to at least some funds in the event of a failure to meet deposit liabilities rather than ensuring that the entire deposit was covered and available in a short period of time.

I believe that the government should be upfront and should acknowledge in the debate here today that the speed with which these greatly changed bills have been brought forward does mean that analysis available to the government for decision making has been hurried—to put it at its mildest. The opposition has had even less information, I am sorry to say, and less time to consider that information than the government, so there are a number of unanswered questions. Lest it be said that the opposition is quibbling about this package, I want to make it perfectly clear that it is our job, and I think the taxpayers of Australia would expect nothing less than us at least flagging some of the concerns that we have had in looking very quickly at these bills.

There has, as I understand it, been a limited briefing from representatives of Treasury and the government, but there are a number of issues which need to be watched very closely, and critical information is still required. The public and those financial institutions that are affected by these bills, both those that are included and, more particularly, those that are excluded from its coverage, are largely in a position of simply having to trust the government on this one. That is never a comfortable position to be in, and there are some unanswered questions about those institutions not guaranteed. The answer to it, no doubt, is that, not being regulated by APRA, it is very difficult to supervise and some of the institutions not covered are in fact very small, but there are some legitimate concerns that will need to be addressed by the government in relation to those not guaranteed, including cash management trusts, property and share trusts and mortgage trusts, just to mention a few.

In the House of Representatives there has been a debate about the significance and importance of having the government level with or come clean with the Australian people and provide publicly and through the parliament a full statement of the information and analysis that the government has received on the important decisions that it has been taking over the past couple of days. The $10.4 billion package announced on Tuesday, which I want to bring up, has been designed to act as a fiscal stimulus for the Australian economy, but there has not been very much information surrounding the announcement of that package. There was a press release and a statement by the Prime Minister and no doubt other public statements, but none of the serious accompanying material that you would expect—no Treasury papers or advice and no revised forecasts. In the circumstances, we think that all the usual advice, data and information that you would
expect to see supporting the announcement of a $10.4 billion spend should be forthcoming and made available forthwith.

I also want to raise the major issues relating to protection of the taxpayer. We want some information about what is going to happen with guarantees offered to banks in respect of wholesale term funding, which are enormous sums of money borrowed from international markets and may result in losses by banks being transferred to the account of the taxpayer. Our main motivation here in raising these issues is the protection of the taxpayer. In the House of Representatives and the Senate information has been sought about that. We have asked questions about whether there will be additional prudential supervision requirements and what the conditions will be of providing a guarantee of this kind. The Prime Minister could have provided the parliament with a substantive answer or simply said that they are still working on the detail, which we would have appreciated. But we got a very indignant response, and that has been reflected here in the Senate with responses to questions about the package and the bills that we are looking at today.

The wholesale term guarantee must be structured in such a way that there is an exit plan, because, as John Stewart, the Group Chief Executive of the National Australia Bank, apparently said only a few days ago, the real challenge would not be getting banks to apply for these guarantees and to pay the fee—and of course termination of the fee is a critical issue—but getting them off it. Mr Stewart described it, perhaps a little bit inelegantly, as getting them off the government teat, but his point is valid and well taken. It is a major issue because we do not want to get into a situation in which unsustainable practices by banks are in effect supported and continued by virtue of a Commonwealth government guarantee.

It is of course an answer—and this answer has been given—that APRA will keep an eye on it, but the flaw with that is that APRA, as the Prime Minister and the Minister for Finance and Deregulation and the Treasurer know very well, is not constituted to act as an investment adviser for the Commonwealth of Australia. When the Commonwealth gives a guarantee of this kind, it is actually on the hook. It is taking on board very substantial contingent liabilities. It can charge a fee and it should charge a fee and the fee should be a recognisably commercial fee. But nonetheless it is in this instance proposing to take on a considerable risk. This is something, in the opposition’s view, that will need additional, heightened and very careful supervision.

Just going back to the package that was announced a couple of days ago: when you look at the magnitude of this, it is going to halve the budget surplus. Unfortunately, we feel concerned that the information that underpins this package is simply absent. When questions have been asked that must, on any view, be legitimate—such as questions about the revised economic forecasts and the information that the government must have had in order to announce a package of the magnitude of $10.4 billion—we have received, I think, a disproportionate reaction of confected outrage that we should be so impudent as actually to want to know what is fundamentally critical and important information.

I would say to the government and to Senator Sherry, who is going to respond in short order, that one of the reasons why we think it is legitimate to ask these questions is that we have wanted to take a very responsible position in relation to these bills in terms of taking the government on trust, but there are concerns in the minds of the public. Senator Sherry was on this side of the chamber not long ago, and he would no doubt re-
member and be well aware of the fact that members of the public contact senators to voice their concerns. We wish to be in a position where we can allay concerns in the minds of the public. I would have thought that that would be an aim that is consistently held by the government as well as us. These are responsible inquiries and ones that we intend to pursue in the interests of our constituents, the taxpayers of Australia.

These three financial bills of course are no exception in terms of our wanting to know the underlying information. They have not been subject to the normal scrutiny. There is no regulatory impact statement. We have called on the government to prepare a clear statement of the costs, benefits and risks of this policy to government, to the financial sector, to businesses and to the public. In such a statement, we are of the view that it is essential that the government recognises that this scheme will change the way in which institutions behave. It will create new incentives and disincentives to authorised deposit-taking institutions and insurers and their customers, and they will act in ways different to the way in which they have acted in the past. So analysis and effective supervision by government will certainly require it to be alive to the increased risks from the moral hazard involved in these arrangements, and it must ensure that they are minimised.

The government has set an expiry date of three years for this scheme to operate without a cap—that is, with an unlimited, explicit guarantee for deposits. To have an expiry date of three years for the scheme to operate without a cap, there really must be—and we urge this once again in respect of both of these large packages—a credible and workable exit strategy. If Senator Sherry is able to tell us what that is, we will of course be listening intently. It should be devised now, and then reviewed at appropriate intervals between now and the expiry date. We cannot see that there is currently an exit strategy and we think that is a glaring deficiency.

I had a look at the Treasurer’s second reading speech, and I think another important aspect about it—as I said when I addressed some earlier remarks to the wholesale term funding guarantee—is that, although he talked about an interaction, at this stage there is virtually no information about that, about whether it needs legislation. I also call on the government to make such information available.

We understand the need for a concerted effort to ensure Australia withstands the impact of the financial crisis, but the coalition, like the Australian public, should not be left in the dark wondering what the information is, what advice the government has had and what has been the real catalyst—given the forecasts and the International Monetary Fund’s recent report—to take this action. We have said we will support these bills, but we insist that in the interests of transparency the public receive better information.

We have cautioned the government in respect of some of the concerns that we have been able to identify in the short time that we have had to consider these bills. We think that there are still many matters that need consideration and more information. As I said a little earlier, it is important to take the Australian public with the government on this, so I call on the government to level with us and level with the taxpayer, to give us the detail and information we need so that we can be assured that this level of regulation, this extraordinary intervention, the content and scope of these bills, will achieve the desired effect. The government should give us whatever information it has at its disposal that it has not yet shared with the rest of us.

Finally, I want to say that we will not be supporting the second reading amendment that Senator Bob Brown will move. In the
time remaining, I will briefly state a couple of reasons. There is no doubt that a lot of executive salaries have been way over the top, especially in the United States, but no one is suggesting that our banks have been mismanaged or that excessive salaries have contributed to financial problems in Australia. I think it is important, ultimately, to remember that salaries are set by boards of directors and shareholders of companies. Institutional shareholders such as superannuation funds could no doubt be a bit more vigilant in their scrutiny of executive remuneration, but the responsibility lies with shareholders. There has to be some end to what interventions are going to be run in respect of financial institutions. I think talking about wars against greed, and other vague comments might make for great headlines, but it is not going to really do anything to ensure that our financial institutions operate in a better way.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.30 am)—Let me express at the outset the greatest disquiet about the process that is taking place here. These bills, the Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Bill 2008, the Financial Claims Scheme (ADIs) Levy Bill 2008 and the Financial Claims Scheme (General Insurers) Levy Bill 2008, are to guarantee deposits in banks, other financial institutions and insurance companies and to transfer that responsibility across to the taxpayers of Australia. Whatever other arguments we might put forward about the better management of such institutions in Australia compared to the United States, the legislation comes out of a real concern by the government that one or other of these institutions might fail, leaving depositors out of pocket and leading to a run on other institutions, with the inevitable consequences that flow from a situation not unlike that which we are seeing in the United States, where overnight yet another bank was mooted to be on the verge of failure. This whole process comes from the neo-liberal and conservative view which has prevailed not just in recent decades but right through the last century that small government is good government, that government should get out of the way and that financial institutions and big business in general should be able to run the market because the market knows best. I have heard that expressed in second reading speeches in this place just in the last month or so. This is the view that in a democratic system the interests of the majority of the people are best served by allowing those who are wealthiest to effectively run the financial system. It has been demonstrated yet again how wrong that is.

I accept Senator Coonan’s observation that regulation is better in this country than it is in other countries, and that includes some of the regulation brought in during the Howard government years. But the fact is that with this legislation before the parliament today we are seeing that it is not enough to guarantee that there will not be a bank, insurance company, or credit union failure in this country in a situation where the American system has gone belly up. All the assurances going right back through history that the market knows best are again being found to be patently wrong. We are now seeing the fix up, the ambulance, arrive in the form of this legislation before us and similar legislation in other countries around the world, simply because the culture of greed has threatened the wellbeing of millions of people and their deposits, not only in this country but right around the world.

It is quite extraordinary how successive parliaments, under great pressure I might add from sections of the media and vested interests, will not respond to the greater need of the public over those vested interests, which
lobby so patently in this place and in parliaments elsewhere around the world. For those who missed it, I would point to John Kenneth Galbraith’s great book *The Culture of Contentment*, which is one of the many books of this great economist’s output over the last century—he recently died, bless him. I read this book in 1992, and it nails the failures of the democratic system to deal with greed, which has the inevitable outcome he was predicting and which we are now seeing unfold around the world. I would just take one quote from page 5 of this book, where John Kenneth Galbraith is referring to testimony before Congress in the 1930s. He says:

Testifying before a Senate committee, the American Banker J.P. Morgan—note the name—warned, ‘If you destroy the leisure class, you destroy civilisation.’ Asked later by reporters to identify the leisure class, he said, ‘All those who can afford to hire a maid.’ For Morgan the threat from Washington was no casual concern: ‘The family of J. P. Morgan used to warn visitors against mentioning Roosevelt’s name in [his] august presence—

that is, Morgan’s august presence—lest fury raise his blood pressure to the danger point.’

And we all know about Roosevelt’s New Deal to deal with the depression that was caused by people like Morgan back in the 1929-30 crash. Galbraith goes on to say:

It is now generally accepted that the Roosevelt revolution saved the traditional capitalist economic system in the United States and the well-being of those whom capitalism most favoured. By adaptation the anger and alienation were diminished, and economic life became more stable and secure. This would not have happened had those who, on the full maturity of time, were saved and most rewarded had their way. If in the election of 1932 they had been fully aware of what was to come, there might well have been no salvation. The energy, money, public concern and propaganda that would have been released in that year by a full knowledge of the impending changes could well have assured a Roosevelt defeat.

Galbraith is saying that whether you have the Democrats or the Republicans in power—read the Labor Party or the coalition in Australia—the democratic system is so nobbled by the big end of town and the culture of contentment that if it is accepted that rich people have a special wisdom to run the economic system then that will lead repeatedly to a failure of the financial system in the way that we are witnessing yet again in what many analysts are describing as the worst economic crisis since the Great Depression itself.

I was born in 1944 and I was very alert to the world in the 1950s. I remember very clearly the swaggies on the road around Australia in the early 1950s as a result of the Great Depression and then the war coming afterwards. We never want to see the country back in those circumstances. But here we are looking at the real possibility of massively increasing unemployment in this country, failure of small businesses and, as this legislation so obviously puts it, the potential failure of major financial institutions, unless government guarantees are given to them in 2008.

I want to comment about a couple of matters in the limited time we have here. I note at the outset that there are three speakers on this bill. Here are three of the most important pieces of financial regulatory legislation that we will ever see before this place in our tenure in this parliament. Here is one of the great financial crises that needs to be analysed and for which we need to understand the causes, to go to them and have them explained to the parliament and to remedy the failures of those who have caused it, and we have got only three speakers on this legislation. This legislation went through the lower house yesterday in one day, and there will be
no Senate inquiry. There will be no going out to seek the opinions of economists, let alone people whose deposits are inherently—because the legislation makes it clear—potentially at risk, and that is all Australians in one way or another. And there will be no going out and getting the opinions of people who have already lost money—ask the superannuants—because of the financial crisis caused by the greed, self-invested contentment and the nobbling of democracy by those self-empowered in Wall Street who, by extension, have tens of thousands of lobbyists in Washington with prodigious lobbying power.

We have had the inanities from the Reaganites, from President Reagan, then Prime Minister Thatcher—much admired by former Prime Minister Howard—who wanted to put a brake on democracy, in the interests of people generally, in regulating the excesses of the rich. Instead of that, we have got a truncated debate here today and we are going to be giving a guarantee to the banks, but we are not going to have the government’s analysis of why there needs to be a $10.4 billion package added to this guarantee and an analysis of the root cause of the problem, because the big end of town will not want too much of an expose on that.

I have been looking though today’s Financial Review and to give it its credit, it has done quite a lot on exposing the obscene rake-off by executives who should know better and should have a greater social conscience in this country. Let me state this from the outset: whether or not you say they are important jobs that need good pay—and I am not going to quibble with that—I ask anybody in this chamber to explain how, in an age where the Prime Minister is on 300 and something thousand dollars a year and works very hard as the chief executive of this country, these bankers and other CEOs who are on multiples—and I am talking about 10 or 20 or 30 times the Prime Minister’s pay—justify the rake-off that they are getting. These screen jockeys have been so willing to up their own take-home pay to levels that simply cannot be justified.

We have Babcock & Brown’s chief, Phil Green, with remuneration of $22.1 million and a share price fall of 94.5 per cent. NAB’s John Stewart’s remuneration is $8.8 million and the share price has fallen 37.2 per cent. And when I say ‘share price fall’, we are looking at people losing 20 per cent—some say six, some say 10 and some say 20 per cent—of their superannuation or their investments from which they are making ends meet. These people are being hurt. Every time you look at a fall, there are people suffering economic hardship in our community in much greater numbers than the executives I am talking about. ANZ’s Mike Smith receives remuneration of $12 million and the share price has fallen 33.7 per cent as of yesterday. Macquarie’s Nicholas Moore’s remuneration is $19.2 million. How could you justify anybody in Australia talking $19.2 million out of the public pool, because that is what it is—this is everybody’s money and that is $19.2 million going to somebody whose institution has had a share price fall of 54.3 per cent? And so it goes on: CBA’s head gets $8.7 million; St George’s Paul Fegan gets $3.5 million; Westpac’s Gail Kelly gets $8.7 million.

I therefore put it to the Senate—and I am sorry to hear it being dismissed already by the coalition—that this is a very belated time, but the proper time, for some sort of curb to be put on these excesses. The Greens have spoken about it and I have spoken about it in this place repeatedly over the years, but it seems like you are actually attacking the institution of Australia by talking about curbing these obscene payouts. And now it is shown as being nothing of the sort. In a ‘fair go’ Australia, it is something that
goes right against the fabric of this country
and its sense of a fair go. These people can-
not justify this executive rake-off no matter
which way you look at it. You cannot justify
it against any decent parameter that might be
brought forward.

Prime Minister Rudd has now said that he
is going to get APRA to do something. He
has cut funding to APRA in his general slash
of the Public Service because that is what the
big end of town thought would be a good
thing in the run to the last election. He is
going to ask APRA now to come up with
some sort of formula to regulate these CEO
obscene payments, but not more than that.
What he intends to do is then ask the interna-
tional community to adopt whatever APRA
comes up with and, if they do, then Australia
will. This is a rerun of the Howard idea that,
yes, we will respond to climate change but
we will not do it until Baluchistan or, rather,
Kazakhstan does. We will wait till everybody
else does it.

So I can see here the Prime Minister has
got a very neat mechanism for saying, ‘I am
going to deal with these CEO payouts, but
not now.’ Sure, we will shore up the banks,
and you know what that does. It gives a
guarantee to these banks which will enable
the chief executives to ensure that they get a
payout greater than if that guarantee did not
exist. So it is actually going to feed into them
being able to claim a bigger salary than they
would otherwise get and they do not have to,
any longer, provide the guarantee. Ipso facto,
it means that they are not quite so con-
strained in the decisions they will make in
the coming three years. So we provide the
guarantee and they will be able to use that to
argue to get a bigger salary than they other-
wise would have gotten. No doubt the sala-
ries are going down but they are going to
remain totally out of whack with the value of
a CEO as against another citizen. I am not
ashamed to say that that means other citizens
who are making bricks, who are policing our
security, who are teaching in our schools and
who are nursing in our hospitals. Why should
these people be on less than 100th the take-
home pay of the CEO? Justify that if you
can; I cannot.

It is time that this obscenity was hauled in
by a Prime Minister acting now. He can act
to guarantee the banks; let him act on these
CEO wages. That is why, on behalf of the
Greens, I have an amendment here to cap
these wages at $5 million or at 10 times the
base wage of the Prime Minister, whichever
is the lesser—I can tell you it is the second
that is the lesser—as at least a defined meas-
ure here and now. If the bank, the insurance
company or the financial institution is going
to get this public guarantee—that means tax-
payer backed-up guarantee—then let them
quid pro quo take at least some rein in on the
extraordinary wealth that they are unfairly
draining out of the Australian financial sys-
tem, and that means out of the pockets of
fellow Australians in 2008.

We also read Geoff Winestock’s piece in
today’s Financial Review that the Australian
Prudential Regulation Authority has had to
delay the updating of some of its rules for
banks because of the extra workload in the
financial crisis. Now listen to this:

The delay comes amid questions over why
APRA’s expenditure fell and its staff ceiling was
lowered in the federal budget in May.

David Rush, APRA’s general manager policy
development, said in a speech in Sydney last
month that APRA had identified the need for new
“liquidity management requirements” for banks
this year.

Months ago they identified the problem com-
ing down the line but they could not do any-
thing about it because their funds had been
cut. By who? By Prime Minister Rudd, who
sacked 3,000 public servants when he came
in. They were not the top ones, mind you—
the Howard public servants are still advising
him—but out went other public servants. You cannot have a prudential authority dealing with the problems of this country if you have cut its funding by one, two, three or four per cent. The Minister for Finance and Deregulation, Lindsay Tanner, says if APRA required further resources they would of course receive them. The message to Mr Tanner is: they do require it. The Prime Minister wants them to look at executive salaries, for example. That will go on the backburner, I can tell you, unless they are given the wherewithal, and that applies to other authorities which are there in the interests of the average Australian in containing some of the excesses of the corporate sector. (Time expired)

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (10.50 am)—I rise briefly to support the comments made by Senator Coonan and to state that the National Party also has a concern about the non-quantifiable depth of this contingent liability on the Australian public purse. We do not know nor has Treasury provided any figures on exactly where this liability ends. I think it is extremely important that Australia does know where this liability ends because of the ramifications that it could have on everything from our surplus to exactly what our future planning and future budgetary requirements are. We feel that Treasury has either been completely and utterly remiss in what they presented to the Australian public by way of the parliament for its perusal or they have not presented anything, and many of the decisions that are coming out now have been made on the back of an envelope.

What we do also have a concern with and what we think should be strongly considered is not so much that there should be a cap on where executive salaries go but that the executives should be fully aware that if they are buying a product that is underwritten by the Australian taxpayer then they should be very considerate about exactly what their own personal drawings on those institutions amount to. There are so many issues that one should consider and, without prescribing any measure, they should have a look at where our nation’s CPI is going and where their salaries are going and, if there is a great divergence between the two amounts, how they justify that to the Australian people, considering it is the Australian people now that are underwriting their institution.

It is not obligatory that they buy these products that underwrite the banks; it is their option to buy them. It is a free choice they make to buy these products and to underwrite them. But when they do, because we have no firm idea of exactly where the liability ends, they should be very considerate about how they act. We in the National Party hope that this process is expedited as quickly as possible. We are fully in support of making sure that we keep a structure in the Australian economy that fulfils a purpose of providing security to the Australian people.

We have huge questions every day not about whether there should be a package but about the competency that has gone into the construction of this package and the extent, form and substance of this package, because we cannot get the details of the extent, the form or the substance beyond what seem to be arbitrary ideas presented with arbitrary numbers. It is a package that uses up over half of our nation’s surplus, yet we cannot get fully informed disclosure from Treasury about exactly where this comes from.

There will be requirements on our nation in the very near future such as unemployment and other infrastructure. At that point in time we are going to need the money again and we cannot spend the money twice. There is no asset being put in place which will allow for further selling to redeem money used for other purposes if the extenuating circum-
stances of a recession are brought upon us. We will have to just live with the memory of exactly where the current package went. In supporting our banking structure, we realise it is absolutely essential that we have a liquid financial situation, a competent credit situation and that the Australian people are not put at a disadvantage by factors around the world that have forced this onto us.

I will close with two issues. First, sooner or later we are going to need a competent and detailed analysis of exactly where the underwriting of this contingent liability leaves the Australian books. Second, we call on the executives of the major banks to bear in mind that, on the purchase of this guarantee product, they are benefactors of the public underwriting of that process and they should have a close examination of exactly where their salaries go as compared to where the CPI goes.

Senator FIELDING (Victoria—Leader of the Family First Party) (10.55 am)—Family First supports the Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Bill 2008, the Financial Claims Scheme (ADIs) Levy Bill 2008 and the Financial Claims Scheme (General Insurers) Levy Bill 2008 that guarantee bank deposits and insurance coverage for ordinary Australians. These are important measures to give the Australian public confidence in the banking and insurance industries in these difficult financial times. Family First is concerned that there is no time to properly scrutinise these bills but, given the urgency of the issue, Family First is to make a special exception to the expectation that such important bills should go to a Senate committee before being considered.

Family First is disappointed that these bills do not address the important issue of executive salaries. In the United States, for example, the rescue package passed by the congress included restrictions on executive salaries. I understand there is some difference between this package and the US but it is important that we should also be including restrictions on executive salaries. Executive salaries need to be competitive but they also need to be reasonable. This is an opportunity for the government to tell fat cat executives with outrageous salary packages that it is time to get off the gravy train, that the train will terminate here and to mind the gap.

At a bare minimum, we should be looking at the salaries of chief executives and considering things like ensuring bonus payments cannot exceed the company profit result for the year. If profits are up by one per cent bonus payments should not exceed that one per cent. Also salary packages should not exceed the company’s capital increase for the year. So, if the capital increase was one per cent for the year, bonus payments should not be above that one per cent. In addition, early termination payments must not exceed company profit results for the year or should not exceed the capital increase for the year. These are termination payments when a company has failed and when it is quite clearly trying to get rid of an executive. Another measure when corporations fail is that maybe we should be thinking about whether bonus payments in excess of, say, five per cent of the base salary for the preceding two years are repaid. A lot of times, when a company fails, it knows two years beforehand.

Executive salary packages for CEOs should be transparent and be reported in a standard way on company websites with changes updated within seven days. They should not just be reported at the end of the year and buried in some sort of report but be reported within seven days of the change. Also, looking at CEOs, they should not have stock option plans unless the employees receive a share of the firm’s profit as well. Family First will be pursuing and pressuring
the government to stop extravagant executive salaries. Fat cats, you are on notice—the gravy train has stopped.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (10.59 am)—I would like to thank the senators who have contributed to this debate on the Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Bill 2008 and related bills and for their acknowledgement that, due to the extraordinary times, the debate on this legislation—which is an extraordinary package of measures—has been constrained. Due to the urgency of this matter, the time frame for passage of this legislation and the extraordinary nature of the measures, there has been an understood approach that the debate and the normal Senate processes that would have been considered appropriate—for example, referral to a Senate committee—have been constrained to less time than would normally be given to much of the other legislation that we have to consider.

I think it is important to briefly summarise why we are at this point—and it is not just the Australian parliament but also a number of other legislatures around the world that are at this point. Much has been made, rightly, of what is known as the US subprime crisis. I think it is important to look briefly at why this occurred. Whilst I think that most Australians are familiar with the term ‘US subprime crisis’ and the fact that the financial crisis in the US system is spreading to other countries, with the potential for significant if not catastrophic consequences for some other countries, I do not think that the fundamental cause is particularly well understood. The fundamental cause of the crisis in the United States was the unfettered, unregulated, unsupervised distribution of mortgages to people who, on any reasonable assessment, could not afford to continue those mortgage payments. That was the fundamental cause. Between five and six million Americans were not so much mis-sold—that is a pretty conservative description—but conned into purchasing mortgages that they could not afford or, under any reasonable circumstances, could not continue to pay once they moved off the introductory or what is known as the ‘honeymoon’ rate. In the United States, you had sales forces door-knocking and telephone canvassing millions of American households, saying and doing anything to effect the sale of a mortgage product. There was no supervision and no regulation of these practices at all in the United States. That was the root cause of the problem that has now infected the US financial system and the financial systems of many other countries.

These mortgages were bundled together and securitised as ‘assets’ into various financial instruments with varying values—hundreds of millions or billions of dollars in value—to underwrite these mortgages that could not be repaid. Financial institutions participated to varying degrees in this process and then onsold these assets and passed them on to other financial institutions. They appear as assets on the balance sheets of financial institutions, and some were passed through to banks in Europe.

One of the other great failings of this process was that of the credit ratings. Agencies classified these assets with a triple A rating. That means that the chances of an asset that was worth, say, a hundred billion dollars decreasing in value were next to zero. It would be very unlikely to be reduced in value and, if it did drop, it would be slight. What happened? These assets have collapsed in value. Whilst it is very difficult at any point in time to assess the real value, they have collapsed. Some of them are worth zero. Some of them have gone from being worth $100 billion down to $1 billion. They have collapsed in value because the rating...
agencies fundamentally failed to assess the totality of the risk in these products. What is the consequence? The financial institutions that held these assets have been lending out against the value of the assets which have collapsed. They have been lending out to small businesses and to retail customers in a variety of other forms—not just as mortgages but as business loans, for underwriting credit cards et cetera. So you had these fundamental flaws in the US financial system, and this has been the cause of the problem. In turn, I think it is now 25 banks that have either collapsed, have been nationalised or have been forced into merger in the US, in the UK and in some other European countries.

The process of the collapse of these financial institutions has created worry, fear and uncertainty, because the financial markets take a view—along with consumers—that if one bank collapses and then another one collapses and then another one collapses—and there have been 25 in the last six months—when will it stop? Other financial institutions that are safe and prudent get worried that, if they lend money or enter into financial transactions with another financial institution, what if it collapses? Effectively, the oil that ensures the smooth running of the economy is being removed from the system. If you remove the oil from a car, you know what happens to the car—the whole thing seizes up.

These are very, very unusual times. We have global financial market turmoil of historic proportions. I cannot recall turmoil in our financial system of anywhere near the level we have now over the last 20 years, and I think some of the commentators who have referred back to the Great Depression are correct in their observation. We have not seen the extent of this turmoil other than what occurred in the Great Depression. The Great Depression was not caused by the collapse of stock markets; it was caused by the collapse in confidence in financial institutions and their inability to lend because of the collapse in confidence. That is what caused the Great Depression. I have to say that, having been born in the 1950s, I never witnessed or went through the Great Depression, but my father did. He would tell me some of the consequences of the Great Depression. I suppose that people of my generation or younger would never have believed it possible that those events could possibly occur again.

One of the fundamental reasons we are dealing with legislation like this is that we have learnt some lessons from the Great Depression. We have learnt that, in extraordinary times, it is necessary for governments to intervene quite directly in the markets and financial sector in a variety of ways to prevent the circumstances of the Great Depression ever occurring again. It was the failure of governments, particularly in the US, when the Great Depression arrived, to intervene quickly and effectively, to minimise the collapse that occurred. Senator Brown referred to Roosevelt. The great difficulty that Roosevelt presented was that he was elected President after the crash, after the depression started. He was not in a position, because he was not the President, to actively intervene to minimise the causes of the Great Depression. Roosevelt, as effective a President as he was—he was a great President—was acting after the event, catching up with a whole series of measures over the decade of the New Deal, to reinvigorate the American economy and the world economy with a whole raft of measures after the collapse occurred. So governments have learnt that, at least to the extent that you can, you intervene in a timely fashion, effectively, quickly and with extraordinary measures in extraordinary times. This measure represents such an approach.
The turmoil we have seen in global financial markets has the potential to undermine confidence in Australia’s robust financial system. Our financial system is strong. If you compare our banks, our credit unions, our building societies and our insurance companies with those overseas, particularly in the US and the UK and in some European countries, our system is strong. We have had no failures of financial institutions during this period of turmoil in Australia. We have not had any failures because our regulator, APRA, have maintained strong, vigilant oversight, regular reporting, prudential oversight, regulation and control of those financial institutions that they oversight.

The current difficulties in assessing funding in global credit markets are not a reflection of investor concerns relating to Australian institutions, but they are more a general lack of investor confidence in the global financial system. Confidence is fragile. A decline in confidence or mass panic is pretty frightening to behold when it occurs, and we have seen some of these elements in other countries in the last year. When confidence is fragile and we have the failure of a number of large international institutions, that in turn is not just reflected in those institutions in the ways I have described, but it leads to a significant effect on global equity share markets and it is also reflected in elevated spreads in international and domestic funding markets. These are the factors that have led to the unprecedented actions being taken by central banks and governments in a variety of ways around the world.

As I have said, Australia’s financial institutions remain profitable and well capitalised. They do not have the significant exposures to troubled US and European financial institutions or to troubled mortgage related assets. There have been some comments about executives and their pay, but at least executives and senior management in Australia exercised the good judgement and sound sense to largely avoid—with a little at the edges in a couple of cases, but really at the edges—the sorts of exposures that we have seen in US and European financial institutions. This was recently confirmed by the IMF in its Article IV report and by the RBA in its Financial stability review. Nonetheless, Australia is not immune from these very disturbing and worrying developments in international financial markets. Given the broad reliance on financial institutions in undertaking day-to-day economic activity, the ramifications of financial institutions’ distress and current international events are significant. Although confidence in the Australian banking system remains sound, it is prudent to put in arrangements to maintain this confidence and to align Australia’s response with international developments.

One of the great difficulties in this set of circumstances is that we know that our financial institutions are sound and well regulated here. But in other countries, when they adopt responses as a consequence of their local environment and, for example, offer guarantees to financial institutions, it does have an impact here in Australia, despite the soundness of our financial institutions, if we do not offer a guarantee in some particular form. The government, in conjunction with Australian regulators, have been taking steps to strengthen the resilience of Australia’s financial sector in the face of current challenges. So we have a strong system which we are making stronger, and this is one of the measures to do that.

The government has adopted other measures. For example, in my area we are transferring the regulation and supervision of all financial products—we are talking here about bank cards, credit cards, business loans, investments, payday lending—which are currently regulated by the states and territories into one national financial regulatory
system. The complex web of financial regulations in the US was another key reason behind the current circumstances they face.

The Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Bill 2008 introduces unprecedented action to deal with developments in global markets and to ensure stability for Australia’s financial system. The Bill will improve and strengthen Australia’s crisis management arrangements and gives effect to the Prime Minister’s announcement last Sunday that the government will guarantee the deposits in Australian banks, building societies, credit unions and locally incorporated foreign subsidiaries for a period of three years. The Bill also introduces the Financial Claims Scheme. In addition to the FCS, the Bill introduces a number of other measures that will enhance and strengthen Australia’s regulatory framework.

There are some issues of detail. I accept that Senator Coonan and others have raised some matters. But we have an independent regulator, APRA, which together with Treasury is well capable of handling the issues of detailed implementation that have been raised.

I do want to say something about APRA funding. APRA funding has not been cut. Some people should check the facts. The government excluded APRA from the efficiency dividend and did not cut their funding. A decision taken on 18 April, which was disclosed at the Senate May estimates—and I do not criticise senators for not all fronting up to APRA at estimates—was such that their funding was not cut. The efficiency dividend was not even applied.

With respect to the consumer regulator, ASIC, I have just announced a package of additional funding of approximately $70 million over four years. And, no doubt, if APRA believe that they need additional funds as a consequence of additional responsibilities, both directly given to them or alternatively because of additional workload, they will make a request for funding and we will consider that in supplementary budget estimates.

I will go to the other two points quickly. Even though we are dealing with this legislation quickly and expeditiously—and, as I said, I thank the Senate for that—the overall consideration of these policy issues does actually go back a long time. In fact, it goes back as far as the HIH royal commission in April 2003. The APRA submission to the HIH royal commission said with respect to insurance companies:

We believe it is appropriate that the existing arrangements for the protection of policy holders be reviewed and consideration be given to the establishment of a formal compensation mechanism. This is ultimately a matter of government policy.

A study of financial systems guarantees led by Professor Davies in March 2004 provided a recommendation to government. So the concept of guarantee in aspects of a financial system goes back five years.

We could spend a great deal of time on this, but my other comment is with regard to the amendment to be moved by the Greens. I point out that what we saw in the United States was excessive salaries and bonuses that were often—not always, but often—paid as a result of failure. We have not had failure of Australian financial institutions. With some of the so-called bonus share arrangements in the United States we saw appalling behaviour by executives who knew the institution was going to go under, sold off their shares and the poor old employees who held shares—often in their pension fund, which Australian law does not allow, fortunately—were left holding their shares that had crashed in price, either directly or through their pension funds. The executives got out before the company collapsed, because they had insider knowledge. Australian law does
not allow that sort of behaviour, fortunately. But the Prime Minister has advocated fundamental reform in this area. \textit{(Time expired)}

Question agreed to.

Bills read a second time.

\textbf{In Committee}

\textbf{FINANCIAL SYSTEM LEGISLATION AMENDMENT (FINANCIAL CLAIMS SCHEME AND OTHER MEASURES) BILL 2008}

Bill—by leave—taken as a whole.

\textbf{Senator BOB BROWN} (Tasmania—Leader of the Australian Greens) (11.20 am)—I move:

(1) Page 2 (after line 11), after clause 3, insert:

\textbf{4 Payments to executives of entities dealt with by this Act}

(1) No authorised deposit-taking institution or other entity which has deposits guaranteed, or which is otherwise protected or regulated, under the provisions of this Act shall pay any of its executives an annual salary of more than \$5 million, or ten times the base wage of the Prime Minister of Australia, whichever is the lesser.

(2) In this section:

\textit{executive} can include any person engaged or employed by the entity on any basis.

\textit{salary} includes any remuneration paid, promised or guaranteed in any form, including through consultancy agreements and grants of shares or other interests, and including any payment made upon resignation or retirement, however described.

I have already spoken on the need for this move. I do not believe the Prime Minister’s flagged request to APRA yesterday is going to lead to any sort of regulation of the self-assigned payments going to executives generally, but particularly chief executives, in this area. But, as I said, I believe that, now that the guarantee is coming from the taxpayer, the taxpayer should have some guarantee in return, and it should begin at the top.

I quote again from John Kenneth Galbraith in \textit{The Culture of Contentment}, at page 48, where he says:

\ldots support to failing financial institutions—

\ldots is a fully defended function of the government, however evident the financial extravagance and extensive and visible larceny that made it necessary.

He is talking about that in the context of the repeated attacks by the very people, the executives, that we are speaking about here on such things as social welfare, unemployment benefits, relief to people who are distressed in the community and the general provision of social services and particularly public funding for public education, public health and even public security these days, let alone public transport—as against the road transport system and the private transport system.

We in this country have a much greater gap between the rich and the poor than ever before in history because of the power and the influence of the people that this amendment is aimed at and their ability to be self-serving and self-seeking and also to put down the people who do the hard work in making sure that our society is what it is. When did any one of these executives ever support a pay rise for nurses, one of the most disgracefully overlooked professions in the country? Nurses are taken for granted repeatedly and left occasionally to protest and have marches in the streets—these people who defend our health, not least the public health system. Whenever did one of these executives support a fair go for these people?

I can tell you what has happened. We now have a system in Australia where the executives are getting 70 times the take-home pay of the average worker—70 times. I have an
amendment here which says, ‘At least, let’s restrict them to 10 times the base take-home wage of the Prime Minister of this country,’ who has, one would argue, no less executive responsibility than any of these people. But we are going to find here today that neither of the major parties will support this amendment. That speaks for itself, and that is because of the prodigious lobbying system in this country. It follows maybe a decade or two behind the US, but, nevertheless, the lobbyists for business interests have extraordinary firepower. That includes those who have proclaimed for years against government intervention but who are right behind this intervention now to guarantee their institutions. I have not heard any of those chief executives out proclaiming against this government intervention in the marketplace. It is not even sotto voce; it is just not there at all.

Suddenly, the taxpayers—the nurses, through their taxes, and the teachers, the police and the road workers—are required to back up these multimillionaires who have given no reverse support whatever. In fact, they have opposed many of the moves that government would and should have made to make this a more egalitarian society and to guarantee a fair day’s pay for a fair day’s work. Instead of that, we saw Work Choices, of course backed by these millionaires, being used to intervene in the workplace to prevent unionists, for goodness sake—those vilified representatives of the workers—trying to get a fair go for workers in the workplace.

What an extraordinary outcome this is. This is a blank cheque being written to guarantee the banks, including deposits in branches of foreign banks and financial institutions in this country and borrowings from overseas. The government says, ‘Well, our institutions are in better health, but it is the international financial system.’ This government and the last government are leading supporters of that very same international financial system, and they have failed to get up the regulatory requirements that should be imposed on that financial system and that would have stopped this meltdown in Wall Street.

The minister said that Australia does not have the significant exposure—except at the margins, I think he said—of similar institutions in the United States and Europe. I want to ask him about the exposure of the very institutions we are guaranteeing today to credit default swaps, which the banks have been heavily into to avoid responsibility for bad debts. Mr Tanner, the Minister for Finance and Deregulation, told ABC TV two nights ago that it was ‘not possible to be absolutely precise with respect to the magnitude of that exposure’. In the absence of absolute precision, let us have a general statement to the Senate about what the exposure of these institutions is to these credit default swaps, because we should know. We are being asked to give the guarantee against them being found effectively to be bad debts, so we have a right to know, and we should know. In fact, we have a responsibility to find out what that exposure is in real terms. I would like the minister to give us an answer to that question.

**Senator SHERRY** (Tasmania—Minister for Superannuation and Corporate Law) (11.29 am)—I will endeavour to find out the information you have requested: credit default swap exposure by Australian financial institutions. I will cover off on some other remarks in respect of your amendment, Senator Brown, while we attempt to get some information for you on that particular issue. I have spoken about the general robustness, strength, prudential supervision of Australian financial institutions. I am not being critical of you, Senator Brown, because I know senators’ time is limited and the capacity of senators to go to the estimates where APRA appear three times a year is limited. We all
have our own time demands. I have been at estimates for the last 18 years—

Senator Coonan—It seems longer!

Senator SHERRY—It does seem longer, Senator Coonan, particularly when you have been in opposition going to APRA estimates and ASIC estimates and Treasury estimates for almost 12 years. In my time in the last 18 years I do not think there has been an appearance of APRA that I have missed at Senate estimates.

Senator Coonan—And they are on again next week!

Senator SHERRY—They are on again next week. I just mention this, Senator Brown: APRA are on again next week and usually there is a lot of questioning and a lot of very valuable information not just from APRA but also from ASIC, the ACCC et cetera.

I thought it was regrettable when we had the estimates in May that APRA appeared first thing after dinner, relatively late at night, and they went through the measures they have taken in the last year, particularly given the international environment, to analyse and examine the various exposures of the Australian financial institutions—banks, credit unions, building societies—and they gave a very strong report of health and robustness. There will be another opportunity next week for those senators who are interested—and I am sure there will be, not unsurprisingly, a few more interested than on the previous occasion—to very precisely go through the questions that you and others have raised on a number of perfectly legitimate issues of detail about implementation, concerns and worries you may have about exposures in this country.

In the general sense, and specifically concerning all Australian financial institutions, APRA has carried out rigorous, ongoing oversight. I referred to the HIH royal commission earlier, Senator Brown. In fact, we learnt a valuable lesson from the HIH collapse. I will not go into the detail today, but there was a royal commission and the regulator, APRA, was substantially overhauled as a consequence of that royal commission. We did learn some valuable lessons out of that that have effectively helped to well prepare our regulator for these sorts of circumstances and have led to an increased vigour and surveillance of the broader financial sector, not just insurance companies.

Senator Brown made some comments about executive salaries. I said in my earlier remarks that the Australian position for executives and salaries is somewhat different from that of the United States. I am not just talking about levels of salaries; I am talking about the practices, the excesses, the sheer greed of some of these executives in the United States and the effective insider trading when they knew a company was going to collapse. They bailed out, they sold their shares and sold their shares in their pension funds. Unfortunately, the employees in the United States, through share ownership plans through their pension funds, ended up not just losing their jobs but losing their pension funds as well. The Australian law does not allow that sort of practice. I might say in that sense it is a strong regulatory oversight that we built into our pension superannuation fund system some 20 years ago. But we have not seen the sorts of abuses—the rewards for failure—that have occurred in the United States. We have not seen that in Australia when a financial institution has collapsed.

Senator Brown, I think you paint an overly bleak picture of the outlook of these CEOs. You said that they have self-assigned their pay. Executives do not self assign their pay. They do not sit down at their desk as a new CEO and say: ‘Right, I’m worth $5 million and I’m going to sign off. That’s what I’m worth. And I’m worth another couple of
million on share bonuses.’ They do not sit down and self assess and assign what they want. The boards in this country and the shareholders oversee executive salaries. There is an oversight mechanism. It is not a self-assignment mechanism, and rightly so. Particularly in this environment, Senator Brown, I think there will be renewed focus and vigour by boards and shareholders, and we have seen some recent examples of this. Telstra was one. There has been renewed interest and vigour by boards and shareholders in the remuneration of executives. I think that is very appropriate. There has been renewed interest by superannuation funds and fund managers in the level and makeup of executive pay in Australia. I think that is welcome, and I do not think it will come as news that there will be much greater scrutiny of these executive pays in the current environment going forward, and the boards and the shareholders are responsible for this.

But the Prime Minister himself has admitted that that in itself is not sufficient. The Prime Minister has advocated reform of financial executive salaries. He has said it on a number of occasions. It was not just yesterday. He reiterated and gave renewed focus to this issue in his speech at the Press Club yesterday. I was present at a dinner in Sydney on Friday a week ago when there were many of these senior executives present. The Prime Minister—I thought very refreshingly and rightly—outlined his concern about executive greed, moral failure and the need to reconnect moral judgement to the approach by executives to decision making, in particular executive pay. He spoke about this at the UN. Reform has been advocated at the International Monetary Fund and the G20.

The Prime Minister addressed this topic at the UN when he argued financial institutions need to have clear incentives to promote responsible behaviour rather than unrestrained greed. He referred to the Basel rules on capital adequacy that should be linked to the issue of the executive remuneration. Specifically, he referred to regulators setting higher capital requirements for financial firms with executive remuneration packages that reward short-term return or excessive risk taking. That is, that institutions that have more aggressive pay packages would have to hold more capital to reflect the increased risk.

The government is examining the implementation of this approach in Australia. Discussions are taking place with our regulators and one in particular, APRA, which has the prudential responsibility for financial institutions. So both here and internationally this issue has to have far greater focus with a much clearer set of rules in respect of financial stability in the future. The work will also engage the Basel Committee on Banking Supervision to determine the best means of implementing this initiative. So the Prime Minister has been on the record on a number of occasions, certainly at least four of five that I can recall, expressing the need for this work to be carried out and to be implemented in both an international and a domestic framework.

I did say earlier that I think you have painted an overly bleak picture, Senator Brown, of the attitude of senior executives in financial institutions in this country. I would have to say that financial companies in this country, when it comes to areas like socially responsible investment, generally have been leaders in the development of this field, in contrast to many other top 500 companies in Australia. So I do not think it is a totally bleak picture. I do think that on many occasions financial institutions—and this includes the involvement of their CEOs and/or senior executives—have taken a greater involvement and have had a greater focus on areas such as socially responsible investment. I can think of a number of our banks, for example, that have implemented active
programs with respect to Aboriginal employment, and with respect to some areas of responsible lending and trying to redress some of the areas of irresponsible lending. So I do not think it is a totally bleak picture. I can think of some examples where our banks and financial institutions, including CEOs, have improved their approach. It is not perfect; I have still got some worries and concerns about areas such as credit card selling and distribution, payday lending—areas which we are bringing into Commonwealth regulation and where we do intend to take a more active approach as a government, once we have got regulatory control of these areas, to encourage responsible lending. I would not argue it is perfect, but I do not think it is quite as bleak as you paint.

On exposure of Australian institutions to CDSs, which you have asked me about, banks must disclose their material exposures, and obviously APRA as the responsible regulator oversights and examines their material exposures. The CDS exposure of Australian banks, I am told, is one to two per cent of their total balance sheet as at June 2008. So the total balance sheets of the businesses in Australia show one to two per cent exposure. APRA requires Australian deposit-taking institutions, ADIs, to report on their CDSs as part of their quarterly reporting. APRA is aware of the level of material exposure by financial institutions and obviously it oversights and checks to ensure that the extent of any exposure to CDS is within prudential requirements in this country. That is a general overview of the exposure. I cannot give you more detail as of this morning on that level of exposure, where that lies and with what particular institutions et cetera, but there will be the capacity for APRA to outline this in much greater detail at Senate estimates next week. I am more than happy to indicate to APRA that in their introductory remarks, for example, they provide some additional information, and then senators will obviously have the ability to question them more intently and to a greater level of detail.

We do not support your amendment, Senator Brown. The Prime Minister has indicated the way in which the government will approach policy development. We do consider it an important issue, not just in the context of this legislation but in the context of what is, rightly, a broader community concern about the level of executive packages for some CEOs, particularly against a background of the well-known and exposed excesses that have occurred in the United States. But I make the point that we have not had a financial institution here collapse. We have not had payment for failure as we have seen in the United States. I do not believe the situation is as bleak as you portray but I accept that you raise some legitimate concerns, Senator Brown. I believe that the process and the way forward that the Prime Minister has set out, and the process that I am sure will take place amongst boards and shareholders and superannuation funds in their scrutiny of executive pay over the coming year and years, will reflect the broader concern that you hold.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.44 am)—I wonder if the minister could tell us what one to two per cent exposure is in real terms. I note that Citigroup analyst Craig Williams says that for the four big banks the exposure to the credit default swaps is some tens of billions of dollars. I wonder if that aligns with the minister’s estimate. And I ask this question in this splendid chamber: is there a senator here who believes that there are executives who are worth more than 10 times the base wage of the Prime Minister of this country?
Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (11.45 am)—When I read ‘one to two per cent’ for off balance sheet exposures, it should have been ‘1.2 per cent’. I read the dash as a dot. I just wanted to make sure that is on the record. As I have said, senators can question APRA in far greater detail about the specifics of these exposures.

In response to Senator Brown, I am not on the board of a company; I do not sit down and determine the relative worth of an executive and what they should be paid. Boards, superannuation funds, funds managers and their shareholders carry out that process. They come to a conclusion about the relative worth of senior executives. I do not know whether, when they look at that relative worth, they look at the pay of the Prime Minister, the Treasurer, or anyone else, for that matter. I do not know what the comparative evaluation benchmarks are. What I am very confident about is that boards, shareholders and fund managers, particularly in the current market, will be very rigorous in their assessment of the pay of executives this year and in the coming years.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.46 am)—I take it from that there are not any senators so disposed. It is not a matter of this particular period or any other period—the fact that some CEOs are getting 20, 30 or 40 times what the Prime Minister gets is simply unjustifiable. It cannot be seen as fair, equitable, responsible or proper remuneration. I repeat: it is not coming out of thin air. It is being taken out of the pockets of deposit holders—pensioners and workers, the people of Australia—along with their ability to have a fair go. I can tell the minister who they measure themselves against: the US executives, the other end, with their obscene pay-outs which go to hundreds of millions of US dollars per annum. That is because of the failure of the democratic system, because of the power of the lobbyists and because of, it has to be accepted, the popular approval of such failed Presidents as Reagan, George Bush Sr and George Bush Jr, who I saw being called by one columnist in the last week the most incompetent President in history. He came to this parliament in 2003 and you could hear a pin drop as his passage to the rostrum was watched with awe, as if he were some majestic being without imperfection. This is an important amendment. I seek the amendment to be put and then I have one other matter I would like to deal with.

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

The committee divided. [11.53 am]
(The Chairman—Senator the Hon. AB Ferguson)

   Ayes.............        5
   Noes.............     44
   Majority.........     39

AYES
Brown, B.J.                  Hansen-Young, S.C.
Ludlam, S.                   Siewert, R. *
Xenophon, N.                 

NOES
Arbib, M.V.                  Barnett, G.
Bilyk, C.L.                  Brown, C.L.
Bushby, D.C.                 Cameron, D.N.
Carr, K.J.                   Cash, M.C.
Colbeck, R.                  Coonan, H.L.
Cormann, M.H.P.              Crossin, P.M.
Eggleston, A.                Farrell, D.E.
Faulkner, J.P.               Feeney, D.
Ferguson, A.B.               Fielding, S.
Fierravanti-Wells, C.        Fifield, M.P.
Fisher, M.J.                 Forshaw, M.G.
Furner, M.L.                 Hogg, J.J.
Humphries, G.                Hurley, A.
Hutchins, S.P.               Kroger, H.
Ludwig, J.W.                 Lundy, K.A.
Marshall, G.                 McEwen, A.
McLucas, J.E.                Parry, S. *

CHAMBER
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.56 am)—There is another matter I wanted to deal with. Could the minister be so good as to explain why the provision in this legislation for a levy to be put onto succeeding financial institutions if one crashes, to cover the public liability for the crash, awaits the crash? Seeing we are guaranteeing financial institutions here and now through this legislation, with taxpayers’ backup, why is a levy not being sought from those financial institutions so that it can help ameliorate the prospect of a collapse of one of them? I would have thought that, if you wait until one of them collapses, the argument is going to be very strong indeed from those who remain that a levy will do nothing but make their situation more precarious. It would seem logical to me that the quid pro quo for the public largesse in this extraordinarily valuable guarantee being given to financial institutions should be a fund to be raised now to save the public dollar in the event of a financial collapse.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (11.57 am)—It is a good question, Senator Brown, because the issue you have raised—whether you do a prior levy and establish a fund in anticipation of perhaps a collapse occurring or you wait and do a levy at the time—is one of the issues that are considered in an approach to a financial stability guarantee.

We discussed and debated the approach to and the principle and practicality of a levy some 20 years ago, in the context of superannuation—if money were stolen from a superannuation fund, should we have a guarantee, as we now do in Australia up to 90 per cent? One of the fundamentals of the debate was: do you levy the industry and build up some sort of reserve and pay the loss out of that reserve or do you wait and, if a collapse occurs—or if theft and fraud occur, in that case—do you then apply the levy?

The approach that was taken then—which in my view was correct—was the same as the approach that is taken in this legislation: if you levy before a collapse occurs, if it occurs, to what level do you levy? You obviously do not know what the size of the collapse would be, should it occur, so what would be the size of the levy? What would be the size of the reserve fund that is established?

Secondly, when the collapse occurs you do not know what the size of the liability will be after the disposal of any remaining assets until the liquidators have given at least a preliminary report. So there is a second issue that you do not know of until the collapse occurs. You then apply the levy to the degree that is necessary, having established that degree by knowing the facts of the circumstances—if the collapse occurs. Unfortunately, theft and fraud do occur with respect to superannuation funds, but it is a very rare event. Generally the level of theft and fraud in the superannuation system is miniscule, with a few hundred members each year affected. That is very important for them as individuals because they lose everything, but in the context of the system it is miniscule. What happens is that when you know the size of the losses and whether you can recover any assets, a levy is then applied across the entire superannuation system. That post event levy principle has applied every year in Australia for the last 18 or 20 years. The same sort of principle is being applied in respect of these circumstances, and we think
that is very unlikely and very remote because we know our financial institutions—the banks, building societies and credit unions—are strong.

I accept that there is a valid debate about this, and there has been a debate in other countries. Some countries have a reserve that they have established and built up before an event occurs; some countries have a post event levy. The government is determined that a post event levy is the best approach, and obviously I agree with that because I have referred to circumstances some years ago where I was involved in the superannuation system. We know that the outcome is sound; we know that that is the best way and the best time to recover the costs from those financial institutions and the broader financial system.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.02 pm)—I thank the minister. I remind him that I asked what the 1.2 per cent exposure to the credit default swaps was in dollars. Could he give us that figure? I also just want to say that I disagree with the minister on not having the levy now. I mean, it does not take too much imagination to know that a levy imposed now while things are moving along will then be readily available for people who may lose their deposits or their insurance if an institution crashes, without having to dip into the public purse. Let us face it: we and our fellow parliamentarians spend a lot of time mixing with the very executives who are affected here. They turn up at the $1,000-a-head dinners, they buy the tables that are used for fundraising at political events and they exercise enormous firepower through the media to be critical of governments, oppositions or the Greens—and they certainly exercise criticism there without too much restraint.

I think we are going to see no good outcome here. The Prime Minister has put in train a system of asking APRA and then taking whatever scheme to curb excessive pay-outs APRA comes up with to the international authorities—and if they then act, so will he. Well, tell me a better prescription for failure. Written into this process from Prime Minister Rudd is an escape from the responsibility to curb the most obscene executive pay packages in this country. It is written in there. It was very clearly in the speech that he gave at the Press Club yesterday. The debate in here today simply confirms that the big parties are not going to act in this field, and when and if they show some sign of doing something it is going to be very non-specific and it is not going to hurt any of
those people and the multi-million dollars that they are going to take home this year.

When I asked if there was anybody here who disagrees that there should not be anybody in the country getting more than 10 times what the Prime Minister takes home as base salary, of course there were no takers on that because it is so logical—it is so inherently fair and logical. My embarrassment here is that that in itself is too easy a test, as is the $5 million per annum rule.

What is happening in a democratic system where there is a failure of the nerve of members of parliament when it comes to tackling the big end of town, but not so when it comes to the other end of town and tackling people who are said to be a drain on the system, irresponsible, unable to look after their own affairs and not getting jobs or skills, or going to school et cetera—witness the Northern Territory intervention and, I again say, witness Work Choices? And I then ask is ‘work choices lite’ coming down the path; it is not going to make a significant difference in the way in which workers representation in the system has been curtailed in the last decade while the excesses of the rich at the other end have blossomed. I do not see a government or a Prime Minister here who is about to tackle that disparity with any grit at all.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (12.09 pm)—Senator Brown, you asked what the precise dollar figure is that the 1.2 per cent represents. I cannot give you a figure now. I want to make sure that APRA have an up-to-date figure. They are appearing at Senate estimates next Thursday, but I will make sure that they are contacted prior to that. If you are unable to be there, I will make sure that they are able to provide a figure there and then so that it is on the public record.

Senator Bob Brown—I would like that figure today.

Senator SHERRY—I will see what I can do but I cannot give you a guarantee.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.09 pm)—I thank the minister, but we should have that figure today. Goodness gracious! The government has that figure. If it has not, there is a degree of irresponsibility involved. When you bring forward legislation like this, surely you know what that figure is. The Senate ought to have that information; it ought to be part of this debate. The minister says he does not have it. He knows it is 1.2 per cent—1.2 per cent of what? It is quite extraordinary that he says that he cannot give that figure in dollar terms. I certainly hope he will give that figure to the Senate before the end of business today.

Bill agreed to.

FINANCIAL CLAIMS SCHEME (ADIs) LEVY BILL 2008

FINANCIAL CLAIMS SCHEME (GENERAL INSURERS) LEVY BILL 2008

Bills—by leave—taken together and as a whole.

Bills agreed to.

Bills reported without amendment; report adopted.

Third Reading

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (12.12 pm)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.
Consideration resumed from 15 October.

Senator XENOPHON (South Australia) (12.13 pm)—Since moving these amendments I have had further discussions with the government and my colleagues in the Greens and I therefore seek leave to withdraw the amendments standing in my name.

Leave granted.

Senator XENOPHON (South Australia) (12.13 pm)—by leave—I, and also on behalf of Senator Xenophon, move Greens amendments (1) to (6) on sheet 5625:

(1) Schedule 1, item 2, page 3 (line 15), omit “$75,000”, substitute “$70,000”.
(2) Schedule 1, item 4, page 4 (line 21), omit “$150,000”, substitute “$140,000”.
(3) Schedule 1, item 4, page 4 (line 21), omit “$153,000”, substitute “$143,000”.
(4) Schedule 1, item 7, page 5 (line 7), omit “$75,000”, substitute “$70,000”.
(5) Schedule 1, item 8, page 6 (line 14), omit “$150,000”, substitute “$140,000”.
(6) Schedule 1, item 8, page 6 (line 14), omit “$153,000”, substitute “$143,000”.

These amendments change the threshold limit to $70,000 for singles and to $140,000 for couples. In moving these amendments, I think it should be understood that the Greens and Senator Xenophon have entered into a dialogue and an understanding that we want to see changes made. The Greens never believed that the $50,000 threshold was an adequate threshold and we believe that a move to $70,000 as a single threshold is a step in the right direction. Having said that, we are extremely pleased that we are going to be using AWOTE or tying the threshold to an earnings indexation. We are also, of course, extremely pleased that the government accepted our original amendments to ensure that the threshold was indexed and that the AWOTE indexation method will be used in order to index the threshold.

This will deliver benefits to a quarter of a million Australians at a very important time in Australia when families and singles need help, and it will also ensure that this threshold is now keeping pace, finally, with indexation from when this measure was first introduced in 1997. Having said that, we also seek assurance from the government that, as the government has stated previously, there will be no negative impact on the public hospital system and that they will look at any negative impact on the public hospital system. My next amendment deals with the review mechanism that will facilitate that.

We understand and we hope that the government accepts these new threshold levels. We all believe that we have moved substantially in order to achieve an outcome that we can all live with. I said to somebody last night that the Greens are used to consensus decision-making processes and are pleased that we have been able to reach a level of consensus. It would be fair to say that nobody is entirely happy with the outcome in terms of my stated position, which has been that the Greens do not support the rebate in the first place and we do not support a surcharge. But this is a significant step in the right direction.
We are very pleased that the government has agreed to indexation and has agreed to the AWOTE indexation mechanism, and that will have very clear regard for any impacts on the hospital system. We have been working very hard to ensure that there are no negative impacts on the public hospital system. We believe that, in the long term, this will result in a stronger public health system in Australia. That is at the bottom of where the Greens are coming from. We are strong believers in a strong public health system, and we believe this is a step in achieving that strong public health system.

Senator CORMANN (Western Australia) (12.18 pm)—Bad public policy does not become good public policy just because you water it down. This measure was bad public policy when it was introduced on budget night. It was exposed as bad public policy during the Senate estimates process and it was exposed as bad public policy during the Senate inquiry. This after the government was telling us that we were economic vandals for insisting on some proper scrutiny of a measure that was going to push up the price of health insurance premiums, including, and in particular, for older Australians. They said it was going to put additional pressure on public hospitals, it was going to see up to a million Australians leave private health insurance and it was going to take billions of dollars out of the hospital system.

We were accused by the government of economic vandalism for insisting on some scrutiny. Of course, the Senate estimates process and the Senate inquiry exposed all of those fundamental flaws. What we have seen over the last couple of months is nothing but a farce. We have seen a government that has been focused on political horse-trading rather than on what is good public policy. We have seen a government that has absolutely not been focused on what is in the best interests of our health system but has been trying to come up with a grubby deal somewhere in a dark back room to see whether they can save some face after they were exposed for not having thought through the implications of what it is that they are proposing.

The government had not done its homework. They came up with a measure to double the Medicare levy surcharge for singles and to increase it by $50,000 for couples and families. When we asked them what the impact was going to be on public hospitals and what the impact was going to be on older Australians who save their money every year to be able to afford their private health insurance premiums, they were not able to answer. They had not even asked Treasury or the Department of Health and Ageing to do any assessment, any modelling or any sort of costing whatsoever on what the impact on those Australians would be.

This measure, if it is successful today, will force health insurance premiums up for 10 million Australians, including one million Australians who earn less than $50,000 per year. These are one million Australians earning less than $50,000 per year who every year make the sacrifice and do the right thing by our health system by taking additional responsibility for their own healthcare needs by taking out private health insurance. Will they get a tax cut, Minister? Will those people earning less than $50,000 per year who continue to take out private health insurance get a tax cut? The answer is no. So here we are: we were talking about providing a tax cut for some people over here who are not prepared to take out health insurance but we are not prepared to give a tax cut to the one million Australians earning less than $50,000 per year who continue to do the right thing and who continue to take out private health insurance.

I received an email this morning from Mrs Judie Kearney-Wilkins. I will read this email
because it really sums up what the fundamental problem is with this legislation.

Please seriously consider your vote on this. I am a disability pensioner who has NO choice but to have private health insurance as my primary medical condition cannot receive treatment in the public health system (Qld). Along with my husband who receives the Carer’s Pension, we are raising twin 4 year old boys. The possibility that these changes could lead to people dropping their insurance & premiums becoming even more expensive is VERY troubling. I find it offensive that people earning $50,000 cannot afford the levy if they do not have insurance. What about the MANY pensioners paying it with incomes much less than that! Our COMBINED income is $22,000.

This is from Mrs Judie Kearney-Wilkins from a town called Zillmere, which happens to be in the electorate of Lilley, and this lady is a constituent of the Treasurer, Wayne Swan. The Treasurer would be well advised to listen very carefully to the concerns of his constituents in Lilley. The crux of the matter is that this policy measure will force premiums up for people like Judie Kearney-Wilkins. The day people cannot afford to pay their premiums anymore because this measure has forced them up by another five to 10 per cent is the day those people will have to join long public hospital queues.

The reality is that the government have been flying blind on this. Very clearly, if the government had looked at the very eloquent statements made by then Senator Graham Richardson in 1993, when he made a terrible assessment of the impact of 10 years of Labor health policy by putting his finger on what these sorts of measures would do to our health system, they would have understood the impact that these sorts of measures would have on Australians on low and fixed incomes. They would have understood what this sort of measure does to our public health system and they would have understood that this is not the right direction to go in.

Watering down bad public policy does not make it good public policy. Any policy that will force more people into the public system and that will see more than half a million people leave private health insurance is bad public policy. Any policy that will see up to $3 billion in hospital funding walk out the door because the government is quite happy to see more than half a million people leave private health insurance is bad public policy. I have been saying all week that it is time that somebody reminded the Minister for Health and Ageing, Nicola Roxon, that she actually is the minister for health. She is not the Assistant Treasurer. Again yesterday, health minister Nicola Roxon said that delivering this tax cut was especially important given the need to stimulate the economy.

We provided tax cuts that did not have a negative impact on the health system. Year in and year out the Howard-Costello government provided tax cuts and I will tell you the impact that had over the 11 years we were in government. A person earning $50,000 per annum on 1 July 1997 had a take-home pay of $35,898 per annum. As a result of our tax cuts they now have $5,102 per annum more in take-home pay. That is a $5,102 tax cut to people earning $50,000 per annum. For someone on $75,000 per annum the take-home pay as a result of tax cuts has increased from $49,148 to $58,500. That is a tax cut of $9,352 per annum. These are the sorts of tax cuts that the government should be pursuing. We are all in favour of lower taxes but not when it means having disastrous consequences for our health system. These are disastrous consequences that the government was too lazy to even properly assess. They were either too lazy or they did not want to know the answer. It is bleedingly obvious that if you put in a policy that is going to see more than half a million people leave private health insurance it is going to put pressure on
premiums and it is going to put additional pressure on public hospitals.

Yesterday on ABC radio the minister for health did not even know what she was talking about. She was trying to tell the Australian people that about 400,000 people would leave private health insurance. The reality is that if she had looked at her own cheat sheet that had been circulated to the media she would have known that it was actually 583,000 people that were going to leave. I have not seen any information circulated on what the impact of this particular amendment is going to be. How many people is it going to affect? Five hundred and fifty thousand? Five hundred and thirty thousand? I hope that the government is at least going to tell us that. What is going to be the fiscal impact of this measure? How much money is the government going to be expected to save as a result of not having to pay the private health insurance rebates to those people that they expect will leave. That is the sort of information we need so that we can assess how much money this government is happy to see walk out of our health system as a result of chasing more than half a million people out of the private health system.

Over the last four months we have witnessed an absolute disgrace. Instead of focusing on good public policy, instead of focusing on how, as a government and as a parliament, we can ensure that Australians can have timely and affordable access to quality hospital care, instead of focusing on how we can encourage more people to take additional responsibility for their own healthcare needs by taking up private health insurance, we have seen a procession of deals and counterdeals. The government are not focused on how we can improve our health system but are focused on spin and on political rhetoric. They are focusing on an ideologically driven war on the private health system. Just call it what it is. Stop talking about tax break rhetoric. This is not about a tax break. If you wanted to provide a tax break you could find many other ways of providing it. This is about undermining the balance in our health system.

This is about going back to what Labor did between 1983 and 1996. Those who cannot learn from history are forced to repeat it. This is exactly what is happening. When the then Senator Graham Richardson, in 1993, put out his discussion paper, he was stunned. He said that in 1983, when Labor made those changes and introduced Medicare, they thought that some people would leave private health insurance. We are hearing exactly the same language now—‘Some people will leave.’ Never mind that it became 485,000 people or that it became 644,000 people. ‘Oops. We did not remember that there were children involved.’ Never mind that industry experts estimated that it was going to be up to one million people or that you have not even gone out of your way to properly assess the impact of this.

Professor Deeble is hardly an apologist for private health funds. He is hardly somebody that can be said to have a vested interest on behalf of health funds. He said that the government should have done proper modelling to assess the impact on public hospitals. It is a no-brainer. If you take $2.9 billion out of the health system—because that is the amount of contributions that will go out the door as soon as those people leave private health insurance—of course you have to assess how that will flow through to the public health system. Of course you have to come up with a way of compensating the states and territories for the impact of this, and of course you should have worked with the states and territories to ensure that the impact of a measure like this is properly assessed and properly managed.
This government, when in opposition, pursued this mantra: ‘We’re going to end the blame game.’ ‘The buck stops with me,’ the Prime Minister said. ‘We’re going to be in this new era of cooperative federalism on health.’ This measure shows that that was a complete fraud. Not for one minute did the Prime Minister think that. The Prime Minister and the Minister for Health and Ageing, Nicola Roxon, are setting up the states for failure with this measure. They have flagged: ‘If the states can’t get their act together in sorting out those waiting lists, we’re going to come in and take it over.’ You are setting up the states for failure. How can the states address the serious issue of excessive waiting times, excessive public waiting lists, if you take $2.9 billion out of the health system without providing any proper compensation? And do not talk to me about this $600 million package. I explained yesterday in this chamber why that was a fraud. Do not talk to me about the infrastructure fund, because putting funding into infrastructure, as good as it is, will never, ever fund one additional treatment service. That is the reality.

Over the last couple of months we have seen a government which is not interested in good, sound public health policy. We have seen a government that has reverted back to type. We have seen a government that always hated private health. In the lead-up to the election, Labor was trying to keep the issue quiet, trying to make people believe: ‘Yes, we’ve stopped our war against private health. We’re no longer the Labor Party of the 1980s. We’re no longer the old Labor. We’ve moved on from our ideological battles of the past. We’re no longer the caucus-ACTU working party’—which essentially shot then Senator Graham Richardson down in flames when he wanted to introduce a Medicare levy surcharge because he could see that this was what was needed to restore the balance in the health system.

Essentially, you have committed this big fraud on the Australian people. You never told them before the election that this is what you were going to do. You introduced this measure in the budget. It was exposed as being fundamentally flawed during Senate estimates and during a Senate inquiry. None of the changes that have come before this chamber make enough of a positive difference for this to actually work. We will not support the amendments moved by Senator Xenophon and the Greens. We absolutely deplore the way the government has handled this. It is irresponsible. It will put significant pressure on the most vulnerable in our community—the one million Australians who will continue to take out private health insurance and who earn less than $50,000, the one million Australians who are doing the right thing by our health system by putting additional resources into our health system to the tune of $2.9 billion. (Time expired)

Senator IAN MACDONALD (Queensland) (12.33 pm)—It is not too late for Senators Fielding and Xenophon and the Greens to strike a blow for the health system in Queensland. I know none of them come from Queensland but I beg of you: understand the situation in Queensland. I want to enter this debate again today to highlight the situation in Townsville. A front-page story in the daily Townsville Bulletin revealed that the Queensland government has a secret plan for what is needed for the hospital in Townsville: a $700 million extension to the public hospital. But the Premier of Queensland, Anna Bligh, went to Townsville last weekend and, with great fanfare, announced that she would be commissioning extensions to the tune of $100 million. That is $600 million less than what is currently needed in Townsville. If this amendment goes through, that situation will be further exacerbated.

Could I just indicate the statistics for the Townsville Hospital. This hospital serves a
major provincial city of some 200,000 people. It is a five-year-old hospital. It was built to replace an existing hospital and it has fewer beds than the previous hospital. The corridors of the hospital are now as full as the wards. Patients are actually in beds in the corridors. They are now closing down some administrative rooms in the Townsville Hospital to put beds in. It has been revealed that currently at the Townsville Hospital the total number of overnight beds, day surgery beds, chairs and trolleys is 516. That is what we currently have at this major provincial hospital.

Before the last election Anna Bligh promised 586 beds. So they are 70 beds short of what was promised just a year or so ago by way of an election commitment. But the third statistic is that Townsville Hospital actually requires 918 beds. Currently we have 516 beds. We were promised 586, but we need 918 beds in Townsville Hospital alone. I say to Senators Xenophon and Fielding, imagine what this amendment will do to the Townsville Hospital alone. Forget about the hospitals in Mackay, Cairns, Mount Isa and Brisbane—and I am sure that all the hospitals in Western Australia, South Australia, Victoria, and New South Wales are in the same boat. I can speak from experience of the critical situation in Townsville Hospital, yet this amendment will exacerbate the problems with what is already a crucial and critical hospital system. I see Senator Heffernan is here. Will you be talking about hospitals in New South Wales?

Senator Heffernan interjecting—

Senator IAN MACDONALD—Every day in the papers there is a report of a crisis in hospitals in New South Wales. I am sure someone will mention them; I will not go into it. I plead with the Greens: it is not too late to try to help the people of Townsville and North Queensland with this one hospital. I could go into every hospital up my way and tell you that they are already overcrowded. There are critical bed shortages and they are getting worse. But if you put these amendments in, things just have to get worse again. I can understand why the Labor Party would do this. They cannot manage money. They have to increase taxes, which is the hallmark of Labor governments. I understand that. They are very bad money managers. We only have to look at the last 10 months to see how pathetic they are at managing money and managing the economy. But I cannot understand why the two Independents and the Greens would want to make the public hospital system in my state of Queensland and my city of Townsville so much worse than it currently is. I plead with the Greens: please do not do this. Reject the amendments so that the already critical situation in places like the Townsville Hospital will not get worse.

Senator HEFFERNAN (New South Wales) (12.39 pm)—Senator Macdonald has raised a matter on behalf of Queensland. I want to raise a matter which will also affect New South Wales hospitals. It goes to the very heart of the actuarial assumptions behind the levy and behind the fees charged by private healthcare organisations. It is the commercialisation and monopolisation of cancer susceptibility genes like BRCA1 and BRCA2. As the government knows—and it does not know what to do about it—the ASX announced on 11 July that Genetic Technologies Ltd had made a commercial decision to enforce the rights granted to it under an exclusive licence from Myriad Genetics in America. What this means is that all laboratories testing for breast cancer in Australia—and prostate cancer will follow because there is a patent out there on the gene technology—are going to be centralised and monopolised. I wonder what effect that is going to have on the actuarial assumptions behind
this levy? Senator Conroy is scratching his head because the government does not know the answer to this either.

Genetic Technologies Ltd said in 2003 that they would give this patent to the Australian people. They are now going to enforce the patent on the Peter MacCallum institute in Melbourne and, to avoid litigation, they want all the Peter MacCallum institute’s testing done through their laboratory. A spokesman for the Auckland District Health Board—and I would like the government to explain this in view of the actuarial assumptions behind the levies—said:

The Australian government had told the MacCallum clinic—that is, in Melbourne—to continue testing and had promised it would be indemnified for any dispute over the intellectual property rights of this gene technology.

I will not take up the time of the committee much further. My question is: has consideration been given to the long-term implications of giving non-protein, as well as protein, gene patents to private companies around the planet? In Canada it has doubled the price of testing. In America, Myriad have gone into ultimate wide screening at a huge impost on the cost of health care. In the specific case of BRCA1 and BRCA2, the cost of the tests will affect every woman in Australia who has breast cancer. I think it is a disgrace. The government ought to have the guts to say, ‘We’re not going to tolerate this,’ and do something about it; given that Genetic Technologies Ltd said in 2003 they would give it to the people of Australia and New Zealand and are now, in a monopoly situation, going to charge them. It is a disgrace.

Senator CORMANN (Western Australia) (12.42 pm)—I have just a couple of questions of the minister about the impact of this amendment. What is going to be the fiscal impact, in terms of the expected savings, of not having to pay the private health insurance rebate to people whom the government expects will leave private health insurance? What is going to be the impact, in terms of revenue, of not collecting the Medicare levy surcharge from those who no longer will be caught by it? What is going to be the impact on private health insurance premiums, moving forward? What is your expectation of future additional increases to private health insurance as a result of this measure? What is your expectation of the degree of funding lost to the health system as a result of people leaving private health insurance? What is your intention in terms of compensating the states and territories for the impact of this measure on their public hospitals?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (12.43 pm)—I would like to address a number of issues but, as I do not have the chance to do that now, I will just give you the information that you are seeking and come back to other comments that I want to make. I believe the number of drop-outs will be 492,000 and the revenue $380 million. In terms of tax relief, 250,000 Australians will receive a tax cut because this bill will now pass the chamber.

Senator CORMANN (Western Australia) (12.43 pm)—You have not actually answered the two core questions that I asked. I am not asking for the net fiscal impact, because that is what you usually circulate; I am asking you very specifically: how much do you expect to save from not having to pay the private health insurance rebate? For your reference, it was $959.7 million in the budget papers and under your revised version, version 2, it was $879.3 million. I want to know how much that is going to be now and what you expect your comparative loss in revenue to be.
Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (12.44 pm)—The rebate saving is $740.6 million, less tax received of $360 million.

Senator CORMANN (Western Australia) (12.44 pm)—Minister, what is the expectation of the Australian government in terms of increases in private health insurance premiums moving forward as a result of this measure?

Progress reported.

ARCHIVES AMENDMENT BILL 2008

Second Reading

Debate resumed from 17 September, on motion by Senator Faulkner:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 2) 2008

Second Reading

Debate resumed from 25 September, on motion by Senator Ludwig:

That this bill be now read a second time.

Senator COONAN (New South Wales) (12.46 pm)—I rise to indicate that the coalition supports the International Tax Agreements Amendment Bill (No. 2) 2002. Like so many of the tax bills that have come before the Senate this year, the origins of the content of this bill lie in the hard work undertaken by the Howard government when we reformed the Australian tax system. This bill seeks to update and improve the tax agreement that Australia entered into with South Africa in 1999. South Africa is, of course, Australia’s largest trading partner in Africa. With Australia exporting $2.5 billion worth of goods and services to South Africa last year, it is important that Australia maintains the current tax agreement with South Africa. We remain committed to encouraging investment and opportunities for Australian businesses in overseas markets. The existing treaty contains a most favoured nation obligation in the form of a non-discrimination article. When Australia entered into a tax treaty with the UK in 2003 it triggered the most favoured nation obligation in the South African treaty and it meant that there was a need for amendments to ensure that taxpayers of one country who also operated in another did not experience tax discrimination.

Specifically, this bill amends the International Tax Agreement Act 1953 to include amendments—agreed to on 31 March this year—to Australia’s tax treaty with South Africa for avoiding double taxation and prevention of tax evasion. It will lower the withholding rates on interest and royalties while aligning them more closely with OECD practice. It implements a five per cent withholding tax rate for all non-portfolio intercorporate dividends. It will replace the current zero rate for non-portfolio intercorporate dividends paid out of profits that have borne full company tax. It will also provide a 15 per cent withholding tax rate for all other dividends. These rates are consistent with the OECD model tax convention.

As a result of these changes, Australian non-portfolio investment in South Africa will generally benefit from reduced total South African tax on corporate profits. The bill continues to limit source country tax on interest to 10 per cent. Tax will not be charged in the source country on any interest derived by the government of the other country from the investment of official reserve assets or a financial institution domiciled in the other country. Similarly, the bill reduces the general limit for royalties from 10 to five per cent. Additionally the bill expands the list of
taxes covered by the treaty. It brings capital gains tax treatment into alignment with the OECD model. It introduces some integrity measures that allow for exchange of information by tax authorities to secure and protect tax revenue, and it provides for reciprocal assistance in the collection of tax revenue. The measures in this bill, as I said, were the direct results of actions taken by the former coalition government to improve taxation rules and to better cooperate with the South African government in relation to international tax affairs. It makes improvements to the tax treatment of Australian investors. It is a positive move that will support Australian exporters. I commend the bill to the Senate.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (12.49 pm)—I thank Senator Coonan for her contribution, on behalf of the opposition, to this important piece of legislation and I thank the opposition for their support of the bill. This bill gives the force of law to a new tax protocol with South Africa which will modernise and enhance the bilateral tax treaty arrangements between Australia and South Africa. South Africa is, of course, Australia’s largest and most dynamic market in Africa. South African investment dominates investment from the African continent into Australia.

The protocol updates the taxation arrangements between Australia and South Africa to enhance Australia’s relationship with South Africa by reducing barriers to bilateral trade and investment in the lowering of withholding tax rates on interests and royalties. The protocol also delivers on Australia’s most favoured nation obligation in the existing tax treaty to provide for rules to prevent tax discrimination. The protocol inserts a non-discrimination article which protects Australian nationals and businesses operating in South Africa, and vice versa, from discriminatory tax practices. The protocol was also prompted by proposed changes to South Africa’s own domestic law of taxation of corporate profits. The protocol amends the withholding tax rates applying to dividends, providing a five per cent rate for all non-portfolio intercorporate dividends and a 15 per cent rate for all other dividends.

These changes align with OECD norms and address South Africa’s changes to its domestic law system of taxing corporate profits. Australian non-portfolio investment in South Africa will generally benefit from reduced total South African tax on corporate profits as a result of these changes. The new protocol also includes a number of other key changes. I can report that the treaty has been considered by the Joint Standing Committee on Treaties, which has recommended that binding treaty action be taken. I also commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

BROADCASTING LEGISLATION AMENDMENT (DIGITAL RADIO) BILL 2008

Debate resumed from 17 September, on motion by Senator Faulkner:

That this bill be now read a second time.

Senator MINCHIN (South Australia) (12.53 pm)—The Broadcasting Legislation Amendment (Digital Radio) Bill 2008 contains three amendments to the legislative arrangements supporting the introduction of digital radio services in Australia and is supported by the coalition. The coalition, when in government, provided the policy initiative and legislative framework to enable the introduction of digital radio in Australia. At that time, the Labor opposition were some-
what reluctant to support the digital future for radio, but we welcome their realisation of the potential of this technology.

Digital radio will provide significant benefits for Australian radio listeners and broadcasters. The coalition government announced in October 2005 the policy framework for the introduction of digital radio and, in May 2007, the parliament approved legislation, guided through this place by Senator Coonan, to implement the coalition’s policy framework for the introduction of digital radio services in Australia. That legislation provided amendments to the Broadcasting Services Act 1992, the Radiocommunications Act 1992 and the Trade Practices Act 1974 to enable the licensing, planning and regulation of digital radio services. It provided sufficient powers for the Australian Communications and Media Authority and the Australian Competition and Consumer Commission to undertake such activities.

In the 2007-08 budget, the coalition government delivered funding to enable the national and wide coverage community broadcasting stations to commence digital radio services in the six state capital markets by 1 January 2009. Under that budget, $2.7 million was committed over three years to enable ACMA to undertake necessary digital planning and licensing activities to allow for the introduction of digital radio services. So in government the coalition was committed to the introduction of digital radio and ensuring the appropriate legislative and financial support for digital radio.

The bill we are considering today provides three further changes to this framework. The bill extends the deadline for commercial broadcasters to commence digital radio services in the mainland state capital cities by six months to 1 July next year. That measure will of course provide further flexibility to broadcasters. While there have been no impediments for many of the commercial broadcasters in major capital cities, the extension of time will allow for any delays in transmission equipment and installation to be overcome. Importantly, the bill also removes the requirement for digital radio services to commence in Hobart by the extended deadline of 1 July next year. Hobart’s commercial radio broadcasters have expressed their strong concerns about the timeline for their operating market. So the amendment reclassifies Hobart as a regional licence carrier for the digital radio framework, allowing broadcasters in that city to have the opportunity to commence digital radio services at the same time as other markets of comparable size. Like other regional licence areas for digital radio, commencement will occur in Hobart at a date specified by the minister under the Broadcasting Services Act, and the coalition supports that measure.

The third measure of the bill will provide for the community broadcasting sector to participate in the ownership of transmission infrastructure. The amendment reflects the original policy intent of the coalition government’s previous legislation to allow the community radio sector to participate in the joint venture companies that manage the transmission of their services. The community radio sector was unable to claim a share in joint venture companies that were formed to bid for multiplex licences and own digital radio transmission infrastructure due to the government deferring the requisite funding. This is acknowledged in the second reading speech of the bill as a reason for this particular amendment. The coalition government was committed to providing the financial support for the national and community broadcasters to participate in the initial phase of digital radio. The Community Broadcasting Association of Australia is optimistic, and we hope this optimism is not ill-founded,
that the Labor government will provide funding in the 2009-10 budget context to facilitate that participation. It was disappointing that the Labor government failed to provide certainty in the budget context for community broadcasters this year, and the coalition calls on the government to meet their commitment to community broadcasters as soon as possible.

On behalf of the coalition, I want to thank the members and the staff of the Senate Standing Committee on the Environment, Communications and the Arts for their work in conducting a short but important and useful inquiry into this bill. The coalition looks forward to the opportunities for broadcasters and listeners that will result from the transition to digital radio and commends the bill to the Senate.

Senator STERLE (Western Australia) (12.58 pm)—I seek leave to incorporate remarks by Senator Ludlam on the Broadcasting Legislation Amendment (Digital Radio) Bill 2008.

Leave granted.

Senator LUDLAM (Western Australia) (12.58 pm)—The incorporated speech read as follows—

The Broadcasting Legislation Amendment (Digital Radio) Bill is a positive step in response to the needs of the radio industry as it transitions to digital and I thank the Community Broadcasting Association of Australia and the Commercial Radio Australia for participating in this process in the passage of this legislation.

I also note that financial limitations on community broadcasters continues to exist and could still result in the community radio broadcasters being unable to buy into Joint Ventures, even with the time extension being granted.

The committee report states that “these financial constraints should be taken into account in managing the transition to digital broadcasting”.

We need the Government to factor this in as the transition to digital broadcasting progresses for both the radio and television media.

In order to not merely hang on at the margins of the digital switchover but actually thrive in this new media environment, it is essential that the Government properly resource the sector, and I look forward to working with the Communications Minister as this process unfolds.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (12.58 pm)—In reply—In concluding the second reading debate on this important legislation, the Broadcasting Legislation Amendment (Digital Radio) Bill 2008, I thank Senator Minchin for his remarks and also Senator Ludlam for the remarks that he has made which are to be incorporated into the Hansard. I could make a very long speech in response on this matter—
Senator Minchin—Given that you know so much about digital radio!

Senator Faulkner—it is funny you should say that, Senator Minchin, because you are right. I am aware that digital radio will launch in 2009. I am aware that it will operate alongside existing analog services and that it promises a range of new and innovative features that will enhance the radio services so valued by Australians.

As Senator Minchin has encouraged me to speak about this important issue, I thought I would indicate to the Senate that the first two amendments in the bill relate to the commencement date for digital radio in the six state capital cities—as Senator Minchin would be aware. Under current legislation, commercial radio broadcasters in these markets are required to commence digital radio services by 1 January 2009. Failure to do so could expose them to sanctions, including the cancellation of their right to broadcast in digital. I can say to the Senate and, through you, Madam Acting Deputy President, particularly to Senator Minchin, that, due to a range of reasons, including delays to the roll-out of transmission equipment, broadcasters are unable to comply with this deadline. As a result, the commercial radio sector and the ABC recently announced that the national switch-on for digital radio will take place on 1 May 2009. Accordingly, the bill will extend by six months the deadline for start-up to 1 July 2009. Senators would be aware that this will ensure broadcasters are not in breach of current provisions for late commencement, including the cancellation of their right to broadcast in digital.

The bill will also remove Hobart from the list of markets subject to the new deadline. After consultation with Hobart’s commercial broadcasters, who expressed strong concerns about their readiness to launch at the same time as the mainland state capitals, the bill will allow digital radio services to start in Hobart at the same time as other similarly sized markets, such as Newcastle, Geelong and Wollongong.

Perhaps I could now turn, particularly for the interest of Senator Minchin, to the final measure in the bill. This measure amends the Radiocommunications Act 1992 and extends to the community broadcasting sector, which Senator Minchin dealt with in his informative speech in the second reading debate, the opportunity to participate in the joint venture companies formed in 2008 that own digital radio transmission infrastructure, in line with the original intent of the legislation introduced in May last year. The government is supportive of the community broadcasters participation in digital radio, recognising the vital role the community sector plays in providing diversity, localism and grassroots participation in the Australian media. The benefits of digital radio to both broadcasters and listeners are enormous and the government looks forward to a successful launch of Australia’s first digital radio services on 1 May 2009.

In conclusion, I ought to acknowledge the presence in the chamber of Senator Conroy, the minister who knows more about this issue than either I or Senator Minchin. I am very pleased that Senator Conroy has listened to this debate as closely as he has. I commend this important legislation to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.
TAX LAWS AMENDMENT
(MEDICARE LEVY SURCHARGE
THRESHOLDS) BILL (No. 2) 2008
In Committee
Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Carol Brown)—The committee is considering the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill (No. 2) 2008 and amendments (1) to (6) on sheet 5625 moved by Senator Siewert and Senator Xenophon. The question is that the amendments be agreed to.

Senator CORMANN (Western Australia) (1.04 pm)—I asked a couple questions of the minister before—

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.04 pm)—Can you run through them again, please? You were only halfway through them when we started talking over you.

Senator CORMANN (Western Australia) (1.05 pm)—Okay. Before we were interrupted to deal with non-controversial legislation, the minister advised me that the expected saving for the government as a result of not having to pay the private health insurance rebate to people whom the government expects to leave private health insurance is $740,600,000. The expected loss of revenue is $360 million. I want to place on record what this means. The $740.6 million is only the 30 per cent rebate. This means that the government is happy to see $2.5 billion walk out of our health system, because that is exactly the amount of money that those people would otherwise have contributed to private health insurance. They will be taking that money with them.

My very specific question to the minister, which has not been answered yet, is: what increases in private health insurance premiums does the government expect as a result of this revised measure? Yesterday, on ABC radio, the Minister for Health and Ageing told listeners that increases in premiums as a result of this measure were inevitable. So, firstly, please tell me what the government’s expectation is in terms of increases in premiums. Secondly, according to the government’s own figures, $2.5 billion will walk out of the health system as a result of this measure. In light of that fact, what is the government’s intention in terms of compensating the states and territories for this impact?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.06 pm)—In answer to your question around premiums, it is up to insurance companies to provide an attractive, affordable product. If they do that then people will continue to buy it. It is also ultimately up to the Commonwealth to approve premium rises, and the health minister has made it clear that she will not accept private health insurance funds using this measure as an excuse to whack working families with huge hikes. The government’s view is that the health funds will compete strongly with each other and will continue to drive down costs and that this will minimise premium increases.

I know you have stood up a few times recently, Senator Cormann, claiming you have been misrepresented, but I suspect you have seriously verballed the minister, so I do not accept what you have put forward.

Senator Mason interjecting—

Senator CONROY—Senator Mason has joined us in the chamber and wants to interject and join in. He is the man who has spent his entire political life fighting international socialism, only to be merged with them.

Senator Mason—Very unfair, Stephen!
Senator CONROY—Unfair but true. You have spent your entire life fighting those international socialists and agrarian socialists, only to find that you are in bed with them. Health Minister Roxon and the government have been talking to the Greens, Senator Xenophon and of course Senator Fielding, and all have been willing to take a constructive approach on this issue. We have come to an agreement which will deliver immediate tax cuts to 250,000 Australians and to more Australians in the years after that. For two people, each on an average income, this tax cut is worth $1,200 in the next year. We also know that many other Australians will benefit from having a real choice. When budgets are tight, Australians will be able to make real decisions about where they want to spend their money without having to fear being hit with a tax penalty. The new threshold for singles will be $70,000 while for families it will be $140,000. These thresholds will be indexed each year to reflect wages growth. This will ensure that they will remain relevant into the future rather than forever threatening to become the tax trap that the former Liberal government’s thresholds had created.

The Liberals are the last men standing on this issue, refusing to accept that there should ever be any changes. Their approach to this issue is about as relevant as the Medicare levy surcharge thresholds they want to maintain—this at a time when we know we need a surplus and we know we need to provide relief to families. The senators from the minor parties have seen the need for economic responsibility.

Senator Xenophon—I’m an Independent.

Senator CONROY—Sorry, Senator Xenophon—minor parties and Independent senators. I was not in any way attempting to leave you out. At a time like this it is stunning that the Liberals are rejecting this bill and voting against the surplus and against relief for working families. Minister Roxon and the government thank the Greens, Senator Xenophon and Senator Fielding for their constructive approach to this issue.

I also want to make the point that our public hospitals are on a firm footing. We have already injected $1 billion this year, and they stand to benefit significantly from COAG at the end of the year. We are happy to support the amendment Senator Siewert will move for a review into the impacts of this measure on public hospitals, but we do not believe there will be any adverse impact on public hospitals as a result of this legislation that will pass through the parliament today. We would also particularly like to acknowledge the Greens’ support for using wages as the indexation factor into the future. We believe that this will lock in fairness for the future. It will make sure this surcharge will remain relevant to future incomes and will never again become the tax trap that the former Liberal government created.

We are also continuing discussions with Senator Xenophon and Senator Siewert regarding the terms of reference for a Productivity Commission inquiry into the cost of different procedures in the public and private systems. It is important to note for the record, as Senator Xenophon has done previously, that the government is already well advanced in negotiations with the states and territories to provide more transparency and accountable reporting on public hospitals. We are also in discussions with the private sector about the same performance indicators applying to private hospitals so that we will have a truly national system of reporting across public and private hospitals for the first time. The Productivity Commission will be able to draw on some of this work in its inquiry.
Senator CORMANN (Western Australia) (1.12 pm)—Just to allay the minister’s concerns: far be it from me to verbal the Minister for Health and Ageing, even though that is something that she herself is quite up to doing when she circulates propaganda sheets which present questions asked at an inquiry as a statement of position. Let me quickly read out to you the direct quote of the answer provided by the Minister for Health and Ageing to a question by Matthew Abraham on 891 ABC yesterday morning. Mr Abraham asked a very incisive question:

And how will you stop them from putting up their rates to compensate for this, because you wouldn’t want them to go broke, would you?

Mrs Roxon said:

Well, no, that’s why I say, you’ve got to balance those things and I don’t want to pretend to the community that, you know, there isn’t an inevitability of some increases…

The reality is this—

Senator Conroy interjecting—

Senator CORMANN—A double negative makes a positive, Minister—I am sure that even you understand that. So the minister is not saying there is not an inevitability of some increases. The reality is this: Professor Deeble said there would be an additional five per cent increase, Access Economics said there would be an additional five per cent increase—under the original measure, I grant you that. But it stands to reason that if you expect that 500,000 people will leave private health insurance as a result of this measure—and the minister says that it is the young and healthy who will leave in the first instance, who will not access treatment to the same extent as the older and sicker and who will walk out with the contributions that they would otherwise have made—of course premiums will have to go up. That is basic logic. I do not think that anybody seriously suggests that premiums will not go up. Everybody accepts that premiums will go up. The minister accepts that premiums will go up as a result of this measure. The question is: by how much? And the real concern is that, during the Senate inquiry, Treasury told us that they had not actually included an assumption about future premium growth as a result of this measure in the forward estimates costing of that $960 million saving—which became $879 million and has now become $740 million.

I ask you the question again, Minister, because this is something that Health and Treasury officials have confirmed in the Senate inquiry. Just tell me if there is a change of position. Health and Treasury officials gave evidence to the inquiry that future premium increases as a result of this measure would be funded out of the contingency reserve. Could you please confirm for me that future health insurance premium increases as a result of this measure would be funded out of the contingency reserve?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.15 pm)—Senator Cormann, on a number of occasions you have taken points of order and stood up and argued that you have been seriously verballed, and you have taken umbrage about it. So I do find it a little difficult to take you seriously when you try to fundamentally misrepresent what the minister said. If I could also defend Ms Roxon, she is getting married later this year but I do not think she will be adopting the ‘Mrs’ title. Seriously, that is a serious verballing of what she has said and a serious verballing of evidence from officials. The point is: there is always money in the contingency reserve for premium increases—not premium increases caused by this. Let me be clear. You are trying to deliberately bring together two pieces of information and mislead this chamber. You should stop misrepresenting both the minister and officials, be-
cause it does not do you well to have got yourself into a situation where you want to claim you have been misrepresented and then you start doing what you claim has been done to you.

Senator CORMANN (Western Australia) (1.16 pm)—Minister, taking you at your word, can you guarantee that private health insurance premiums will not go up as a result of this measure? Can you provide, here and now to the Senate and to the Australian people—to the one million people on incomes of less than $50,000 who have private health insurance—a guarantee on behalf of your government that health insurance premiums will not go up? Whatever you are saying, Treasury officials told the inquiry and Health officials told the inquiry that any impact in terms of future premium growth as a result of this measure will be covered out of the contingency reserve. That is black and white in the Treasury submission to the inquiry. It is black and white in the evidence that was provided. If you are now coming here and trying to play some political game and not taking those questions seriously—questions about things that have a serious impact, particularly on the vulnerable in our community who will continue to take out private health insurance—then, quite frankly, you should not be dealing with this legislation.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.17 pm)—I have already responded to the very point that you have made. I am happy to repeat exactly what I said, and I noted Senator Mason’s interjections—or perhaps it was the good senator behind him. I was not quite sure if you were throwing your voice, Senator Mason. Perhaps it was Senator Williams. I am not sure. Let me repeat what I said and be absolutely clear. It is ultimately up to the Commonwealth to approve premium rises. The health minister has been very clear. She will not accept private health insurance funds using this measure as an excuse to whack working families with huge hikes. It could not be clearer.

Senator CORMANN (Western Australia) (1.18 pm)—I note that the minister was not prepared to rule out health insurance premium increases as a result of this measure. He has not been prepared to rule out that premiums will go up as a result of this measure. I will just explain the very simple maths to the minister again. The minister said earlier that the Commonwealth expects to save $740.6 million by not having to pay the private health insurance rebate to those Australians the government expects to leave private health insurance. The Minister for Health and Ageing has said that these people are going to be the young and healthy, so there is nothing to worry about. But if it is the young and healthy, then this is only 30 per cent of the total funding that will walk out the door with the 500,000 people you expect to leave private health insurance. Those people will not only take the 30 per cent Commonwealth rebate away with them; they will also take their own 70 per cent contribution away with them. That is $2.5 billion walking out of that door, Minister, and you are saying it is just going to go up in the air somewhere? Are you saying to me seriously that there is not going to be an impact on public hospitals? Are you saying that there is not going to be an impact on private health insurance premiums? Where is that $2.5 billion going to come from? Do you expect a reduction in demand for hospital treatment? Surely not.

Not one single witness at the Senate inquiry said that they expected a reduction in demand for hospital treatment. Of course not; nobody does. But there is $2.5 billion walking out that door with the people you are driving out of health insurance as a result of this measure, and you have got absolutely no idea where that money is going to come
from. I put it to you, Minister: it is going to be the states and the territories that are going to have to cop it on the chin. You are setting them up for failure. Pensioners and Australians earning less than $50,000 a year are going to be among 10 million Australians who will see five to 10 per cent additional increases in health insurance premiums as a result of this measure.

Let me go back to the advice provided by your very good friend and mentor, former Senator Graham Richardson. This is what he put in his discussion paper in December 1993. He came in as the new federal health minister at the end of 10 years of failed Labor health policy—Labor health policy that was based on the same ideological misguidedness as this legislation is today. His discussion paper said: ‘Declining rates of private health insurance membership have significant implications for the public system. As more people drop out of private insurance, the demands on the public system grow.’

This is a government that told Senator Siewert there would be no negative impacts. I understand where Senator Siewert is coming from, by the way. She has a particular view. She is not supportive of the policy framework that underpins private health, and she is very clear about that. At least she is honest about where she is coming from. She does not support the private health insurance rebate, she does not support Lifetime Health Cover and she does not support the Medicare levy surcharge. I can respect her position more than the position of the government. The government are trying to pretend, ‘Yes, we are committed to a mixed health system. We are committed to a strong private health sector,’ but they are doing everything to undermine it and weaken it and make sure that it falls over.

In the media today I read:

Greens health spokeswoman Rachel Siewert said the government had assured her party there would be no negative impacts on the public hospital system.

This is like saying, ‘Trust us; we are from the government; we are here to help.’ What sort of guarantees has the government actually provided to Senator Siewert to substantiate that commitment? This is just incredible. Two or three weeks ago Senator Fielding said that he was concerned about the impact of this measure on low-income families, pensioners, older Australians and people on low and fixed incomes. He said, ‘I want some compensation for them.’ But he has now just rolled over and abandoned lower income families, abandoned pensioners and essentially sidled up to the government in the name of an illusory surplus out of this measure which will not eventuate at all due to the reasons I have given.

Minister, you are quite right. Only the Liberal-National Party coalition is standing up for the 10 million people with private health insurance. Only the Liberal-National Party coalition is standing up for the one million Australians earning less than $50,000, whom you will force to cope with increased health insurance premiums or to go into the public hospital queues as soon as they can no longer afford those increased premiums that you are forcing on them. Minister, you are absolutely right: only the Liberal-National Party coalition is standing up for sound and good public health policy. Quite frankly, the more I ask you questions and the more that you are not able to answer them, the more obvious it becomes that the government still has not done its homework, is still flying blind, still does not know what the impact on public hospitals is going to be and still does not know by how much private health insurance is going to go up as a result of this measure. Quite frankly, within half an hour,
this deal has been totally exposed as a complete fraud.

Senator XENOPHON (South Australia) (1.24 pm)—I need to pull up Senator Conroy for misleading the house a bit earlier. He said that the Liberals were the last men standing on this, but the last time I checked there were a number of very capable female senators for the Liberal Party, so I think he needs to be taken to task for misleading the house in relation to that. To put this in perspective, the amendments were moved by my colleague Senator Siewert jointly with me. They relate to what I see as a healthy compromise to what the government put up. I have always been concerned about maintaining an equilibrium between the private and public systems. Senator Cormann is quite passionate in his defence of the status quo—and I respect his position—but I think it is important that we put a few things in perspective. Firstly, this is not the only measure that keeps people in the private health system. Lifetime cover, community rating and the 30 per cent rebate are all factors to be considered. The fact that there has been such a pressure on the health system is also due to the ageing population and to illnesses which are preventable. For example, we can do more to reduce our smoking rates and the level of emphysema and lung cancer.

There are things that we can do to have a healthier community and that will make a difference to our hospital waiting lists. A range of other measures need to be taken into account in the context of how our health system works. That is why I believe that this is a sensible, healthy compromise in terms of not ensuring a tipping point by having so many people leave the system and of ensuring the viability of private health insurance in keeping a downward pressure on premiums as much as possible by not having so many people exiting. But there is also the fundamental equity issue. When this surcharge was introduced in 1997 the then Treasurer, Peter Costello, made it very clear that it was intended as an incentive for higher income earners to take up private health insurance. Right now it is $8,000 below average weekly earnings. I was convinced, as a result of what was put in the chamber yesterday by Senator Siewert and from discussions with Treasury officials last night, that average weekly earnings, on the basis of all the evidence available, would be a more appropriate index in the context of this measure, because it is a threshold based on income. So, on balance, that seems to be a more sensible approach.

I want to briefly refer to the issue of a Productivity Commission inquiry, and I would like to acknowledge that the opposition was quite supportive of the motion that I had put up, which has been postponed. It seems to me that it would be much more preferable for an inquiry, pursuant to the legislation that sets up the Productivity Commission, to be coming from the Treasurer. That is how it works in the legislation. I think there are some procedural and other difficulties in it being a motion from a senator, even though that would be a second-best alternative option. I believe that, if we have this Productivity Commission inquiry, it should be broad in its terms of reference and there should be a robust inquiry that looks at, for the first time, the comparison in outcomes in the costs of the public and private systems. It should look at infection rates in the two systems and at the whole issue of fully informed financial consent in both the public and private systems, because these are things that will make a real difference to some good, long-term public policy outcomes.

I note Senator Cormann’s interest in getting a good, long-term public policy outcome on health policy in this country. I believe that the Productivity Commission inquiry into this will make a very real and positive differ-
ence that will be good for our health system in the medium to longer term. That, to me, is a very key part of what is before us today. Whilst it is not directly before us, in terms of the issue that will be voted on, it is part of the undertaking of the government, and I accept that we have some broad terms of agreement based on the motion that I have introduced. Senator Siewert is looking at the terms of reference to make sure that it is as comprehensive as possible, and that is welcome.

Notwithstanding my admonishment of him a couple of minutes ago, can Senator Conroy confirm that the Productivity Commission will also be providing advice to the government on the most appropriate indexation factor for the Medicare levy surcharge threshold, so that the concern that Senator Cormann has had in relation to this will be one of the issues that will be looked at by the Productivity Commission in making its recommendations and reporting on this very important matter? Having said that, I look forward to this matter being dealt with. I believe that this is a sensible compromise, balancing the equity issue of those who were slugged with this surcharge—given the lack of indexation for 11 years—with ensuring that there is an appropriate balance between the public and private systems.

Senator CORMANN (Western Australia) (1.30 pm)—Yesterday Senator Xenophon asked me a few questions and I gave it my best to sincerely, openly and transparently answer them. In light of the fact that I am not getting any satisfaction from the government, and considering that the government is not prepared to provide answers to the Australian people about the impact on public hospitals and private health insurance premiums, I thought I would try my luck with Senator Xenophon. Senator Xenophon, the fact that the government expect to save $740 million from not having to pay the private health insurance rebate to people shows that they expect people to leave private health insurance. This is not us making it up; these are Treasury forecasts. Considering the $740 million is only 30 per cent of the funding that will be walking out the door, what sort of assurances have you received from the government about how they will make up that $2.5 billion shortfall in the health system? That is a question I would also like to address to Senator Siewert. She says here that she has been given assurances that there would not be a negative impact on public hospitals. What sorts of assurances has Senator Siewert received? What sort of compensation is the federal government going to offer the states and territories for the impact of this? My second question to Senator Xenophon is: what indications has the government given to you of expected future health insurance premium increases as a result of this measure? What is going to be the increase in health insurance premiums as a result of this measure that the government has told you about?

Senator XENOPHON (South Australia) (1.31 pm)—These questions are better asked of a minister. I can assure this chamber that I will never be a minister in any government—that is one thing I am certain of!

Senator Mason—Oh, you never know, Nick!

Senator XENOPHON—It is not going to happen! In relation to the matters raised by Senator Cormann, the policy dilemma for me has always been: what do you do with a surcharge that was put in place for high-income earners back on 1 July 1997 that has not been indexed at all and is catching more and more people in the net? That is a key factor.

I think I have already alluded to the other issues that Senator Cormann has raised. In terms of premium increases, this clearly is a compromise measure with respect to the
government’s position, which I believe went too far. It acknowledges the equity issue of those who have been caught by the surcharge—which includes people on below-average weekly earnings, for instance, which I believe is fundamentally unfair. I think the health minister has been very clear that any application for premium increases by private health insurers will be looked at forensically and they will have to make their case. I would like to think that this provides that equilibrium.

In terms of the bigger picture, can I say to Senator Cormann that having a forensic Productivity Commission examination of this for the first time in terms of the comparison between the public and private systems is something that has never been done—the data has not been available. I acknowledge what the health minister has said in relation to moving on this with COAG. It is something that no previous government has actually done and that is long overdue. I believe we will get some answers that we need to move forward with in long-term health policy in this country.

I have said before that I have private health insurance. I would not give it up for quids, even without the rebate. I have been well served by my private health cover, and I intend to keep it. But I think that, if we want some long-term answers about where we get the best benefit for taxpayer dollars in the system, the Productivity Commission inquiry is the way to go forward. The dilemma is: what do you do with the threshold for a surcharge that has been left at an artificial level over so many years and has not been addressed? I do not think we would have this problem if whoever was giving advice to then Treasurer Peter Costello 11 years ago had thought to have it indexed, either to CPI or average weekly earnings. I am sure I have not satisfied Senator Cormann, but I have given it my best shot.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.35 pm)—If I could just assure Senator Xenophon on his query in relation to the base indexation issue: it will be addressed as part of the Productivity Commission inquiry.

Senator SIEWERT (Western Australia) (1.35 pm)—In response to Senator Cormann’s question to the Greens, I also want to seek confirmation from the government to see if my understanding is correct. Firstly, the reason why the Greens are moving the amendment in relation to the review is to be assured that there is no negative impact on the public hospital system—and, if there is, obviously the government need to address that, since they have given us an assurance that there will be no negative impact on the public hospital system. I understand from the government’s response to me previously in discussions on this, and in this chamber in discussions on the previous bill, that the government will be supporting the review and that, if the review does identify any negative impacts, they can be dealt with through the COAG funding agreement that they are currently negotiating with the states. There will be an ongoing relationship there. I understand that is the process, and I would seek that clarification from the government.

Senator CORMANN (Western Australia) (1.36 pm)—I am close to wrapping up the opposition’s contribution in this debate, I assure you. Firstly, in relation to the comments made by Senator Xenophon, I place on record that over 11½ years of the Howard-Costello government we provided between $5,100 and $9,000 per annum worth of tax cuts to Australians in the $50,000 to $75,000 income bracket. John Howard and Peter Costello did that without the disastrous consequences that will result from this very bad public policy.
A very bad public policy, I repeat, was pursued by the government under the pre- tence of offering tax breaks when in reality it was a very thinly veiled attack on the private health sector—a policy where the govern- ment did not even seek to assess the impact on public hospitals, where the government did not even seek to assess the impact on future health insurance premium increases and where the government only sought to assess how many people would leave in or- der to be able to calculate how much they would save and how much it would cost them. They were not able to tell us the true and accurate estimates of the number of peo- ple they expected to leave until two or three months into the inquiry, when they finally were able to confess: ‘Yes, we expect 644,000 people to leave.’ That became 583,000. Now it is 492,000 people.

I suggest to the government that that is still an underestimate of what will happen, because of one of the fundamentally flawed assumptions this government is making—and I invite you to check it in Hansard, Senator Conroy, because I would not want you to accuse me of verballing people yet again. Essentially, Treasury and Health offi- cials both said that they expect this to be ‘a one-off shock to the system’. ‘A one-off shock to the system’ is what Mr David Kalisch, from the Department of Health and Ageing, said in the Senate estimates process.

The reality is that it is not going to be a one-off shock to the system. This is going to push up the price of premiums, so more peo- ple will have to leave, which will push up the premiums a bit more, so more people will have to leave, and you will have a new downward spiral. That is exactly what hap- pened in 1983, when you started off with a drop from 63 to 50 per cent. Things acceler- ated. Membership started to drop by two per cent per annum. Then Senator Graham Richardson said: ‘If this keeps going the way it is, it will be three to four per cent per an- num in a couple of years time. If things con- tinue the way they are, we will end up at 25 per cent private health insurance membership by the end of the decade.’

If that is what the government want, if the government are quite happy to introduce a policy that will lead us down the path of ending up with 25 per cent of Australians being privately insured, then they should say so. They should be honest enough to say so. Do not come here and pretend that this is some sort of effort to provide a tax break, because, if it were supposed to be a tax break, you would have announced it before the election and you would have made sure that it did not discriminate against people who do take out private health insurance but that it was a tax cut for people in relevant income brackets whether they take out private health insur- ance or not.

I also take this opportunity to make a comment about the Greens amendment on the review. The opposition will be supporting the Greens amendment on the review, but let me just make the point that this is really like having a bus drive at 150 miles an hour against a wall and saying: ‘Let’s have a re- view afterwards to see whether people got hurt, instead of making the decisions before we hit the wall to apply the brakes, turn the bus around or remove the wall.’ There are a whole heap of things that you can do before you end up in a situation where you know that people are going to get hurt.

This is a bus with 20 million Australians on it, and the government is driving it right against that wall at 150 miles an hour. Do you know what? Instead of making decisions on turning that bus around, applying the brakes, making some sensible changes and making a proper assessment of the risks ahead, the government is intent on keeping on driving. Even if you slow down that bus
from 150 miles an hour to 120 miles an hour, as long as you continue heading for that wall, people are going to get hurt. Yes, the review will show us afterwards that people got hurt.

Once the Australian people can see where this policy is going to lead, they will change the driver. At the next election, we will be calling on the Australian people to change the driver of the bus, because the Australian people do not want you to drive that bus against that wall; they want you to apply the brakes. They want you to turn that bus around. Quite frankly, everybody knows that, if you drive a bus at 150 miles an hour against that wall, people are going to get hurt. That is why we think that the government should have done a proper assessment—the government should have done its homework—before introducing this legislation.

We will be supporting the Greens amendment on having a review, but we note that that will be a review after the fact. That will be a review after people have already been hurt. That is not the way to devise good policy. Good policy means that you make a proper assessment of the likely implications, the likely risks and the flow-on implications of a particular measure before you implement it.

That is what is fundamentally wrong with this government. This government is driven by an ideological pursuit against private health. It tries to dress it up in its spin of: ‘This is about a tax break,’ even though this will force up health insurance premiums for 10 million people, including one million Australians earning less than $50,000 who will not get a tax break—people like Mrs Judie Kearney-Wilkins, from Treasurer Wayne Swan’s electorate of Lilley. These are people that the Treasurer should very carefully listen to. I am pretty confident that Mrs Judie Kearney-Wilkins would be very concerned about where this bus driver is taking this bus. She would be very concerned about that wall over there. While we will be supporting the amendment to have a review, we think the government should have done its homework before introducing this legislation.

Question put:
That the amendments (Senator Siewert’s and Senator Xenophon’s) be agreed to.

The committee divided. [1.48 pm]
(The Chairman—Senator the Hon. AB Ferguson)

Ayes……………. 33
Noes……………. 31
Majority………. 2

AYES

Arbib, M.V.
Bishop, T.M.
Cameron, D.N.
Collins, J.
Crossin, P.M.
Farrell, D.E.
Feeney, D.
Forshaw, M.G.
Hanson-Young, S.C.
Hurst, A.
Ludlam, S.
Lundy, K.A.
McEwen, A. *
Polley, H.
Sherry, N.J.
Sterle, G.
Xenophon, N.

NOES

Barnett, G.
Birmingham, S.
Boyce, S.
Bushby, D.C.
Colbeck, R.
Cormann, M.H.P.
Ferguson, A.B.
Fifield, M.P.
Heffernan, W.
Joyce, B.
Mason, B.J.

Bernardi, C.
Boswell, R.L.D.
Brandis, G.H.
Cash, M.C.
Coonan, H.L.
Ellison, C.M.
Fierravanti-Wells, C.
Fisher, M.J.
Humphries, G.
Macdonald, I.
McGauran, J.J.J.
Minchin, N.H. Nash, F.
Parry, S. Payne, M.A.
Ronaldson, M. Ryan, S.M.
Scullion, N.G. Trood, R.B.
Williams, J.R. *

**PAIRS**
Brown, B.J. Eggleston, A.
Milne, C. Aertz, E.
Moore, C. Adams, J.
O’Brien, K.W.K. Troeth, J.M.
Stephens, U. Johnston, D.
Wong, P. Kroger, H.

* denotes teller

Question agreed to.

**Senator SIEWERT** (Western Australia)
(1.50 pm)—by leave—I move Greens amendment (1) on sheet 5606 revised:

(1) Page 2 (after line 2), after clause 3, insert:

4 Review of operation of Act

(1) The Minister for Health and Ageing must cause an independent review of the operation of this Act to be undertaken as soon as possible after each anniversary of the commencement of this Act, for a period of three consecutive years.

(2) The review is to consider and report on the impact on public hospitals of the amendments made by this Act, including the number of episodes of care, the impact on operating costs and the impact on elective surgery waiting lists.

(3) The person undertaking the review must give the Minister a written report of the review, and the Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of receiving the report.

This relates to the review of the operation of the act. A new amendment has been circulated in the chamber because we slightly revised the previous amendment to ensure that it is the Minister for Health and Ageing who initiates or causes the independent review to occur. This is the review that we have been talking about of the operation of the act to ascertain any impacts of these changes on the public hospital system.

**Senator CORMANN** (Western Australia)
(1.51 pm)—I wish to confirm that the opposition intends to support this amendment. I have spoken to this before.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

**Third Reading**

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.52 pm)—I move:

That this bill be now read a third time.

Question put.

The Senate divided. [1.57 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes.......... 33
Noes.......... 30
Majority....... 3

AYES

Arbib, M.V. Bilyk, C.L.
Bishop, T.M. Brown, C.L.
Cameron, D.N. Carr, K.J.
Collins, J. Conroy, S.M.
Crossin, P.M. Evans, C.V.
Farrell, D.E. Faulkner, J.P.
Feeney, D. Fielding, S.
Forshaw, M.G. Furner, M.L.
Hanson-Young, S.C. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Ludlam, S. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. * McLucas, J.E.
Polley, H. Pratt, L.C.
Sherry, N.J. Siewert, R.
Sterle, G. Wortley, D.
Xenophon, N.
Question agreed to.

Bill read a third time.

**QUESTIONS WITHOUT NOTICE**

**Members of Parliament: Staff**

Senator CASH (2.00 pm)—My question is to the Special Minister of State, Senator Faulkner. Does the Rudd government require the staff of its ministers and parliamentary secretaries to provide a statement of private interests to their employing ministers or parliamentary secretaries, and is the minister or parliamentary secretary required to countersign the statement? If so, was this procedure followed by Parliamentary Secretary McKew and her staff member Ms Kathleen Forrester?

Senator FAULKNER—The answer to the first question that was asked by Senator Cash is yes. The answer to the second question that was asked by Senator Cash is yes. Now let me turn to the specifics of the particular case that Senator Cash raises. For the information of the Senate, I can confirm that a Ms Kathleen Forrester is an adviser to the Parliamentary Secretary for Early Childhood Education and Child Care, Ms McKew. I can confirm that Ms Forrester joined Ms McKew’s staff on 12 May this year.

Prior to her appointment, Ms Forrester had been an employee of the Allen Consulting Group, which is a private company. She resigned before taking up her ministerial staff appointment. As an employee of the Allen Consulting Group, Ms Forrester, like other employees, received shares in the company under an employee share plan. On 23 April 2008, before she commenced at Ms McKew’s office, Ms Forrester told the company she wished to divest her shares to avoid any potential conflict of interest. In fact, she wrote to the company and told them she wanted to dispose of her holding quickly because she was keen to avoid even the vaguest notion of potential conflict of interest. In turn, the company told her that it would put in train a divestment process.

You also asked me, Senator Cash, whether that statement was signed. I confirm, for your information and for the information of the Senate, that that statement was signed by Ms Forrester and Ms McKew before the start of Ms Forrester’s employment on 12 May 2008.

I note that I have perhaps provided some additional information to that which Senator Cash has requested, but I thought it appropriate to do so to enable Senator Cash to understand the context of the signing of the
declaration form, and also, of course—as is the hallmark of this government—in the interests of full transparency.

Economy

Senator BILYK (2.04 pm)—My question today is to the Minister for Superannuation and Corporate Law, Senator Sherry. Can the minister inform the Senate about the Rudd government’s actions to protect and bolster the Australian economy during this time of global economic turmoil?

Senator SHERRY—Thanks to Senator Bilyk for her important question. Earlier today, the Senate passed a historically very important bill. Now that it is passed through the parliament, the commencement of the Rudd government’s Financial Claims Scheme will guarantee bank deposits for the next three years and safeguard our financial system. I will turn to the effects of this critical law in a moment. First I want to note that this deposit guarantee represents yet another early, responsible and decisive action by the Rudd Labor government to bolster our economy and shore up our financial system in the midst of the global and economic financial systems crisis.

The opposition today supported the bill, as indeed did the crossbenchers. I want to thank them for their cooperation. However, I do note that, in the opposition’s response, whilst having offered up bipartisanship, they appear to be changing tack and saying the government has taken too long to take the necessary decision. I think this is an extraordinary claim so I want to run through the range of actions taken by the Rudd Labor government over the past almost 12 months.

First, in May the government announced we would provide legislative authority for an increase in the Commonwealth government securities issuance of up to $25 billion to strengthen the Australian financial system and reduce its vulnerability to shocks. Second, the government have moved to quickly guarantee bank funding. If institutions fail to lend to each other, businesses and households cannot obtain credit and therefore the financial system and economy seize up. We have acted to keep our banks in an advantageous position in very difficult international credit markets. Third, we have now guaranteed bank deposits for the next three years.

Fourth, we have acted to protect financial institutions from speculators, short selling and market manipulation. We have supported the temporary prohibition on short selling in our market by our independent regulator ASIC, and we have gone further. I have released draft legislation that would require the disclosure of covered short selling, a gap in our disclosure regulation that has existed since 2001.

Fifth, we have acted decisively to support competition and liquidity in the mortgage market. On 3 October the Labor government announced the initial purchase of $4 billion of residential mortgage backed securities to support wholesale funding of financial institutions and improve competition in the market for housing finance. Sixth, we have acted to reform the regulation of financial services and credit in Australia. The states and territories have regulation responsibility for about 20 per cent of our financial sector in Australia. After almost 12 years of inaction in this regard, we have reached agreement with the states to introduce single national standard legislation in respect of the financial sector. Seventh, the government has been active all year in coordinating our actions with key global partners.

Senator Ian Macdonald—You’ve done a lot, Nick. What have you done with the surplus?

Senator SHERRY—Eighth, Senator Macdonald, is the $10.4 billion Economic Security Strategy announced this week,
which will put cash in the pockets of low- and middle-income Australian households and generally bolster our economy against the backdrop of this global financial crisis. This stimulus package is particularly important. It covers a $4.8 billion down payment on pension reform, $3.9 billion in support payments for low- and middle-income families, $1.5 billion to help first home buyers and $187 million to fund a doubling of new training places. Further, the government is accelerating—

Senator BILYK—Mr President, I ask a supplementary question. Can the minister further update the Senate on the recent passage of any key legislation to deliver on the Rudd government’s Economic Security Strategy?

Senator SHERRY—As I was just concluding on my initial points: further, the Rudd Labor government are accelerating the implementation of projects to be funded through our three nation-building funds.

We face the biggest financial crisis ever confronted by the modern postwar global economy. We know that some 25 banks have failed worldwide. They have either been bailed out or nationalised. The crisis is contributing to a serious global economic downturn, so the actions I have outlined are very significant. They are decisive, they are timely and they are necessary, and we are particularly pleased to see that the Financial Claims Scheme, which does represent unprecedented action to deal with developments in global financial markets, did pass the Senate this morning. That is necessary to ensure the stability to underwrite and assist the stability of the Australian financial system. It will enhance and strengthen Australia’s crisis management arrangements and will guarantee the deposits in Australian banks, building societies and credit unions for a period of three years—unprecedented action in times of great uncertainty. These sorts of times do require decisive action by government. The Rudd Labor government has acted on a range of fronts to deliver decisive action to help bolster our economy and to help us through this—

Quarantine

Senator BOSWELL (2.10 pm)—My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Sherry. I refer to comments made on Monday by the Prime Minister of Vietnam regarding Australia pledging to ‘reconsider its quarantine measures on Vietnamese seafood’. As the minister would be aware, Biosecurity Australia have received an enormous amount of scientific evidence that prawns from South-East Asia infected with white spot syndrome virus pose a major risk to our wild catch prawn populations and crustaceans, including lobsters. I ask the minister: what commitments were made by the Prime Minister on relaxing quarantine restrictions against seafood imports from South-East Asia? If there is to be a change of policy, will the minister outline the process the government will take when reconsidering quarantine restrictions against seafood imports and will the scientific evidence that has previously been compiled be considered before that decision is taken?

Senator SHERRY—I should point out that I am not the minister for primary industries—I actually represent the minister. But I am willing to assist you. I am very happy to assist you, Senator Boswell. It is a good question. In fact, it is only the second question I have had in almost a year from the National Party in respect of primary industry and fishery issues. I do wonder from time to time—

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

Senator SHERRY—Mr President, I do wonder from time to time—we have only
had two questions from the supposed champions of rural and regional Australia.

Opposition senators interjecting—

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

Senator SHERRY—I have got an enormous range of detail that I am happy to give to the Senate about the issue of prawns. I have got an enormous range of material I can give you about the issue of importation of prawns. But I do think it is reasonable to point out that this is only the second question I have had in one year. Nevertheless, I am prepared and I do have some advice I can pass on on behalf of the minister, who is actually located in the other chamber, Senator Boswell.

I am pleased to receive this question from Senator Boswell because the previous Liberal government, particularly on this issue of quarantine and prawns, had an absolutely appalling record. The fact is that the prawn and prawn products import risk analysis was first published as a draft in 1998. Ten years later, the Rudd Labor government, when it was elected, found that the prawn IRA was still in draft form. So it has taken 10 years and it is still not finalised. Goodness knows what the National Party was doing when it was in government. In the meantime, because of the 10 years it has taken—

Opposition senators interjecting—

The PRESIDENT—Order! When there is quiet, we will proceed.

Senator SHERRY—in the 10 years that it has taken to develop the draft—it is still in draft form—prawns have been imported from around the world, potentially carrying white spot virus and a number of other diseases. In response to a suspected occurrence of white spot virus in a research facility in Darwin, the former government announced interim measures and later updated the interim measures. That is what the current Labor government has inherited—interim import conditions and a draft risk assessment which, as I have said, is 10 years old. Before the National Party—in their occasional, very occasional, foray in this chamber into these issues—dare to criticise, they should have a long, hard look at what they did not do in 10 years in this area.

To go to the comments of the Vietnamese Prime Minister in respect of this matter, Australia has amended interim quarantine measures for prawns and prawn products based on a comprehensive scientific risk assessment that is essential to ensure that Australian prawn stocks remain free of the diseases of concern. The quarantine measures that were introduced in July 2007—and I think that the current opposition were actually in government then—allow imports to continue, including from Vietnam, provided Australia’s import requirements relating to testing and processing are met. Australia recently amended the measures to remove testing requirements on uncooked prawn meat for—

infectious hypodermal and haematopoietic necrosis virus. Following the discovery of IHHNV—

(Time expired)

The PRESIDENT—Order! Resume your seat, Senator Boswell. When there is quiet I will call you. Quiet please. On my right! Senator Boswell is entitled to ask his question in silence. Senator Boswell.

Senator Boswell—Two minutes were taken up by a National Party bash, and you just let the minister rave on. I ask you to pull him into order.

The PRESIDENT—Senator Boswell, that was not a supplementary question.

Opposition senators—It was a point of order.

The PRESIDENT—I did not hear him say that it was a point of order. You have to
nominate, Senator Boswell, that you are taking a point of order. That is one of the weaknesses in this chamber currently. When people stand to take points of order, on both sides, they should nominate that they are standing to take a point of order and then explain their point of order. I could not hear that it was a point of order. Senator Boswell, your supplementary question.

Senator BOSWELL—Was the Prime Minister made aware of the biosecurity issues with white spot syndrome virus before he made assurances to reconsider quarantine restrictions against seafood imports and, if so, why would he make those commitments?

Senator SHERRY—Forgive my Latin pronunciation; I must say that it was never one of my great strengths. Following advice that Australia—

Opposition senators interjecting—

Senator SHERRY—I am the first to admit that Latin is not my strong point.

The PRESIDENT—Senator Sherry, ignore the interjections; respond to the question.

Senator SHERRY—Following advice that Australia has a newly identifiable strain of the prawn virus—and I will use the acronym, IHHNV—and that it is not considered feasible to undertake a national eradication or control program, Biosecurity Australia have reviewed the interim quarantine conditions for prawns and prawn products and removed the requirements relating to IHHNV. AQIS implemented the amended interim quarantine conditions from 11 September 2008. This means that uncooked prawn meat exported to Australia from all countries will no longer need to be tested for IHHNV. The prawn meat will be tested for other disease agents of quarantine concern. These are white spot syndrome virus and yellow head virus. (Time expired)
they could not fail or if they were going to drop in value then it would be a very small drop in value. Of course, what happened, we know, was that these layered securitised instruments collapsed in value. So the assessments made by the credit-rating agencies were fundamentally wrong. This of course was a serious failure in regulatory oversight that occurred in the United States—amongst a number of other failures.

IOSCO is the international credit organisation that ASIC, our regulator, is actively involved with. The failure of credit-rating agencies and the range of issues within the workings of credit-rating agencies were identified by IOSCO as requiring a fundamental examination and reassessment. I was pleased to personally meet Mr Greg Tanzer, who is in fact an Australian who heads up IOSCO. I had a lengthy discussion with him—I think it was in March this year—about the issues around credit-rating agencies and the role they played in failing to identify and assess the risk properly in respect of these instruments in the United States.

There are a number of issues that have been under examination in respect of the role of credit-rating agencies. Credit-rating agencies do have a conflict of interest because they are paid by the provider, usually, to carry out the assessment. That is an obvious conflict of interest and you have rightly raised it, Senator Brown. If the provider pays the agency for an analysis, there would on occasions be a temptation for the organisation conducting the analysis—in this case a credit-rating agency—to perhaps not be as diligent as it should have been. That was certainly identified as an issue in the United States.

So there are issues around conflict and the role in which the assessment is carried out, whether it is carried out diligently and correctly with the proper assessment of the risk in the totality—not the risk around the financial instrument but in this case the risk around the distribution of the products and who they were sold to at a retail level. When you go back and carry out a fundamental reassessment of the risk if market conditions change—market conditions change in respect of the value of your property so there should have been a fundamental reassessment of the risk that did not occur— (Time expired)

Senator BOB BROWN—Mr President, I ask a supplementary question. My supplementary question is very similar to my first question. How is the government ensuring that the $8 billion worth of AAA rated residential mortgage backed securities it has directed the Australian Office of Financial Management to purchase are in fact AAA? And what assurance can the minister give this chamber that due to the seriously flawed credit-rating system the minister has just outlined these are not in fact AAA warranted securities?

Senator SHERRY—One of the Labor government’s responses in respect of the current international financial crisis and the lessons that have been learnt is that the credit-rating agencies—in an Australian context they are known as research houses, which perform a similar type of role in a range of unlisted securities—require a fundamental upgrade. I can indicate to you, Senator Brown, that on the subject of the regulatory and supervisory requirements in respect of credit-rating agencies and research houses I will be making a number of policy announcements if not this week then next week, because it does require—

Senator Bob Brown—I rise on a point of order that concerns relevance. I know there are only about 30 seconds left. My question is about what assurance the government can
give about the $8 billion worth of AAA rated securities it has directed the purchase of.

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

Senator SHERRY—I think I am being pretty exhaustive in the issues of credit-rating agencies and their role and analysis. What will happen, Senator Brown, is that credit-rating agencies in the interim of the government’s announcement of an upgrading of their supervision and regulation have overhauled their—(Time expired)

Automotive Industry

Senator PARRY (2.25 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Given the ongoing haemorrhaging of thousands of jobs in the Australian car industry, why won’t the government do what the coalition, industry and the unions are calling for—that is, immediately bring forward an assistance package for the sector?

Senator CARR—I thank the Senator for his question. I think we would all agree, the situation in the automotive industry is particularly troubling. We all acknowledge that the automotive sector is facing exceptional difficulties as a result of the international conditions. I understand that reports in the press today highlight the concerns of manufacturers—both direct manufacturers and suppliers.

Ford has confirmed that it will be laying off more workers, but it has yet to indicate exactly how many. The company has indicated that it will be making a statement this afternoon. I understand that statement will be made at 3.30 pm. Holden is planning more down days between now and the new year, and the Federation of Automotive Parts Manufacturers has warned that there could be significant job losses in the component sector if the right decisions are not taken now.

This is precisely why the government are taking decisive action to support this industry and every other Australian industry sector by increasing the liquidity and the stability of the financial system by putting together a $104 billion economic security package to keep the economy growing. That is precisely why we commissioned the Bracks review and that is why we are drawing up what we have done in terms of the most comprehensive industry plan ever devised for the automotive industry in this country.

The industry and its workers are performing incredibly well, given the intense pressure that they are all under. In the year to August, over 63,000 people were employed in the car industry, representing some six per cent of the manufacturing workforce. Automotive exports rose 20 per cent to $5.6 billion last financial year. The latest research and development figures from the ABS show that spending on automotive research and development rose from $761 million in 2005-06 to $848 million in 2006-07. That is an increase of 11 per cent. So while it may be the case that those opposite are seeking to drive down this industry, we have to bear in mind that there are enormous opportunities for future growth in the industry.

Vehicle sales are down, but we have not seen anything like the falls that have been experienced in Europe and the United States. The industry is committed to new investment, with Holden ramping up its export program, with Toyota producing the hybrid Camry in Australia from 2010 and with Ford to produce the four-cylinder Focus from 2011.

There are few industries anywhere where more resilient, capable and creative people are working than in the automotive industry.
It is the cornerstone of Australian manufacturing and it is now battling what are the most hostile operating conditions we have seen for decades. Many of the problems facing the industry have been a long time in coming, and those opposite did nothing about it. They have left this industry on automatic pilot since 2002. The global financial crisis has compounded those problems. Car makers, like those in other parts of manufacturing—

Senator PARRY—Mr President, I rise to ask a supplementary question. I thank the minister for confirming the great legacy the Howard government left for the car industry and ask the minister: is the delay in acting simply because of the low priority that the Labor government gives to the car industry and the car workers or is it simply reflective of budgetary pressures?

Senator CARR—I have indicated that we are drawing up what will be the most comprehensive industry plan ever devised in the automotive sector in this country. That is what this government is doing. We are consulting thoroughly, widely and comprehensively to ensure that we do have the answers to deal with these questions.

Car makers, like many other manufacturers, are finding it hard to raise capital. Last week we saw the United States stock market value General Motors in US dollar terms at $2.7 billion. That is less than the market capitalisation of Crown Casino, at US$3.3 billion. That kind of irrationality cannot last forever and it is essential that we keep preparing for the future. The industry understands that, the government understands that and together we will steer this industry through the most difficult times—

Economy

Senator FEENEY (2.32 pm)—My question is to the Minister for Human Services, Senator Ludwig. Can the minister please tell the Senate what role Centrelink will have in the delivery of the Rudd Labor government’s $10 billion economic security package?

Senator LUDWIG—I thank Senator Feeney for the question. In the midst of the global financial crisis, the Rudd government, led by the Prime Minister and the Treasurer, have taken decisive action to strengthen the Australian economy and support pensioners and families during the global financial crisis. This $10.4 billion strategy will strengthen the national economy and support Australian households, given the risk of a deep and prolonged economic slowdown. Whilst the Australian economy is strong and we remain better placed than most other nations, Australia is not immune to the global financial crisis.

As Minister for Human Services, I am very aware of the financial pressures millions of families, seniors, carers and people with disabilities are facing. That is why a down payment for pensioners and families is such an important part of the Rudd government’s $10.4 billion economic security package.

Centrelink will have a significant role in the delivery of this package. The $4.8 billion down payment will be made available through a lump sum payment of $1,400 for singles and $2,100 for couples. This down payment will benefit millions of Australians, including approximately two million age pensioners, 715,000 disability support pensioners, 130,000 carer payment recipients, 107,000 wife and widow pensioners, partners, widows and bereavement allowees, 200,000 veterans affairs service pensioners, 85,000 veterans affairs income support supplement recipients and 320,000 Commonwealth senior healthcare card holders and veteran gold card holders who are eligible for senior concession allowance.
For 440,000 people receiving carer allowance there will be a payment of $1,000 for each eligible person they care for. For families there will be a one-off $1,000 payment for each eligible child in their care, which will be paid to 1.9 million families who receive family tax benefit A and families of another 220,000 dependent children who receive youth allowance, Abstudy or a benefit from the Veterans Children Education Scheme. Around 75 per cent of families with dependent children will benefit from this package.

Centrelink will be delivering this down payment. I am pleased to say that, since the Prime Minister’s announcement, the phones at Centrelink have been ringing off the hook. Understandably, people are interested in how this announcement will affect them personally and are calling in large numbers. I want to take this chance, of course, to remind people that they do not need to contact Centrelink to receive these one-off payments. Centrelink will assess people’s eligibility automatically based on the information they have on customer records.

This package is good news for families, good news for seniors, good news for carers and good news for disability support pensioners. It is decisive action of this government which is committed to acting in the best interest of Australians, and Centrelink will be at the forefront of delivering this important package. Centrelink, of course, will be there to provide the type of support and assistance that families will need during this period. The payments will be provided between 8 December and 19 December 2008—in time for Christmas—during that fortnightly period. Centrelink has significant experience in delivering these types of one-off payments. (Time expired)

Senator FEENEY—Mr President, I rise to ask a supplementary question. I thank the minister for his answer. My supplementary question is: when will these payments be made?

Senator LUDWIG—Centrelink, of course, has significant experience in delivering these types of one-off payments, and these payments will be paid during that fortnight beginning from 8 December right through to 19 December. So they will generally be paid during that period for the fortnight, very close to their usual payment.

In total, about six million Australians can expect to receive these payments, on or close to their usual payment date, directly into their bank accounts. These bonus payments will operate in a manner similar to one-off payments and will ease the financial pressure on families in these uncertain economic times. Families with eligible children who receive family tax benefit part A will receive the down payment regardless of whether they receive the family tax benefit part A payment in instalments or as an end-of-year lump sum. (Time expired)

Young Carers Forum

Senator BARNETT (2.37 pm)—My question is to the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs. Does the minister know how many very young carers like Jazzi Pybus, who at the young age of 10 is caring for both her parents, exist in Australia? Will the minister explain why very young carers are not considered important enough to have their voices heard at the federally funded Young Carers Forum?

Senator CHRIS EVANS—I thank the senator for his question. In terms of the specific question about how many young carers there are, I cannot help him with that number, so I will take that part of the question on notice—but I know the number is quite large. I have met with some of those carers myself and I have certainly been quite amazed at the
responsibilities that so many very young people take on in caring for parents with a disability. It was quite an eye-opener for me when I met with some of them to see the responsibilities they undertook while trying to balance schoolwork and other activities. Unfortunately it means that many of them carry an enormous strain and have trouble maintaining social contacts as a result of their commitments to their caring role and I think it is important that we do as much as we can to support them.

I understand that invitations to the Young Carers Forum were designed to be representative. I do not have a brief on the selection method but I remember seeing press coverage about it and some concerns that young carers were not represented. There was a response, I think, from the Carers Association around the selection. I understand it was considered that those selected were representative of the broader carers group. It is worth noting that the government made a significant commitment in its package released the other day, with a large amount of financial assistance to support carers as recognition of the continuing economic pressure they face in addition to all the other responsibilities and pressures that they confront. I was very pleased to see that the package we brought in sought to address some of those financial pressures for them, but obviously the issues they confront are much broader than just financial. I think all senators would be supportive of whatever help we can provide to these quite amazing young people. If there is further information I can get on how the selection process occurred, I will get that for the senator. As I say, my only knowledge of it is from reading a newspaper report. I will take those parts of the question on notice and see if I can get him an answer.

Senator Barnett—Mr President, I thank the minister for agreeing to take parts of the question on notice and I ask a supplementary question. What financial support do families relying on very young carers receive from the $10.4 billion package announced on Tuesday?

Senator Chris Evans—I will have to check all of the impacts on various carers because it does depend on what particular circumstances those persons are in. It is the case that persons who are receiving carer allowance will receive $1,000 extra for each eligible person being cared for. As with the other payments, they will be delivered in the fortnight commencing 8 December. The $1,000 lump sum payment will go to those carers receiving the carers allowance for each eligible person being cared for.

Overseas Aid

Senator Xenophon (2.42 pm)—My question is to the Minister representing the Minister for Foreign Affairs. Earlier this week I met with representatives of Micah Challenge, which is a global alliance of church and faith based aid agencies. For decades it has been agreed within the international community that one of the key measures essential to eradicate extreme global poverty is for wealthy nations to provide just 0.7 per cent of gross national income to overseas aid. Currently Australia provides just 0.32 per cent with a commitment to 0.5 per cent by 2015. The importance of such an increase cannot be underestimated. For instance, a 2008 report Make poverty history estimates that if an additional $740 million was provided to health services in our region this could save 240,000 child lives, 260,000 maternal lives and 115,000 people, who would otherwise die from AIDS and other diseases. My question is: will the government commit to increasing our foreign aid to 0.7 per cent of gross national income as a matter of urgency?

Senator Faulkner—I thank Senator Xenophon for his question. I commence my
answer to Senator Xenophon, through you Mr President, by indicating that Australia strongly supports the Millennium Development Goals and is committed to helping developing countries attain them, particularly in the Asia-Pacific region. In 2008-09 Australia will provide an estimated $3.7 billion in official development assistance. In practical terms this will mean greater investments in key MDG sectors such as health, education, water and sanitation needs and the environment. The government is working closely with other partners to raise awareness and achieve the Millennium Development Goals. Micah Challenge specifically is playing an important role in Australia and globally on raising awareness of poverty, and the actions of the governments, churches and citizens can help achieve the Millennium Development Goals.

This week I had a delegation from Micah visit my office, and I am sure they visited the offices of many senators during their annual campaign to encourage a greater focus on overseas aid spending. At the high-level event on the Millennium Development Goals in New York, Australia made a commitment to $250 million over four years to improve women’s and children’s health, with a focus on the Asia-Pacific. I can also say that the Australian government is a strong supporter of faith based groups through the Australian aid program. AusAID’s support of the Church Partnership Program in PNG has helped reduce the vulnerability of communities in Papua New Guinea. Faith based partnerships in Indonesia, in Afghanistan and in the Philippines are making an important contribution to Australia’s efforts to support poverty alleviation in those countries.

Senator Xenophon asked me specifically whether Australia will meet the international aid volume target of 0.7 per cent. It is true that the government made an election commitment to increase official development assistance to 0.5 per cent of gross national income by the year 2015. This is a very substantial increase on the level of 0.3 per cent which was inherited from the previous government. I can only say to Senator Xenophon that, beyond that, I am not aware that any further commitment has been made by the government, but I think it is certainly fair to say to Senator Xenophon—through you, Mr President—that the international aid target of 0.7 per cent remains an aspiration.

Senator XENOPHON—Mr President, I ask a supplementary question. Does the minister agree that a commitment to 0.7 per cent could be a win-win, because, with just one daub of red paint, these T-shirts are good to go ahead?

The PRESIDENT—Things such as that should not be displayed in the chamber. It is disorderly.

Senator FAULKNER—I do not really want to go to the issue of—

Senator Chris Evans—I wonder if anyone got a photo of that.

Senator Conroy—Is there someone with a camera in here, specifically?

Senator Ronaldson—Whenever you’re ready. Don’t worry about us.

Senator FAULKNER—We do worry about you. You are a lot to worry about, really.

The PRESIDENT—Senator Faulkner, address your comments to the chair.

Senator FAULKNER—Thank you, Mr President. I have no comment to make, Senator Xenophon, in relation to your apparel. I think I made a serious response to your substantive question in relation to the role of the Micah Challenge and also the Millennium Development Goals. I stand by those comments, and the government certainly stands by them too.
Hospitals

Senator NASH (2.48 pm)—My question is to Senator Ludwig, representing the Minister for Health and Ageing. Given that the Prime Minister said that the health buck stops with him and that he campaigned on the promise that ‘Kevin Rudd will fix our hospitals’, what urgent action is the government taking so that Dubbo hospital can end the practice of using veterinary bandages on their patients?

Senator LUDWIG—I thank Senator Nash for that excellent question. The Commonwealth is implementing lasting reform to improve the Australian health system. In terms of hospitals, the Commonwealth is working cooperatively with the states and territories and has already made tangible progress in achieving positive outcomes in our health and hospital system.

We have committed an extra $1 billion in public hospital funding. This is the largest single year increase in almost a decade. The Liberals on the other side, when they were in government, did not commit $1 billion in a single year. On top of this, the Commonwealth is investing an extra $600 million in the Elective Surgery Waiting List Reduction Plan to reduce the number of patients waiting longer than clinically recommended for elective surgery. The latest indication shows that there is an increasing number of elective surgeries being provided under the 2008 blitz and the Commonwealth continues to monitor this increase in supply. We have committed to investing a further $10 billion in the health and hospital fund to help states to increase their capital infrastructure in the long term. We are boosting our hospital workforce by investing $34.9 million over five years in the Bringing the Nurses Back into the Workforce program, which will provide cash bonuses for nurses and midwives returning to work in public and private hospitals and residential aged-care homes as well as funding up to an additional 1,170 ongoing university nursing places per year. That is what the Rudd government are doing in respect of how we are working through COAG to help hospitals in states throughout Australia. We are keen to improve accountability in hospitals through performance reporting for both the public and private sectors. Better reporting will ensure that we can pinpoint what is and is not working and fix what needs to be fixed. It will also offer patients the chance to see exactly how the health care they are receiving stacks up.

Senator Nash—Mr President, I rise on a point of order on relevance. The Dubbo hospital is having to borrow bandages from the local vets. I specifically asked the minister: given that Kevin Rudd has said he will fix our hospitals, what is he doing to address this issue and take action?

Senator CONROY—Mr President, on the point of order: what actually happened then was that Senator Nash reinvented her question. To call a point of order to ask you to bring the minister back to the question clearly was an attempt to waste this chamber’s time. It is a consistent pattern from those opposite to take points of order when all they do is waste the chamber’s time and slow down question time.

The PRESIDENT—There is no point of order. As the senator knows, I cannot instruct the minister how to answer the question. I can draw the minister’s attention to the relevance of the answer. In future, as part of the question, the Prime Minister should be referred to by his correct title, Senator Nash. It does not make any difference, but he still needs to get his correct title. Senator Ludwig, you have one minute and 39 seconds to continue your answer.

Senator LUDWIG—We are keen, as I have said, to improve the accountability in
hospitals. There is an exciting reform agenda that has a number of concurrent streams to do precisely what Senator Nash is referring to—to look at how we address, through COAG, state hospital systems from the Commonwealth. We are developing a new Australian healthcare agreement, due to be signed in December 2008. I am sure that the Liberals do not want to hear that we are in fact fixing the system. We are actually turning our attention to how we address this issue with a commitment—

Senator Abetz interjecting—

The PRESIDENT—Order! It is not debating time, Senator Abetz. It is time for Senator Ludwig to continue answering the question.

Senator LUDWIG—Of course, the new funding agreement will be implemented from 1 July 2009. The new agreement will be very different from the current set of agreements as not only will it refer to base funding in indexation but it will also focus on prevention. In respect of the specific matter that was raised by Senator Nash in relation to Dubbo hospital, I do agree. I find it extraordinary and simply unacceptable that the hospital cannot pay its bills, forcing staff to buy supplies from their own pocket. The New South Wales government must act immediately to ensure that staff have all the supplies they need to care for their patients.

Senator NASH—Mr President, I ask a supplementary question. Given that the Prime Minister has said he will fix our hospitals, what action has the government taken to help build the desperately needed fourth wing, the emergency wing, at Port Macquarie hospital, and isn’t this just another example of the neglect of the public hospital system by the Labor government?

Senator LUDWIG—What I am disappointed to hear from the Liberals on the other side is that Senator Nash, in preparing her supplementary question, did not listen to the primary answer that I gave in respect of her question. On top of the Commonwealth investing $600 million in elective surgery, on top of $1 billion in public hospital funding, we have committed to investing a further $10 billion in the health and hospital fund to do precisely what Senator Nash is talking about—to help states increase their capital infrastructure in the longer term. It is disappointing that Senator Nash managed not to hear the answer to the primary question and wishes to ask it again in the supplementary. We are also boosting the hospital workforce by investing the $34 million. But, in addition to that, what we are doing is actually doing something, unlike the Liberals when they were in government and failed to address it—(Time expired)

Research and Development

Senator MARSHALL (2.57 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Can the minister update the Senate on the government’s efforts—

Opposition senators interjecting—

The PRESIDENT—Order! Senator Marshall, resume your seat. I cannot hear the question that you are asking. I am entitled to, as everyone else in this chamber is.

Senator MARSHALL—Can the minister update the Senate on the government’s efforts to improve Australia’s research performance?

Senator CARR—I would like to thank Senator Marshall for his question and his longstanding interest in science and research matters.

Opposition senators interjecting—

The PRESIDENT—The time for debating across the chamber is post question time, when there is 30 minutes in which to debate the answers that are given.
Senator CARR—I am aware that Senator Marshall understands that science and research have never been more important to Australia than they are now. This is a time of economic uncertainty, a time when our environment is at risk and a time when our families and communities are concerned about the future. It is at times like these that it is imperative that we harness the power of science and research to make us stronger, safer and more competitive. It is imperative that we draw on our best minds to create new economic opportunities and new employment opportunities.

This week the government announced the latest round of projects to be supported by the Australian Research Council’s National Competitive Grants Program. There is a total of 1,103 research projects that will receive more than $363 million in funding over five years from 2009. This includes $288 million for Discovery Projects, $71 million for Linkage Projects, $2 million for Linkage International Fellowships and nearly $1 million for Indigenous research development.

The Discovery Projects scheme supports research in all states and territories and in all disciplines. Physics, chemistry and geoscience will receive the highest levels of funding, followed closely by the biological sciences and biotechnology. These disciplines are critical to driving innovation in industry. The Linkage Projects scheme directly supports collaborations between universities and other organisations, including private companies. Partner organisations will contribute $129 million to these projects in addition to the Commonwealth’s contribution of $71 million. The social, behavioural and economic sciences will receive the highest level of funding under this scheme, followed by the engineering and environmental agencies. These disciplines are critical to Australia’s prosperity, to its social cohesion and to its environmental sustainability. The Linkage International Fellowships funding will enable 31 leading Australian researchers to collaborate with researchers in 28 countries on challenges of international significance.

If we want to boost our research effort and our innovation performance we need to harness creativity wherever we find it. This includes the creativity of overseas scholars. It also includes the creativity of Indigenous Australians. It is especially pleasing that five female and four male Indigenous researchers have been awarded funding under the Discovery Indigenous Researchers Development scheme. This scheme helps Indigenous Australian researchers and postgraduate students develop the expertise and experience they need to compete with other applicants for mainstream research funding.

High-quality research produces benefits for all Australians. It leads to new understanding, new knowledge and new technologies. It gives us a competitive edge in a challenging international environment. It can lead to the development of new industries and it can help us create high-tech, high-skilled, high-wage jobs for the future that will help us solve the big problems, such as climate change, and it can improve the health and the wellbeing of individual Australians. These are all great outcomes.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Quarantine

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (3.02 pm)—I want to correct and add to an earlier answer to a question relating to prawns. The prawns IRA was announced in 1997; the draft report was first published in 2000.
Ms Britt Lapthorne

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (3.03 pm)—I seek leave to incorporate in Hansard further information in relation to the supplementary question I was asked yesterday by Senator Fielding in relation to the issue of further processes undertaken in the case of Britt Lapthorne.

Leave granted.

The speech read as follows—

Will the Federal Government mount an inquiry into the processes undertaken in the case of Britt Lapthorne with a view to how they can be improved in the future, and will the government table the report of its inquiry in the parliament?

As is the case with any major consular case overseas, the Department of Foreign Affairs and Trade will review how the Lapthorne case was handled. This is done in the normal course of events.

The Government is satisfied that from the time consular officers were advised Ms Lapthorne was missing, they did everything they possibly could to assist the Croatian authorities to locate her.

The Australian Government does not have extraterritorial power or authority to conduct independent investigations in foreign countries. We must rely on the cooperation of local law enforcement agencies to carry out appropriate investigations.

The Government made extensive representations to the Croatian Government on the importance we placed in the Croatian police pursuing a comprehensive and effective investigation.

Western Sahara

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (3.03 pm)—I seek leave to incorporate some information in response to a question that I was asked yesterday, also as the Minister representing the Minister for Foreign Affairs, by Senator Hanson-Young regarding Western Sahara.

Leave granted.

The speech read as follows—

Would the Minister outline the government’s position on the question of Western Sahara, specifically on the right of the people of Western Sahara to self-determination, given that back in 2002 as shadow foreign minister the Prime Minister stated that the people of Western Sahara must have a fair opportunity to determine their own future? Just to remind the Minister, I will read from a press release from Mr Rudd dated 30 July 2002: “It is time the UN acted and gave the Saharawis a fair opportunity to determine their own future.”

[Supplementary question] It was my understanding that this was actually Labor Party policy. Could I have it clarified whether the Labor Party have changed their policy position on Western Sahara? In asking the Minister for details in terms of what the government are doing in relation to Western Sahara, could we have an explanation as to whether the government have made representations to the Moroccan government regarding the systematic violations of human rights in the occupied areas of Western Sahara, as well as asking for cooperation with the United Nations in its efforts to organise a referendum of self determination for the Saharawi people in accordance with UN resolutions and the verdict of the International Court of Justice?

The Australian Government’s policy reflects its strong support for the efforts of the United Nations, and of the relevant parties—the Government of Morocco, and the Polisario Front—to press ahead to find an enduring settlement in relation to Western Sahara.

The Government believes that the people of Western Sahara must have a fair opportunity to determine their own future. The UN process currently underway provides that opportunity.

I take the opportunity to update the Chamber on recent UN efforts on this important question.

In his report of 14 April 2008 on Western Sahara, the UN Secretary-General welcomed the parties’ commitment to continuing negotiations commenced in 2007.

For many years, the UN focused on achieving agreement between the parties on the terms of a referendum on independence in the Western Sahara.
Efforts are now focused on negotiations. This new phase of international efforts to resolve the conflict began with the presentation of proposals by both parties—the Government of Morocco, and the Polisario Front—to the UN Secretary-General in April 2007.

That same month, UN Security Council Resolution 1754 took note of the proposals, and called upon the parties to enter into negotiations ‘without preconditions and in good faith’ and stated the clear objective of such negotiations was to achieve ‘a just, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara’.

UNSCR 1813 of 30 April 2008 again welcomed the progress made by the parties to enter into direct negotiations.

The Australian Government endorses the spirit and the substance of these resolutions. It supports the efforts of the UN Secretary-General and the UN to improve the security and humanitarian situation of the people of Western Sahara.

The Government is aware of allegations of human rights violations with respect to Western Sahara and Western Saharans, which have been raised by both relevant parties.

The Government gives a high priority to the protection of human rights, and calls on both parties to uphold international human rights standards.

We are in active consultation with other countries concerning human rights in Western Sahara.

There is no doubt that the peace negotiations are still very difficult.

The Government affirms its strong support for UN efforts to find a durable solution to the Western Sahara conflict acceptable to both parties.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Answers to Questions

Senator BOSWELL (Queensland) (3.03 pm)—I move:

That the Senate take note of the answers given by ministers to questions without notice asked today.

Today we saw one of the worst abuses of parliament that I have experienced in a number of years. I sent, as a matter of courtesy, Senator Sherry a question that I thought deserved a serious answer. I sent that question about 11 o’clock. The convention in this place is that if you want an answer you give the minister the courtesy of sending the question. That is a convention that has been part of this Senate for as long as I have been here. But when you do give the minister that courtesy you do not expect two minutes of vitriolic abuse on a question that has very serious implications for the fishing industry in Australia. I considered it abuse, and I will certainly be writing to the President of the Senate. I thought the President should have stepped in and reprimanded the minister, or certainly directed him to the question. If we want to abuse convention in this place, it just will not work. We do not do that, because we have a consideration for the Senate and we want it to work.

The Vietnamese Prime Minister, when in Australia, made an announcement—I do not know whether he was talking with some knowledge—that the regulations would be changed to allow prawns from Vietnam to come into Australia. I spent a great number of months with my colleague Senator Ian Campbell working to stop prawns coming in from Vietnam to South-East Queensland because white spot virus is involved. It is a very important issue because if that white spot virus gets into the wild catch of Australian prawns and crustaceans, including crayfish, then it has the potential to wipe out the whole of the wild catch. In fact, there are only two countries in the world that do not have this white spot virus: Brazil and Australia.

It is so important that we maintain that disease-free status for white spot that I thought it was worth sending the question over to the minister, but we got roundly
abused for our trouble. I still do not know—and I have the transcript here—what the position is, because the minister just obfuscated the question. The position that we took was that we prevented prawns coming in from South-East Asia from countries that had white spot disease. We allowed cooked prawns to come in but prevented raw prawns from coming in because they offered a real threat to our wild catch industries.

Today, the minister could have said, ‘No, we are not going to allow prawns to come into Australia from white spot countries or from South Vietnam,’ but we did not get that answer. We got some obfuscation, and I do not know at the moment whether prawns will be allowed in or whether they will not be allowed in. We will have to wait to take this matter further in the estimates committee next week. I thought it was a terrible way to answer a question, when it was an absolutely serious question that did not have any political implications in it. It was a clear and concise question: will you prevent prawns coming in from countries that carry white spot to prevent it getting into our wild catch industries.

The previous Howard government had an appalling record in matters pertaining to quarantine and in particular on matters pertaining to prawn imports. It was, of course, the previous government that had custody of our quarantine arrangements when the equine flu entered this country, and, as a Victorian senator, I particularly recall the damage that it wreaked upon the horseracing industry in Victoria and in particular on the Melbourne Cup carnival of that year. To have the Liberal Party’s country auxiliary seek to make this issue a high-profile one at this moment is the height of hypocrisy, but of course hypocrisy is no stranger to those on the other side, as we have seen in the debate on pensions and even in recent discussions concerning the prudential regulation of our financial sector.

The fact is that the prawn and prawn products import risk analysis was first published as a draft in 2000. My point is that, when the Rudd government came into office some eight years later, all it found in the cupboard dealing with these questions of quarantine and prawn imports was a draft import risk assessment, together with some interim measures that had been put in place some eight years previously. This hardly stands up as a model for how to proceed. In fact, in the term of the previous government there was a suspected occurrence of white spot virus in a research facility in Darwin, and interim measures were put in place around that particular outbreak. But of course those interim measures were never again revisited, never again codified, and the then government completely failed to take any serious approach to this very serious question.

In fact, with respect to prawn imports in this country, the Rudd government, having found itself inheriting such a shabby set of arrangements, such an incomplete set of arrangements, from the former government, took action, as it has been doing on so many
issues and on so many fronts, by initiating a wide-ranging and independent review of Australia’s quarantine and biosecurity arrangements. I am referring to the independent review that is being led by Mr Roger Beale AO. That is a very important review, and that review is filling the cavernous hole which was policy under the previous government. This new-found zeal from Senator Boswell does not change the fact that the previous government completely failed to take this issue seriously. What has belatedly brought this issue rolling onto the deck of ‘HMAS’ Boswell is the recent comments—

**The DEPUTY PRESIDENT**—Order! Senator Feeney, I think you should refer to a senator by his proper title. I would also remind you, in the light of your earlier remarks, that Senator Boswell—if you have read the newspaper, you will realise—is a member of the Liberal National Party now.

**Senator FEENEY**—Quite right. Thank you, Deputy President. I can assure you that that is a term I will be using with zeal at the appropriate moment. The Vietnamese Prime Minister’s comments concerning the prawn risk are what brought these matters before Senator Boswell. Those comments by the Vietnamese Prime Minister were something to the effect that—and I do not have the exact words in front of me—the Australian government had agreed to review its quarantine and biosecurity arrangements pertaining to prawn imports.

This government has already clarified that in fact those comments by the Vietnamese Prime Minister are incorrect. Those matters have already been dealt with—and, I might say, dealt with quite thoroughly—by the minister in question time. The Australian government continues to maintain a strong regard for its quarantine and biosecurity arrangements. In contrast to the previous government, this is a government that has taken on both these issues generally and the question of prawn imports and prawn imports from Vietnam in particular very seriously. No shabby interim set of arrangements or draft reports will be going forward and managing this area for this government; this is a government that will be dealing with the matter in a proper and considered and holistic manner. *(Time expired)*

**Senator PARRY** (Tasmania) *(3.14 pm)*—by leave—Mr Deputy President, in relation to Senator Feeney’s referring to Senator Boswell as HMAS Boswell, apart from the fact that you pulled him up on the incorrect title, I think an apology to Senator Boswell is warranted for that remark.

**The DEPUTY PRESIDENT**—The senator has unreservedly withdrawn.

**Senator BARNETT** (Tasmania) *(3.15 pm)*—In speaking to that matter I would like to indicate that it was good of the minister to advise the Senate that he would take on notice the first part of my question with respect to how many very young carers existed in Australia today—people like Jazzi Pybus, who cares for both her parents at the young age of 10. The minister indicated that he was not aware of the answer to the second part but would also take that on notice—that is, explaining what answers the government has as to why the young carers are not considered important enough to have their voices heard at the federally funded Young Carers Forum.

I am advised, based on reports this week, that the federal investment in the Young Carers Forum is some $280,000. The minister indicated that he would take both those matters on notice. They are very important matters. They have been in the media this week and it is surprising that the minister does not have a brief before him to respond to those queries. I think that is a matter for the government and I hope that in future times in the
Senate they are fully and properly briefed on those sorts of matters, especially when they are reported publicly in the media. In this case it was in the Australian newspaper this week. The answer to my supplementary question about what financial support families relying on very young carers receive from the $10.4 billion package announced on Tuesday seemed very limited and restricted, and in terms of very young carers there was, in fact, no answer.

I alert the Senate to the concerns raised in this article in the Australian, which said that the $280,000 in federal funding was invested in this Young Carers conference. It refers to the case of Jazzi Pybus:

Jazzi’s father, Calvin Pybus, has post-traumatic stress syndrome. Her mother was recently hit by a bus and left with multiple fractures. She has a baby brother with Down syndrome. Her friend, Angel, cares for a mum with bipolar disorder.

The girls wanted to attend the conference because they were themselves young carers: they do the washing, help young siblings get ready for bed, and manage the household. They formed a support group for young carers in their neighbourhood, outside Brisbane. They connect online, and have painted a series of artworks about their lives. The girls hoped to learn from others at the conference, too.

The report continues:

The Australian understands that Jazzi is the only young person to get in touch with Carers Australia and ask to attend the talkfest.

It is fantastic that they are making those efforts. I would like to commend Jazzi Pybus and her friends for wanting to attend and make a difference to the world. I notice that Senator Cory Bernardi, the opposition disabilities, carers and voluntary sector spokesman, said:

We should be supporting our very young carers. It concerns me that they are not receiving financial support. It’s alarming. They are a hidden group.

To hear that children are banding together for support as there are no services suitable to their needs is disturbing.

It is disturbing, and I agree with Senator Bernardi and with Mr Tony Abbott’s comments. It is really disappointing that the government seems not to have addressed all of the concerns of all the carers throughout the country. They often have a go at the coalition for not doing enough.

What would have happened if it had not been for our campaign under the former leader, Dr Brendan Nelson? I remember leading and working with the Liberal Senate team in Tasmania and forcing the government to do something to support carers in Tasmania. I worked with Janice McKenna, the CEO from Carers Australia, in Tasmania and, together with other carers, we expressed the very strong view that the Rudd Labor government were not doing enough. After weeks and months they finally acted. Of course, this is exactly what has happened with this $4.8 billion package that has just recently been announced. I call on the government to disclose the assumptions, the forward estimates, the details underlying their reasons for that package. (Time expired)

Senator BILYK (Tasmania) (3.20 pm)—I also rise to speak with regard to carers, in particular young carers, as raised by Senator Barnett earlier today. I do not dispute that Senator Barnett may well have been working with people recently, but the truth of the matter is that the opposition had 12 years to do something for these people and they failed to do anything. Even when they started talking about pension increases they were not going to do anything for young carers, so I am exceptionally pleased that the opposition have seen the light. As someone who has worked as a carer herself albeit in the child-care industry, for over a decade, I understand that carers in general, whether they be young carers, aged carers or child-care workers, are all
undervalued by society and it is very important that we do something for them.

The Rudd Labor government is doing something for them in their Economic Security Strategy, which was announced earlier this week. As I said before, seeing the light is one thing but standing there and making derisive comments about this side and how long it might have taken us to do something when they had 12 years to do it is frankly beyond the pale. The Rudd government’s economic strategy will help encourage the economy as well and make sure it emerges in strong shape so that we can provide quality jobs and security for working families into the future.

We are delivering a down payment to pensioners, carers and people with a disability to provide them with immediate financial help in the nine-month lead-up to a comprehensive reform of the pension system. The Rudd Labor government are taking people seriously and are taking those minority groups very seriously. We are basically trying to unscramble eggs that were scrambled for the last 12 years. You cannot do that overnight. Once they are scrambled, you have to work with what is there. We will continue with this strategy and will continue to keep the Australian economy strong. In recognition of the difficult economic circumstances, we will also provide Commonwealth seniors card holders with a lump sum payment of $1,400 to singles and $2,100 to couples. So we are providing security for these people and for working families into the future, and we are providing relief right now when families need it.

We also believe in long-term planning. We are not just going issue by issue; we have a long-term strategy, a long-term plan, and it is very important for the Rudd Labor government to have this long-term plan. We are planning for the future, which is a most critical thing to do. As I said, we do not just decide overnight, see the light overnight, as those on the other side have. I did not even think they knew who the pensioners or the carers were. They have shown no support, no compassion and no humanity for 12 years to this group of people, and then they stand up and say, ‘What are you doing, when are you doing it and why haven’t you done it already?’ Well, with 12 years under your belt, I ask this question: what did you do, when did you do it, and why didn’t you do anything and take this group of people seriously?

I think next week, though I might stand corrected on that, is international carers week, and it is very important that we acknowledge the important role that carers play in the whole of the community and the whole of society. It is very unfortunate that there are young children who are put in this dilemma. I think it does rob them of a very valuable part of their life. They quite often lose their childhood. I have an ongoing interest in children and child care and issues surrounding community services, and for me it is quite sad to see. In response to that, I say that the Rudd Labor government have acknowledged that there has been this gap and we are doing something about it. We are delivering on 8 December. It is important that people realise that, although the other side stand up and proclaim that they are the new saviours of some of these less fortunate people, they had 12 years to deliver the goods—

(Time expired)

Senator RONALDSON (Victoria) (3.25 pm)—In speaking to this matter, let me say that there were revelations yesterday relating to the fact that Ms Forrester, from the parliamentary secretary’s office, who I gather is employed as a childcare specialist, was, until 30 September, an owner of Allen Consulting Group by way of a shareholding. This apparently was divested on 30 September, but Ms Forrester had commenced working on
12 May, so it was some five months after the employment event. I note with some interest the commentary from the parliamentary secretary yesterday in relation to this matter. It is what was not said that is probably more important than what was said. The statement says:

Upon commencing her employment with Parliamentary Secretary McKew, Ms Forrester advised the then deputy secretary of the Department of Education, Employment and Workplace Relations of her previous employment with Allen Consulting Group.

The question would be, why was the shareholding specifically excluded from that statement? Yes, Ms Forrester was an employee, but she was also a shareholder. One would have thought that if she had advised the secretary of her department she would also have advised him of her shareholding and therefore her ownership of the Allen Consulting Group. But there was no reference to it, and we are therefore quite entitled to assume that indeed she had not advised the deputy secretary of the department that she was still a shareholder.

The person is in charge of early childhood development. There was a contract for $112,173, a select procurement contract. This tender was for developing the structure of the National Early Years Workforce Strategy—contract notice CN 118028. So there was a direct source tender contract to Allen Consulting and this employee was the adviser to the parliamentary secretary for this specific part of the portfolio. It absolutely beggars belief that the adviser would not have had any discussions at all with the department in relation to a direct source contract in relation to an area which was this adviser’s specific responsibility.

This matter comes on the back of the CMAX affair. Honourable senators will remember a matter that is still under investigation from the Australian National Audit Office, investigating the office of the Prime Minister, senior staff in the Prime Minister’s office and senior staff in the Minister for Defence’s office. So we have CMAX under investigation from the ANAO, still not completed, and we have another example of the attitude of the Prime Minister and his staff in relation to matters of integrity, probity, openness and transparency. It is another clear example that, when it comes to commitments by the Prime Minister or his ministers, they are not worth the paper they are written on.

Just out of interest, on 26 June Senator Faulkner announced a new code of conduct—with some fanfare, as with all these things that have been announced, which all mean nothing at the end of the day. He trumpeted:

The code reflects this government’s commitment to integrity across government and our expectations that ministerial staff, who play such an important role working within government, will understand and meet high standards in carrying out their duties.

I appreciate the CMAX affair occurred before this code of conduct, but most certainly this matter was post that ministerial staff code of conduct. We want some very clear answers as to whether—(Time expired)

Question agreed to.

MINISTERIAL STATEMENTS

Australian Youth Forum

Senator LUDWIG (Queensland—Minister for Human Services) (3.31 pm)—On behalf of the Minister for Youth, Ms Ellis, I table a ministerial statement relating to the Australian Youth Forum.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT—I present the annual reports of the Department of the Senate, the Department of Parliamentary
Ordered that the reports be printed.

AUDITOR-GENERAL’S REPORTS

Australian National Audit Office: Annual Report 2007-08

Report No. 7 of 2008-09

The DEPUTY PRESIDENT—In accordance with the provisions of the Auditor-General Act 1997, I present the following two reports of the Auditor-General:

• Australian National Audit Office: Annual report 2007-08
• Performance audit relating to Centrelink’s tip-off system

COMMITTEES

Treaties Committee

Report

Senator PARRY (Tasmania) (3.32 pm)—On behalf of Senator McGauran, I present the report of the Joint Standing Committee on Treaties No. 95, Treaties tabled on 4, 17 and 25 June and 26 August 2008. I seek leave to move a motion in relation to the report and to incorporate a tabling statement.

Leave granted.

Senator PARRY—I move:

That the Senate take note of the report.

The statement read as follows—

I present Report 95 of the Joint Standing Committee on Treaties. The report reviews 12 treaty actions, including:

• the Convention on the Rights of Persons with Disabilities;
• the Australia-Chile Free Trade Agreement;
• the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women;
• an agreement with the EU on transferring air carriers’ passenger name record data to the Australian Customs Service;
• agreements on Defence co-operation with France and the United Arab Emirates; and
• six other treaty actions which are more technical in nature.

In each case the Committee has supported the proposed agreements and recommended that binding treaty action be taken. However, we have made additional recommendations on the Australia-Chile Free Trade Agreement; the Convention on the Rights of Persons with Disabilities; and the agreement on Defence co-operation with the United Arab Emirates.

The Australia-Chile Free Trade Agreement will remove most barriers to Australia’s exports of goods to Chile, and provide economic integration for markets through commitments in a range of areas including trade in services, investment, government procurement, intellectual property, electronic commerce, and competition policy.

The Committee has concluded that the FTA is in Australia’s national interest and has therefore recommended that binding treaty action be taken. However, Horticulture Australia has expressed concern about the potential impact of the FTA on their industries, including the risk of added pressure from Chile for Australia to weaken our biosecurity measures, or to expedite Chilean requests for biosecurity assessments.

The union movement has also expressed concern that short-term labour movements from Chile under Australia’s “457” visa conditions, which are currently under review, could be locked in by the FTA.

After hearing all the evidence, the Committee is satisfied that the FTA will not restrict Australia’s ability to amend its migration and labour laws as it sees fit, and will not result in Chilean requests for biosecurity assessments being given higher priority than would otherwise be the case.

However we have recommended that DFAT undertake and publish a review of the operation of the Agreement, no later than two years after its commencement, to assess the ongoing relevance of the concerns expressed.

More broadly, we have recommended that the Government, before commencing negotiations for any future trade agreement, should table in Par-
liament a document setting out its priorities and objectives. The document should include independent assessments of the costs and benefits. Such assessments should consider the economic, regional, social, cultural, regulatory and environmental impacts which are expected to arise.

The Committee believes that such an arrangement would improve transparency in trade agreement negotiations, and address a number of concerns which were expressed by witnesses to this inquiry.

Earlier this year the Committee recommended that binding treaty action be taken on the United Nations Convention on the Rights of Persons with Disabilities. We undertook to produce a more detailed report outlining the scope of our inquiry into the Convention and our conclusions.

This Report contains the Committee’s additional findings in relation to the Convention. It is our view that the Convention will help protect the rights of all people with disabilities and promote respect for their inherent dignity. The Convention obliges governments to eliminate discrimination in a range of areas, including marriage, parenthood, education, health and employment. The Convention also contains provisions relating to the protection of children, ensuring individuals are recognised before law, and providing equal access to facilities and services.

The Convention reflects protections already existing under Australia’s domestic laws and has received widespread support. However, taking into account the concerns of witnesses the Committee has made some additional recommendations which we feel will aid in the implementation of the Convention.

The Committee recommends that the Government consider expanding the role of the Human Rights and Equal Opportunity Commissioner, to enable the Commissioner to provide Parliament with an annual report on compliance with the Convention. We also recommend that a review be carried out of the relevant provisions of the Migration Act, and the administration of migration policy, to ensure that there is no discrimination against persons with disabilities in breach of the Convention.

The Treaty on Defence Co-operation between Australia and the United Arab Emirates is designed to promote co-operation in a range of fields, including military training and education, joint military exercises, defence materiel and equipment, security and defence policy, and protection from weapons of mass destruction.

The Committee supports this agreement. However, the UAE imposes the death penalty for certain serious criminal offences, and in evidence to us it was noted that Australian service personnel could, theoretically, be subject to the death penalty if convicted of such offences during their posting.

While this risk is slight, the Committee nonetheless recommends that in any specific arrangements for the exchange of Defence personnel, the Government seek to ensure that Australian personnel are protected from corporal or capital punishment under UAE law.

This report reviews 12 proposed treaty actions in total. This has been a substantial undertaking and I thank my colleagues on the Committee for their diligence, as well as the numerous agencies and individuals who gave evidence.

I commend the report to the Senate.

Question agreed to.

**Selection of Bills Committee Report**

_Senator CAROL BROWN_ (Tasmania) (3.32 pm)—At the request of Senator McEwen, I present the 14th report for 2008 of the Selection of Bills Committee.

Ordered that the report be adopted.

_Senator CAROL BROWN_—I seek leave to have the report incorporated in _Hansard_.

Leave granted.

_The report read as follows—_

1. The committee met in private session on Thursday, 16 October 2008 at 12.05 pm.

2. The committee resolved to recommend—

   That the provisions of the Aged Care Amendment (2008 Measures No. 2) Bill 2008 be referred immediately to the Community Affairs Committee for inquiry and report by 20 November 2008 (see appendix 1 for a statement of reasons for referral).
(3) The committee resolved to recommend—
That the following bills not be referred to committees:

• Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008
• Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008.

The committee recommends accordingly.
Anne McEwen
Acting Chair
16 October 2008

Appendix 1
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
Aged Care Amendment (2008 Measures No. 2) Bill 2008
Reasons for referral/principal issues for consideration
The examination of issues.
Possible submissions or evidence from:
Committee to which bill is to be referred:
Possible hearing date(s):
Possible reporting date: 20 November 2008
Whip/Selection of Bills Committee member
Foreign Affairs, Defence and Trade Committee
Report
Senator CAROL BROWN (Tasmania) (3.33 pm)—On behalf of the chair of the Foreign Affairs, Defence and Trade Committee, Senator Bishop, I present an addendum to the report of the committee on Australia’s involvement in peacekeeping operations.
Ordered that the document be printed.

BUSINESS
Rearrangement
Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (3.34 pm)—by leave—I move:
That the order of business for the remainder of today be as follows:
(a) not later than 6 pm, consideration of government documents under general business, and
(b) not later than 7 pm, consideration of committee reports, government responses and Auditor-General’s reports.
Question agreed to.
FAMILY LAW AMENDMENT (DE FACTO FINANCIAL MATTERS AND OTHER MEASURES) BILL 2008
Consideration resumed from 15 October.
In Committee
Bill—by leave—taken as a whole.
Senator LUDWIG (Queensland—Minister for Human Services) (3.35 pm)—I foreshadow that the government will be moving amendments to this bill shortly. We will be seeking to amend the parenting presumption in the Family Law Act to allow children of same-sex relationships to be recognised as a ‘child of the relationship’ under the act.
We thank the Senate Standing Committee on Legal and Constitutional Affairs and the Human Rights and Equal Opportunity Commission for its Same sex: same entitlements report. Both the legal and constitutional affairs committee and HREOC, in that report, provided insightful assistance to the committee. They also provided assistance to the government in looking at this area. It allowed us to move quickly on the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008, which is now in committee.
The second tranche of amendments will allow couples to opt in to the new regime where they have separated before commencement but have not resolved their property issues. The third area will address an issue raised by the Family Court, which is to allow for ‘use or occupancy’ orders that are regularly made for married couples. Finally, the Senate committee recommended that the government accept a range of largely technical amendments proposed by the family law section of the Law Council.

The CHAIRMAN—Senator Ludwig, could you perhaps seek leave and move those amendments together as they are the first on the running sheet.

Senator LUDWIG—by leave—I move amendments (1) to (6), (8) to (11), (18) to (33), (39), (47) to (52) and (54) on sheet ZA242 revised:

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1, items 1 to 4

A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

2A. Schedule 1, item 5

The day on which this Act receives the Royal Assent.

2B. Schedule 1, items 6 to 20

At the same time as the provision(s) covered by table item 2.

2C. Schedule 1, item 21

The day on which this Act receives the Royal Assent.

2D. Schedule 1, items 22 to 93

At the same time as the provision(s) covered by table item 2.

(2) Clause 2, page 2 (after table item 6), insert:

6A. Schedule 3A The day on which this Act receives the Royal Assent.

(3) Schedule 1, item 4, page 5 (line 25), before “the property”, insert “the distribution of”.

(4) Schedule 1, item 4, page 5 (line 27), before “the vested”, insert “the distribution of”.

(5) Schedule 1, item 18, page 9 (line 6), omit “or de facto relationship”, substitute “, de facto relationship or former de facto relationship”.

(6) Schedule 1, item 45, page 20 (lines 28 and 29), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement (that is binding on the person)”.

(8) Schedule 1, item 50, page 23 (after line 31), at the end of the definition of de facto financial provisions in subsection 90RC(1), add:

; (d) subsection 114(2A).

(9) Schedule 1, item 50, page 24 (line 21), after “State”, insert “or Territory”.

(10) Schedule 1, item 50, page 24 (line 27), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on the parties”.

(11) Schedule 1, item 50, page 27 (line 18), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on the parties to the agreement”.

(18) Schedule 1, item 50, page 45 (lines 14 and 15), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement (that is binding on the person)”.

(19) Schedule 1, item 50, page 45 (line 23), omit “binding financial agreement”, substitute “financial agreement (that is binding on the person)”.

(20) Schedule 1, item 50, page 57 (lines 26 and 27), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on them”.

CHAMBER
(21) Schedule 1, item 50, page 58 (line 21), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on them”.

(22) Schedule 1, item 50, page 59 (line 12), before “de facto relationship”, insert “former”.

(23) Schedule 1, item 50, page 59 (line 15), before “de facto relationship”, insert “former”.

(24) Schedule 1, item 50, page 59 (line 16), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on them”.

(25) Schedule 1, item 50, page 59 (line 20), before “de facto relationship”, insert “former”.

(26) Schedule 1, item 50, page 59 (line 27), before “de facto relationship”, insert “former”.

(27) Schedule 1, item 50, page 60 (lines 19 and 20), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on them”.

(28) Schedule 1, item 50, page 61 (line 4), omit “Note”, substitute “Note 1”.

(29) Schedule 1, item 50, page 61 (after line 6), at the end of subsection 90UE(1), add:

Note 2: Part 2 of Schedule 1 to the Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008 deems certain agreements, made under a law of a State that is or becomes a participating jurisdiction, or made under a law of a Territory, to be Part VIIIAB financial agreements.

(30) Schedule 1, item 50, page 61 (line 31), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on the parties to the agreement”.

(31) Schedule 1, item 50, page 62 (lines 28 to 30), omit “(or last signed by a spouse party to the agreement, if both spouse parties to the agreement have signed)”.

(32) Schedule 1, item 50, page 63 (line 3), omit “binding Part VIIIAB financial agreement”, substitute “Part VIIIAB financial agreement that is binding on the parties to the agreement”.

(33) Schedule 1, Part 1, page 80 (after line 9), at the end of the Part, add:

84A After subsection 114(2)

Insert:

2A In a de facto financial cause (other than proceedings referred to in, or relating to, paragraph (e) or (f) of the definition of de facto financial cause in subsection 4(1)) the court may:

(a) make such order or grant such injunction as it considers proper with respect to the use or occupancy of a specified residence of the parties to the de facto relationship or either of them; and

(b) if it makes an order or grants an injunction under paragraph (a)— make such order or grant such injunction as it considers proper with respect to restraining a party to the de facto relationship from entering or remaining in:

(i) that residence; or

(ii) a specified area in which that residence is situated; and

(c) make such order or grant such injunction as it considers proper with respect to the property of the parties to the de facto relationship or either of them.

Sections 90SB and 90SK apply in relation to an order or injunction under this subsection in a corresponding way to the way in which those sections apply in relation to an order under section 90SM.

Note 1: This subsection does not apply to proceedings referred to in paragraph (g) of the definition of de facto financial cause that relate to proceedings referred to in paragraph (e) or (f) of that definition.
Note 2: The same requirements in
sections 90SB (length of re-
lationship etc.) and 90SK
(geographical requirements)
for section 90SM orders
must be satisfied for orders
and injunctions under this
subsection.

(39) Schedule 1, item 89, page 85 (line 4), after
“VIII B”, insert “”, and subsection 114(2A).”.

(47) Schedule 1, item 91, page 86 (lines 38 and
39), omit “binding Part VIIIAB financial
agreement”, substitute “Part VIIIAB financial
agreement that is binding on them”.

(48) Schedule 1, item 92, page 88 (lines 15 and
16), omit “binding Part VIIIAB financial
agreement”, substitute “Part VIIIAB financial
agreement that is binding on them”.

(49) Schedule 3, item 16, page 101 (lines 24 to
26), omit “(or last signed by a spouse party
to the agreement, if both spouse parties to
the agreement have signed)”.

(50) Schedule 3, item 17, page 102 (line 3), omit
“binding financial agreement”, substitute
“financial agreement that is binding on the
parties to the agreement”.

(51) Schedule 3, item 17, page 102 (line 6), omit
“binding financial agreement”, substitute
“financial agreement that is binding on the
parties to the agreement”.

(52) Schedule 3, item 30, page 104 (line 6), omit
“binding financial agreement”, substitute
“financial agreement that is binding on the
parties to the agreement”.

(54) Schedule 4, page 109 (before line 5), before
item 1, insert:

1A Paragraph 60I(5)(a)
Omit “the date fixed by Proclamation
for the purposes of this paragraph”,
substitute “1 July 2008”.

Note: The heading to subsection 60I(5) is al-
tered by omitting “first proclaimed date” and
substituting “30 June 2008”.

1B Subsection 60I(6)
Omit “the date fixed by Proclamation
for the purposes of this subsection”,
substitute “1 July 2008”.

Note: The heading to subsection 60I(6) is al-
tered by omitting “second proclaimed date”
and substituting “1 July 2008”.

These amendments are largely technical and
relate primarily to drafting issues, many of
which were raised by the family law section
of the Law Council of Australia. I thank the
family law section for their input. As I said
earlier in my remarks, the government ap-
preciates the work done by both the Standing
Committee on Legal and Constitutional Af-
airs and the family law section of the Law
Council. During my time in opposition and
in government I have noted that the family
law section has provided high-quality assis-
tance to government.

Government amendments (1) and (2) pro-
vide for the commencement of the definition
of ‘de facto relationship’, which recognises
children of same-sex relationships, on the
day the bill receives royal assent. The defini-
tion of ‘de facto relationship’ and the amend-
ments made under new section 3A will also
apply to a number of other acts, many of
which are also being amended by the Same-
Sex Relationship (Equal Treatment in Com-
monwealth Laws—Superannuation) Bill
2008 and the Same-Sex Relationships (Equal
Treatment in Commonwealth Laws—
General Law Reform) Bill 2008. Com-
mencement on royal assent will ensure that
the amendments made to those other acts,
once the two same-sex bills have passed and
commenced, will have effective operation
from the commencement.

Government amendments (3) to (6), (10),
(11), (18) to (27), (30) to (32) and (47) to
(52) address various drafting issues raised by
the family law section of the Law Council of
Australia to: (a) ensure consistency with the
definitions for ‘de facto’, ‘financial cause’
and ‘financial matters’; (b) ensure consis-
tency between provisions applying after a de facto relationship ends and the provisions applying after a marriage has ended in divorce; (c) replace the term ‘binding financial agreement’ with the phrase ‘financial agreement that is binding on the parties to the agreement’ or a similar phrase; and, finally, ensure that, where both parties have signed a separation declaration, the declaration’s time is measured from the time it is first signed by one of the parties.

Government amendments (8), (9), (29), (33), (39) and (54) also address various technical issues. It is always difficult to say this, but they were inadvertently overlooked during drafting. These amendments are largely technical, as I said, and are explained in more detail in the revised supplementary explanatory memorandum we have provided.

I commend the amendments to the chamber.

Senator BRANDIS (Queensland) (3.41 pm)—The opposition accepts that the first group of amendments are of a technical character. They are designed to clarify certain meanings and correct certain omissions in the original draft of the bill and they are not controversial.

Senator BOSWELL (Queensland) (3.42 pm)—I would like to make some remarks on the opening clauses of this bill. On the face of it, the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill seeks to provide de facto couples, both opposite-sex and same-sex, with access to federal family courts on property and maintenance matters. The intent is to provide for national uniformity for all relationship breakdown matters and to confer jurisdiction on the courts with the best resources for resolving the breakdown of relationships—namely, the Family Court of Australia and the Federal Magistrates Court—exercising jurisdiction under the Family Law Act. It is important to address this for de facto couples. The coalition, while in government, supported, and indeed initiated, moves to legislate to help de facto couples in this regard.

It is of paramount importance that the unique status of marriage be preserved in all legislation that comes before the Senate. That is why de facto couples are treated as distinct from married couples, although relationships in both may result in similar circumstances being treated in a similar manner. Significantly, the title of this bill refers to de facto financial matters, which reflects the intent of the bill, as I have just outlined. However, there is also the matter of ‘other measures’ in the bill’s title. It is about the other measures that I, like many other Australians, have a concern.

Firstly, de facto couples now include same-sex couples. I acknowledge that many people do not have a problem with that. They view relationship breakdown as a generic situation that should be treated the same wherever it occurs. Their reasoning extends to children—that is, if children are involved, the same law should apply regardless of whether the couple is married, heterosexual or same-sex.

But a child is not the biological creation of a same-sex couple. That is biological fiction. So there is a problem under law of treating children being cared for by same-sex couples when there is a breakdown of that relationship, assisted reproduction techniques in surrogacy and other dimensions to the problem, because of genetic material from a non-custodial but biological mother or father. We are left with legal distortions and euphemisms in order to convince ourselves we are treating everyone equally. The government’s proposed amendment to section 60H will effectively give parental status to a lesbian partner of a woman who undergoes an artifi-
cial conception procedure. This includes artificial insemination and IV.

Item 7 of proposed new schedule 3A of the bill would introduce a new section 60HB to the Family Law Act which would give parental status to any person for whom an order has been made under prescribed surrogacy law of a state or territory. This is despite the fact that surrogacy laws amongst the states are varied and incomplete. The coalition will be moving amendments to try to improve this situation, but I am concerned that, no matter how hard we try, we are taking steps here that extend the classification of mothers and fathers to people who are not mothers and fathers. In doing so, we undermine marriage, motherhood, fatherhood and the rights of children to a mother and father as we have understood them throughout the whole of the history of humanity.

The government’s amendments in the bill’s proposed schedule 3A state that for ‘children’ should be substituted the following: ‘whether or not the child is biologically a child of the woman and of the other intended parent, for the purposes of this act the child is a child of the woman and of the other intended parent’. The government is proposing that a child can be a child of two people of the same sex—that is, a child can have two mothers. At least the government is no longer suggesting that the child be defined as a product of the relationship of the two same-sex parents—as was originally proposed. A child is not a product, and humans are not the industrial system, with inputs and outputs and people who can be equal substitutes for parents. We are a society, a society that depends fundamentally on marriage and the family for security, survival, continuity and a future. I feel that, with bills like this and the ones to follow on the equal treatment of same-sex partners, we are almost under duress to pass them, such is the pressure and media conditioning of our times.

Bernard Salt, a partner with KPMG, points out in today’s Australian the extremes of political correctness occurring in the UK. He writes:

IN politically correct Britain last month the University of Manchester changed the signage on toilet doors. Apparently transgender students complained that the terms male and female made them feel uncomfortable. As a consequence toilets in the student union building have been relabelled toilets and toilets with urinals.

He described how potential contractors with the Greater London Authority have to complete a diversity monitoring form that includes listing the sexual orientation of their workforce. The categories, according to Bernard Salt, are bisexual, gay, metrosexual and lesbian—and if you want to add another category you are welcome to. Is this the direction in which we are heading? I am afraid it is. There is more persecution of those who are unhappy with this bill than of those who are the intended beneficiaries. Who can argue with equal treatment in these enlightened days? Yet how we deceive ourselves when we create, by law, the fiction that a human baby actually has two mothers! Everyone who was born in this world has been created by a man and a woman. Now we are asked to accept, and legislate for, a new dogma: there shall be a father, a mother and ‘fothers’, let us call them, for we are creating a new class of parent. A ‘fother’ is a person who is not the mother or father in any physical or biological way—or a person who replicates that role in a heterosexual relationship—but a person in a same-sex relationship. This bill will establish a legal structure that creates a second parent of the same sex for a child while denying that child a parent of the other sex. Do such statements make me a homophobe who should be reviled and hounded by human rights and antidiscrimination activists? No doubt they do, but I assert my right to say farewell to the nostalgic days of hu-
manity when a child had a right to a father and a mother.

Question agreed to.

Senator BRANDIS (Queensland) (3.50 pm)—I move opposition amendment (1) on sheet 5617 revised:

(1) Schedule 1, item 21, page 10 (lines 20 to 25), omit subclause (5), substitute:

(5) For the purposes of this Act a de facto relationship can exist between 2 persons of different sexes and between 2 persons of the same sex.

The first of the opposition’s amendments is to item 21 of the bill. The purpose of the amendment is to omit from the proposed definition of ‘de facto relationship’ in the new section 4AA of the bill the words in subsection (5)—‘a de facto relationship can exist even if one of the persons is legally married to someone else or in another de facto relationship’—so that subsection (5) of the proposed section 4AA would merely provide ‘that for the purposes of the act a de facto relationship can exist between two persons of different sexes and between two persons of the same sex’.

Concern was raised by a number of witnesses before the Senate inquiry into this and related bills that the provisions of the proposed section 4AA(5)(b) would seem to countenance a polygamous situation. It may very well be, particularly having regard to the existing provisions of section 6 of the Family Law Act which are not affected by this bill, that the omission of these words will not change the law, but nor will the inclusion of these words change the law, so we are not, in this context, talking about matters of substance. But there are important issues of symbolism and the use of statutory language which have been an aspect of this debate, and for those reasons the opposition is of the view that paragraph (b) of proposed section 4AA(5) should be deleted.

Senator LUDWIG (Queensland—Minister for Human Services) (3.52 pm)—The government does not support the amendment. It does not support the primary premise of this amendment that the senator is relying on. The amendment concerns a matter that I took the opportunity of outlining in my summing-up speech: the bill does not provide recognition or endorsement of polygamous relationships. It is unlawful to enter into a polygamous marriage under Australian law and under the laws of the states and territories. The bill itself simply allows a court to determine, taking into account all circumstances, the just and equitable distribution of property between couples in a range of relationships. This is currently the situation under the state and territory laws. In fact, this bill simply picks up the referrals given by the states and territories which were pursued and received by the former government. Those opposite agreed to it, as we understand it, when they were in government. I find it difficult to see—as I think I said during my summing-up, it all now seems bizarre—why the opposition are now continuing on this course.

I can understand sometimes the points the opposition wish to make about it. The Senate Standing Committee on Legal and Constitutional Affairs raised in part a whole range of issues that the government took on board. Similarly, the family law section of the Family Law Council raised a whole range of issues, although they were more technical in nature. But it does seem difficult to see why the opposition are continuing to press for this. It does not seem to be even part of what you would sometimes refer to as a belt and braces approach, one that is sometimes adopted in this place as a matter that the opposition might want to pursue. It seems to be an issue that would be a difficult matter for the government to accept with regard to the remarks that have already been made about
this. The common law is able and apt to deal with this area.

Quite frankly, we do not think the case is as the opposition have argued. Our advice is that the implication of removing the provision that allows more than one relationship is that there is a greater chance that a court could find that a de facto relationship has to be exclusive of any other relationship, whether that is a marital relationship or another de facto relationship. That seems to be the nub of the issue. The advice that we have on this matter is that you should not remove the provision that allows more than one relationship, and I guess we have to examine this as to the chance that a court would find that a de facto relationship has to be exclusive of any other relationship. In the absence of any clear statutory intervention, the courts have not taken a consistent approach to this issue. There are already some court decisions that indicate exclusivity is required. There are also some other court decisions that indicate that it is not essential. It seems that for that purpose alone, so as to give some certainty, this provision is the best position to adopt. Therefore we should act on the advice that the government and I think should be followed in this instance.

The point seems to be that if we were to follow the opposition’s position we could wait on the common law and await the courts’ decisions. If those decisions are made, and they vary in the primary courts, then you do have a position where you may find that there are different outcomes. It would not be the intention of this government to pursue those. It would then be a matter of waiting for matters to be appealed, with people incurring those expenses, to settle the law in respect of this. I understand that, in that instance, the opposition would want to rely on the common law to pursue the matter. However, in this instance, where we think we have it right and can make a clear legislative intention, that provides the basis upon which the courts may then examine the legislation and determine cases accordingly without recourse to litigation and making the parties go to the expense of finalising these matters, should they need to.

Of course, in this area things are not always litigated. Parties do not always have sufficient funds available to them to litigate, so they are left with a decision they may not wish to have. Therefore, I think it makes more sense to accept the advice that we have about the implication of removing the provision that allows more than one relationship and that there is a greater chance that a court would find that a de facto relationship has to be exclusive of any other relationship. As I said, I dealt with this matter in the summing-up and I would urge the chamber not to accept the amendment as circulated by the opposition. We think this legislation has been sufficiently examined. I know that Senator Brandis, the shadow Attorney-General, has spent a considerable amount of time on examining the provisions of this legislation, so I do not take the position that is being put forward by Senator Brandis lightly. The amendment before us is a matter that Senator Brandis would have turned his mind to in a sufficiently deep way. However, in this instance my advice is contrary to the shadow Attorney-General’s position, so I would ask him to reconsider his position and not pursue the amendment.

Senator HANSON-YOUNG (South Australia) (3.39 pm)—The Greens also do not support the amendments circulated by Senator Brandis on behalf of the opposition. I am not exactly sure where the argument comes from that this legislation somehow encourages polygamy or even legitimises it, which seems to be what Senator Brandis is saying. A significant number of heterosexual de facto couples are still married. It is important that, if we are to redefine the meaning of de
facto to include same-sex couples, we recognise the diversity of relationships from which people come. It essentially reflects the reality of people’s lives. The Greens believe that the weaker party in a relationship should be recognised by the courts, and that is where one part of a couple is considered to be currently in another relationship, de facto or married. The partner in this relationship should still be recognised as a partner of that relationship.

To suggest that the parliament would somehow be endorsing polygamy is simply ridiculous, or perhaps, as the minister said, bizarre. It is simply, as I said, a reflection of the reality of people’s lives, and so to deny court access to a partner upon the break-up of their relationship is irresponsible and unjust.

Senator PRATT (Western Australia) (4.01 pm)—I think the opposition’s amendments fail to pick up that this legislation is not about polygamist relationships; it is actually about protecting people who might be vulnerable in accessing their rightful entitlements. I give to you the situation of a couple who marry early in life and eventually leave each other. They have no further contact with each other but they remain legally married. If they were to enter into long-term de facto relationships with other people, there could be a situation where their previous marital status is not disclosed even to their de facto partner. They would have an understanding, being in a de facto relationship, that they would have access to a certain set of entitlements, and they would not know that those entitlements could be denied to them by virtue of the fact that their partner is legally married to someone else. So I have a great deal of concern about the opposition’s amendments in that regard.

You occasionally hear in the media, or read in the tabloids, stories about people who have multiple families and have led lives of deception. This legislation is not about morally condoning such relationships; it is about making sure that, if people are vulnerable to those kinds of relationships, they have some legal recourse to protect their interests and their children’s interests. For that reason, I oppose the amendments.

On indulgence, I would like to discuss some amendments that have not yet been moved. My remarks extend to the current section 60H of the Family Law Act. This section ensures that, where a woman gives birth to a child as a result of an artificial conception procedure, both the woman and her male partner are recognised as the child’s parents. It also ensures that, if genetic material from a third person was used to conceive the child, that third person will not be recognised as the child’s parent. The only proviso is that the woman and her partner must have consented to the procedure and that any third party who provided genetic material must have consented to the use of that material in an artificial conception procedure. The section has this effect even if there is no relevant state or territory law that provides that the woman concerned and her partner are the child’s parent. Only this section provides this independent Commonwealth recognition, without relying on state and territory law. It provides specific, explicit, independent recognition and protection under Commonwealth law to all couples who have children with the assistance of artificial conception procedures.

This section provides equal protection to married and opposite-sex de facto couples. The section will apply to opposite-sex de facto couples as if they were married. It provides all those couples and their children with the protection and reassurance that comes from knowing, with certainty, that the Commonwealth regards their parent-child relationships as legitimate. There are countless families out there right now—countless
husbands, wives, mothers and fathers in de facto relationships, daughters, sons, grandparents, aunts, uncles and cousins—who all rely on reassurance and protection of their legal status. They are all relying on the Commonwealth to acknowledge, without reservation, that their children belong to their family and not to any other.

The government is proposing to extend this protection to lesbian couples so that, where a woman gives birth to a child as a result of an artificial conception procedure, both the woman and her female partner will be recognised as the child’s parents. The coalition objects to the government’s amendment because the government’s approach allegedly homogenises same-sex relationships with marriage relationships and treats them identically. The coalition has circulated its own amendment and it contains two separate provisions—one provides recognition for the husbands of birth mothers who conceive as the result of an artificial conception procedure and the other provides recognition for the male or female de facto partners of birth mothers who conceive as the result of an artificial conception procedure.

The coalition’s second provision for de facto couples—but not its provision for married couples—differs from the government’s provision in two significant ways. Firstly, it refers to the de facto partner of the birth mothers as ‘the other person in the relationship’, whereas the government’s amendment refers to ‘the other intended parent’. Secondly, it specifies that the child conceived ‘is the child of’ the birth mother and ‘is deemed to be the child of the other person in the relationship’, whereas the government amendment says that the child ‘is the child of’ both the birth mother and the other intended parent.

The coalition’s desire not to treat same-sex couples like married couples stands to undermine the legitimacy of the parent-child relationships of all de facto couples, both same-sex and straight, who conceive as a result of artificial conception procedures. It wants to say to same-sex couples: ‘We can possibly manage to treat you like you are parents. We can possibly manage to accept the reality that your children and all those who deal with them work on the assumption that you are parents. But we do not actually want to call you parents because we all know that really you are not parents—you are just pretending to be parents. Therefore, we only deem you to be parents.’ In the process, the coalition are putting at risk the existing rights of the many heterosexual de facto couples who conceive through artificial conception procedures.

Australia abolished all distinctions in legal status between so-called legitimate and illegitimate children in the 1970s, and in the 1980s the states referred their powers in relation to the children of unmarried parents to the Commonwealth to ensure that all children would be treated equally for the purposes of family law specifically. Everyone in Australia had thought that the days when children were discriminated against because of their parents’ marital status—the days when, through no fault of their own, children were branded as ‘bastards’—were behind us. That was until the opposition foreshadowed this particular amendment. The children of married couples using artificial conception procedures and donor sperm will now have two parents, while the children of de facto couples in the same situation will have one parent and another person who is ‘deemed to be a parent’—whatever that is supposed to mean.

This is a pernicious and evil distinction, the legal consequences of which are dangerously uncertain. To take just one example: what does this distinction mean for tracing rules? What does it mean for siblings, grand-
parents, uncles, aunts and cousins whose relationship to the child is through the person who is only ‘deemed’ to be a parent? In an attempt to pander, I think, to the homophobic prejudices of some of its members the coalition is undermining for many families the protection and reassurance that comes from knowing with certainty that the Commonwealth regards their parent-child relationships as legitimate. That is why we should acknowledge without reservation that those children belong to those families and not to any other.

Senator LUDWIG (Queensland—Minister for Human Services) (4.10 pm)—The government of course is acting responsibly by recognising that surrogacy is a reality today. Of course, the act already has laws that allow for the transfer of legal parentage from the surrogate mother to the commissioning parent. Victoria’s lower house of parliament has just recently passed the Assisted Reproductive Treatment Bill, which gives greater recognition to surrogacy arrangements in the state. Also, Mr Colin Barnett, Premier of Western Australia, has said the reintroduction of surrogacy laws is one of the first priorities for his government. The proposed government amendment introducing section 60HB recognises the reality that courts can and do transfer legal parentage as a result of a surrogacy arrangement—and it will be difficult to deny that this happens. Failure to recognise these orders would perpetuate inappropriate inconsistencies between state and federal laws and continue confusion and discriminatory treatment for families.

Question negatived.

Senator LUDWIG (Queensland—Minister for Human Services) (4.12 pm)—by leave—I move:

That the House of Representatives be requested to make the following amendments:

(7) Schedule 1, item 50, page 23 (lines 3 to 21), omit section 90RB, substitute:

**90RB Meaning of child of a de facto relationship**

For the purposes of this Part, a child is a *child of a de facto relationship* if the child is the child of both of the parties to the de facto relationship.

Note: To determine who is a child of a person see Subdivision D of Division 1 of Part VII.

(12) Schedule 1, item 50, page 29 (line 24), omit “application time.”, substitute:

application time;

or that the alternative condition in subsection (1A) is met.

(13) Schedule 1, item 50, page 29 (after line 24), after subsection 90SD(1), insert:

(1A) The alternative condition is that the parties to the de facto relationship were ordinarily resident in a participating jurisdiction when the relationship broke down.

(14) Schedule 1, item 50, page 29 (lines 27 to 31), omit subsection 90SD(3), substitute:

(3) If each State is a referring State, the Governor-General may, by Proclamation, fix a day as the day on which paragraph (1)(b), and the alternative condition in subsection (1A), cease to apply in relation to new applications.

Note: Paragraph (1)(b) and subsection (1A) will continue to apply in relation to applications made before the proclaimed day.

(15) Schedule 1, item 50, page 39 (line 25), omit “application time.”, substitute:

application time;

or that the alternative condition in subsection (1A) is met.

(16) Schedule 1, item 50, page 39 (after line 25), after subsection 90SK(1), insert:

(1A) The alternative condition is that the parties to the de facto relationship were ordinarily resident in a participating ju-
risdiction when the relationship broke down.

(17) Schedule 1, item 50, page 39 (lines 28 to 32), omit subsection 90SK(3), substitute:

(3) If each State is a referring State, the Governor-General may, by Proclamation, fix a day as the day on which paragraph (1)(b), and the alternative condition in subsection (1A), cease to apply in relation to new applications.

Note: Paragraph (1)(b) and subsection (1A) will continue to apply in relation to applications made before the proclaimed day.

(34) Schedule 1, item 85, page 81 (after line 6), after the definition of commencement, insert:

designated agreed matters, in relation to 2 persons, means the following:

(a) how all or any of the:

(i) property; or

(ii) financial resources;

of either person, or both persons, at the time when the agreement is made, or at a later time and during a de facto relationship between them, is to be distributed;

(b) the maintenance of either of the persons;

in the event of the breakdown of a de facto relationship between them, or in relation to a de facto relationship between them that has broken down, as the case requires.

(35) Schedule 1, item 85, page 81 (before line 7), before the definition of earlier participating jurisdiction, insert:

designated State/ Territory financial agreement, in relation to 2 persons, means a written agreement:

(a) signed by both of them with respect to matters that include any designated agreed matters; and

(b) made under a preserved law of a State or Territory; and

(c) in relation to which, either:

(i) a court could not, because of that preserved law, make an order under that law that is inconsistent with the agreement with respect to any of the designated agreed matters; or

(ii) a court could not, because of that preserved law, make an order under that law that is with respect to any of the designated agreed matters.

(36) Schedule 1, heading to Division 2, page 81 (lines 22 to 24), omit the heading, substitute:

Division 2—Application of new Act to de facto relationships breaking down before commencement

(37) Schedule 1, item 86, page 81 (line 27), omit “Parts VIIIAB and VIIIB of the new Act do not extend”, substitute “Subject to item 86A, Parts VIIIAB and VIIIB, and subsection 114(2A), of the new Act do not apply in relation”.

(38) Schedule 1, page 82 (after line 17), after item 86, insert:

86A Opting into the new regime

Choosing the new regime

(1) The parties to a de facto relationship that broke down before commencement may choose for Parts VIIIAB and VIIIB, and subsection 114(2A), of the new Act to apply in relation to the de facto relationship.

Note 1: Whether the parties will be able to obtain an order under those provisions of the new Act, or make a Part VIIIAB financial agreement, will depend on whether the tests found in those provisions are satisfied for the de facto relationship.

Note 2: Divisions 3 and 4 of this Part, and section 90UE of the new Act, are not affected by a choice under this item. Those Divisions, and that section, relate to de facto relationships that (if they are to break down) will break down after commencement.

When a choice can be made

(2) A choice under subitem (1) can be made if:
(a) the choice is unconditional; and
(b) subitems (3), (4) and (5) are satisfied for the choice.

A choice is irrevocable.

(3) This subitem is satisfied for the choice if no order (other than an interim order) under a preserved law of a State or Territory has been made by a court in relation to either of the following:
(a) how all or any of the:
(i) property; or
(ii) financial resources;
that either or both of the parties to the de facto relationship had or acquired during the de facto relationship is to be distributed;
(b) the maintenance of either of the parties to the de facto relationship.

(4) This subitem is satisfied for the choice if:
(a) the parties have not made a designated State/Territory financial agreement in relation to their de facto relationship; or
(b) if the parties have made such an agreement, that agreement has ceased to have effect without:
(i) any property being distributed; or
(ii) any maintenance being paid;
under the agreement.

(5) This subitem is satisfied for the choice if:
(a) the choice is in writing and signed by both of the parties to the de facto relationship; and
(b) each of the parties was provided, before the choice was signed by him or her, with:
(i) independent legal advice from a legal practitioner about the advantages and disadvantages, at the time that the advice was provided, to the party of making the choice; and
(ii) a signed statement by the legal practitioner stating that this advice was given to the party.

(6) For the purposes of Part VIIIAB of the new Act, a choice can be included in a Part VIIIAB financial agreement for which the parties are the spouse parties.

Setting aside a choice

(7) A court may make an order setting aside a choice if the court is satisfied that, having regard to the circumstances in which the choice was made, it would be unjust and inequitable if the court does not set the choice aside.

(8) A court setting aside a choice under subitem (7) may make such order or orders (including an order for the transfer of property) as it considers just and equitable to, so far as is practicable, return the rights of:
(a) the parties to the de facto relationship; and
(b) any other interested persons affected by the choice;
to their position immediately before the choice was made.

(9) Subsections 90UM(8) and (9) of the new Act apply in relation to setting aside a choice as if:
(a) a reference in those subsections to subsection 90UM(1) or (6) of the new Act were a reference to subitem (7) or (8); and
(b) the reference in those subsections to section 90UM of the new Act were a reference to this item.

(40) Schedule 1, item 89, page 85 (line 5), omit “extend”, substitute “apply in relation”.

(41) Schedule 1, item 89, page 85 (line 6), omit “extend”, substitute “apply in relation”.

(42) Schedule 1, item 89, page 85 (line 8), omit “Note”, substitute “Note 1”.

(43) Schedule 1, item 89, page 85 (line 12), omit “extend”, substitute “apply in relation”.

CHAMBER
(44) Schedule 1, item 89, page 85 (after line 13), after the note, insert:

Note 2: The cases covered by paragraph (a) include a case where a de facto relationship has broken down before the transition time for the State and the parties to the relationship make a choice under item 90A.

(45) Schedule 1, item 90, page 85 (line 35), omit “Parts VIIIAB and VIIIB of the new Act do not extend”, substitute “Subject to item 90A, Parts VIIIAB and VIIIB, and subsection 114(2A), of the new Act do not apply in relation”.

(46) Schedule 1, page 86 (after line 17), after item 90, insert:

90A Opting into the new regime

Choosing the new regime

(1) The parties to a de facto relationship that broke down before the transition time for the State may choose for Parts VIIIAB and VIIIB, and subsection 114(2A), of the new Act to apply in relation to the de facto relationship.

Note 1: Whether the parties will be able to obtain an order under those provisions of the new Act, or make a Part VIIIAB financial agreement, will depend on whether the tests found in those provisions are satisfied for the de facto relationship.

Note 2: Items 91 and 92 are not affected by a choice under this item. Those items relate to de facto relationships that (if they are to break down) will break down after the transition time for the State.

When a choice can be made

(2) A choice under subitem (1) can be made if:

(a) the choice is unconditional; and
(b) subitems (3), (4) and (5) are satisfied for the choice.

A choice is irrevocable.

(3) This subitem is satisfied for the choice if no order (other than an interim order) under a preserved law of a State or Territory has been made by a court in relation to either of the following:

(a) how all or any of the:
   (i) property; or
   (ii) financial resources;
   that either or both of the parties to the de facto relationship had or acquired during the de facto relationship is to be distributed;
(b) the maintenance of either of the parties to the de facto relationship.

(4) This subitem is satisfied for the choice if:

(a) the parties have not made a designated State/Territory financial agreement in relation to their de facto relationship; or
(b) if the parties have made such an agreement, that agreement has ceased to have effect without:
   (i) any property being distributed; or
   (ii) any maintenance being paid; under the agreement.

(5) This subitem is satisfied for the choice if:

(a) the choice is in writing and signed by both of the parties to the de facto relationship; and
(b) each of the parties was provided, before the choice was signed by him or her, with:
   (i) independent legal advice from a legal practitioner about the advantages and disadvantages, at the time that the advice was provided, to the party of making the choice; and
   (ii) a signed statement by the legal practitioner stating that this advice was given to the party.

(6) For the purposes of Part VIIIAB of the new Act, a choice can be included in a Part VIIIAB financial agreement for which the parties are the spouse parties.
Setting aside a choice

(7) A court may make an order setting aside a choice if the court is satisfied that, having regard to the circumstances in which the choice was made, it would be unjust and inequitable if the court does not set the choice aside.

(8) A court setting aside a choice under subitem (7) may make such order or orders (including an order for the transfer of property) as it considers just and equitable to, so far as is practicable, return the rights of:

(a) the parties to the de facto relationship; and

(b) any other interested persons affected by the choice;

to their position immediately before the choice was made.

(9) Subsections 90UM(8) and (9) of the new Act apply in relation to setting aside a choice as if:

(a) a reference in those subsections to subsection 90UM(1) or (6) of the new Act were a reference to subitem (7) or (8); and

(b) the reference in those subsections to section 90UM of the new Act were a reference to this item.

Statement of reasons: why certain amendments should be moved as requests

Section 53 of the Constitution is as follows:

Powers of the Houses in respect of legislation

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendments (7), (12), (13), (15), (16), (38) and (46)

The effect of these amendments is to increase the number of individuals in respect of whom an amount may be paid out under the standing appropriation in section 21 of the Financial Management and Accountability Act 1997 in relation to the Special Account continued in existence by section 73 of the Child Support (Registration and Collection) Act 1988. They are covered by section 53 because they will increase a “proposed charge or burden on the people”.

Amendment (53)

The effect of these amendments is to increase the number of individuals in respect of whom an amount may be paid out under the standing appropriation in:

section 21 of the Financial Management and Accountability Act 1997 in relation to the Special Account continued in existence by section 73 of the Child Support (Registration and Collection) Act 1988; and

section 125 of the Health Insurance Act 1973; and

section 137 of the National Health Act 1953.

The amendments are covered by section 53 because they will increase a “proposed charge or burden on the people”.

CHAMBER
Consequential amendments

The following amendments are consequential on amendments (7), (12), (13), (15), (16), (38) and (46):
(14), (17), (34), (35), (36), (37), (40), (41), (42), (43), (44) and (45)

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Amendments (7), (12), (13), (15), (16), (38), (46) and (53)

The Senate has long followed the practice that it should treat as requests amendments which would result in increased expenditure under a standing appropriation, although this interpretation is not consistent with other elements of the established interpretation of the third paragraph of section 53 of the Constitution. This has nothing to do with the introduction of bills under the first paragraph of section 53.

If it is correct that these amendments increase the number of individuals eligible for payments and benefits payable from standing appropriations, it is in accordance with the precedents of the Senate that the amendments be moved as requests.

Amendments (14), (17), (34) to (37), and (40) to (45)

These amendments are consequential on the requests. It is the practice of the Senate that amendments purely consequential on amendments framed as requests should also be framed as requests.

Government amendment (7), on a child of a de facto relationship and changes to parenting presumptions, will amend the definition of ‘child of a relationship’ for the purposes of the act. The amendment provides that a child is a child of a de facto relationship if the child is a child of both parties to the relationship. Government amendments (12) to (17) go to the geographical requirement. Government amendments (12) to (17) address issues raised by the Law Council of Australia’s family law section where de facto couples move to a referring state or territory during their relationship and separate before being ordinarily resident there for at least one-third of their de facto relationship. These amendments provide for couples in these circumstances to be able to access the regime if they are ordinarily resident in a referring state or territory when their relationship breaks down.

Government amendments (34) to (38)—and I can deal at the same time with amendments (40) to (46), which relate to opting into the new regime—implement the bipartisan recommendation 4 of the Senate Standing Committee on Legal and Constitutional Affairs report on the bill. The amendments insert a procedure enabling de facto couples in one of those states, or in a territory, whose relationship has broken down before the new Commonwealth de facto property settlement and spouse maintenance regime commences and who have yet to finalise issues between them to opt in to the new regime by mutual agreement.

The choice made to opt in will be subject to safeguards. These include requirements that the choice be in writing and signed by each party and be made only after each party has received independent legal advice and been given a signed statement by the legal practitioner that the advice was given. The opt-in procedure should also be available for de facto couples in South Australia and Western Australia if either of those states refer power, as other states have done.

I did take the opportunity earlier in my remarks of commenting on the legal and constitutional affairs committee report, of which we have adopted recommendation 4. From the government’s perspective, it is pleasing that we can do two things: firstly, compliment the legal and constitutional affairs committee for their work in this area and for making substantive recommenda-
With those remarks, I commend these amendments to the Senate.

**Senator BRANDIS** (Queensland) (4.16 pm)—Can I just indicate that the opposition will be supporting these amendments.

**Senator HANSON-YOUNG** (South Australia) (4.16 pm)—The Greens support these amendments as well.

Question agreed to.

**Senator LUDWIG** (Queensland—Minister for Human Services) (4.16 pm)—I move:

That the House of Representatives be requested to make the following amendment:

(53) Page 108 (after line 17), after Schedule 3, insert:

**Schedule 3A—Children**

**Family Law Act 1975**

1 **Subsection 4(1)**

Insert:

child: Subdivision D of Division 1 of Part VII affects the situations in which a child is a child of a person or is a child of a marriage or other relationship.

Note: In determining if a child is the child of a person within the meaning of this Act, it is to be assumed that Part VII extends to all States and Territories.

2 **Before section 60F**

Insert:

**60EA Definition of de facto partner**

For the purposes of this Subdivision, a person is the de facto partner of another person if:

(a) a relationship between the person and the other person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Act Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; or

(b) the person is in a de facto relationship with the other person.

**3 Paragraph 60F(1)(c)**

After “subsection 60H(1)”, insert “or section 60HB”.

**4 After subsection 60F(4)**

Insert:

(4A) To avoid doubt, for the purposes of this Act a child of a marriage is a child of the husband and of the wife in the marriage.

**5 Subsection 60G(2)**

After “paragraph 60F(4)(a)”, insert “, or paragraph 60HA(3)(a),”.

**6 Subsection 60H(1)**

Repeal the subsection, substitute:

(1) If:

(a) a child is born to a woman as a result of the carrying out of an artificial conception procedure while the woman was married to, or a de facto partner of, another person (the other intended parent); and

(b) either:

(i) the woman and the other intended parent consented to the carrying out of the procedure, and any other person who provided genetic material used in the procedure consented to the use of the material in an artificial conception procedure; or

(ii) under a prescribed law of the Commonwealth or of a State or Territory, the child is a child of the woman and of the other intended parent;

then, whether or not the child is biologically a child of the woman and of
the other intended parent, for the purposes of this Act:

(c) the child is the child of the woman and of the other intended parent; and

(d) if a person other than the woman and the other intended parent provided genetic material—the child is not the child of that person.

7 Subsection 60H(4)
Repeal the subsection.

8 At the end of Subdivision D of Division 1 of Part VII
Add:

60HA Children of de facto partners
(1) For the purposes of this Act, a child is the child of a person who has, or had, a de facto partner if:

(a) the child is a child of the person and the person’s de facto partner; or

(b) the child is adopted by the person and the person’s de facto partner or by either of them with the consent of the other; or

(c) the child is, under subsection 60H(1) or section 60HB, a child of the person and the person’s de facto partner.

This subsection has effect subject to subsection (2).

(2) A child of current or former de facto partners ceases to be a child of those partners for the purposes of this Act if the child is adopted by a person who, before the adoption, is not a prescribed adopting parent.

(3) The following provisions apply in relation to a child of current or former de facto partners who is adopted by a prescribed adopting parent:

(a) if a court granted leave under section 60G for the adoption proceedings to be commenced—the child ceases to be a child of those partners for the purposes of this Act;

(b) in any other case—the child continues to be a child of those partners for the purposes of this Act.

(4) In this section:

this Act includes:

(a) the standard Rules of Court; and

(b) the related Federal Magistrates Rules.

60HB Children born under surrogacy arrangements
(1) If a court has made an order under a prescribed law of a State or Territory to the effect that:

(a) a child is the child of one or more persons; or

(b) each of one or more persons is a parent of a child;

then, for the purposes of this Act, the child is the child of each of those persons.

(2) In this section:

this Act includes:

(a) the standard Rules of Court; and

(b) the related Federal Magistrates Rules.

9 Application
Application to children
(1) Subject to subitems (2) to (8), the amendments made by this Schedule apply in relation to a child born before, on or after the commencement of this item.

Application to the Aged Care Act 1997
(2) To the extent that the amendments of the Family Law Act 1975 made by this Schedule affect subparagraph 44-11(2)(a)(i) of the Aged Care Act 1997, they apply in relation to that subparagraph on and after 1 July 2009.

Application to the A New Tax System (Family Assistance) Act 1999
(3) To the extent that the amendments of the Family Law Act 1975 made
by this Schedule affect paragraph 22(2)(b) of the A New Tax System (Family Assistance) Act 1999, they apply in relation to that paragraph on and after 1 July 2009.

Application to the Child Support (Assessment) Act 1989

(4) To the extent that the amendment of subsection 60H(1), and the repeal of subsection 60H(4), of the Family Law Act 1975 made by this Schedule affect paragraph (b) of the definition of parent in subsection 5(1) of the Child Support (Assessment) Act 1989, they apply in relation to that paragraph on and after 1 July 2009.

Application to the Child Support (Registration and Collection) Act 1988

(5) To the extent that the amendment of paragraph 60F(1)(c) of the Family Law Act 1975 made by this Schedule affects the definition of child of a marriage in subsection 4(1) of the Child Support (Registration and Collection) Act 1988, it applies in relation to that definition on and after 1 July 2009.

Application to the Health Insurance Act 1973

(6) To the extent that the amendments of the Family Law Act 1975 made by this Schedule affect paragraph (a) of the definition of dependent child in subsection 10AA(7) of the Health Insurance Act 1973, they apply in relation to that paragraph on and after 1 January 2009.

Application to the National Health Act 1953

(7) To the extent that the amendments of the Family Law Act 1975 made by this Schedule affect paragraph 84(4)(b), and paragraph (a) of the definition of dependent child in subsection 84B(4), of the National Health Act 1953, they apply in relation to those paragraphs on and after 1 January 2009.

Government amendment (53) inserts a new section setting out the rules for determining when a child is a child of a person who has or had a de facto partner. The proposed amendment provides that a person is a de facto partner either when they are one of a couple registered under a prescribed law of a state or territory or they are in a de facto relationship with another person. Government amendment (53) also substitutes a new section 60H(1), which would apply where a child is born as a result of artificial conception procedures to a married couple or to current or former de facto partners who are of the same sex or different sexes. The expanded operation of the provisions would mean that a female same-sex de facto couple would be recognised as the parents of a child born where the couple consented to the artificial conception procedure relating to the birth of the child. In other words, the child would be recognised as the child of the woman giving birth and her de facto partner.

In addition, genetic material from other than the couple must be used with the relevant donor’s consent. Subsection 60H(1) now only requires the consent of the couple undergoing the procedure; it is silent as to the consent of any donors. The requirement that the donor consent is considered a necessary safeguard to ensure that genetic material
is not used without the knowledge of the donor. Consent is seen as the fundamental principle in the regulation of conception procedures.

Turning to the issue of children born under surrogacy arrangements, new section 60HB is proposed to deal with children born under surrogacy arrangements regulated by state and territory laws. It provides that, where a court order has been made under a prescribed law of a state or territory relating to the parentage of a child, that court order will determine the parentage of the child. Where a surrogacy arrangement is involved, opposite-sex married or de facto couples and female or male same-sex de facto couples will be recognised as the parents of a child if there is a state or territory court order transferring parentage to them.

Dealing with the issue of children born before or after commencement, the amendments in new schedule 3A apply to children born before, on or after commencement so that the greatest possible number of children benefit from the changes. It is considered that for Family Law Act purposes all children of same-sex couples who would be recognised under the new provisions should be provided with benefits such as their same-sex parents being able to access the Family Court and having two parents recognised by the act.

The amendments in new schedule 3A commence on royal assent and apply to children born before, on or after commencement so that, as I said, the greatest possible number of children benefit from the changes. However, parentage presumptions in the Family Law Act are already applied by a number of acts relating to social security, child support and health. Some of these acts are also being amended by the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008. It is necessary to align the application of the amendments in new schedule 3A with the commencement of the amendments to those acts by the same-sex general law reform bill. In most cases, the amendments in new schedule 3A will apply to these other acts on and after 1 July 2009. For the Health Insurance Act 1973 and the National Health Act 1953, they will apply on and after 1 January 2009. Of course, the purpose of that is to ensure the smooth implementation of the government’s wider same-sex reforms. Additionally, this will provide time for agencies to train their staff, to amend forms or procedures and to introduce new software or other technologies.

I also thank the Attorney-General, from a service delivery perspective, for providing some time for the agencies that I administer, which include Centrelink and Medicare, to look at these issues to ensure that our procedures and forms are appropriate for the legislative requirements and that our staff are trained to follow the legislative requirements. With all of these things it is helpful to be provided with sufficient lead time for that to occur. Given the complexity of some of this legislation, that will allow time to write guidelines and procedures for staff to follow. It will also allow time for individuals who may be affected by these changes to adjust. We cannot lose sight of the fact that there are individuals who will be affected by this legislation who will want to understand the implications that are contained within it, and we should allow time for them to digest the legislation and for their adjustment processes. With that, I commend the government’s request to the chamber.

I also seek to table the supplementary explanatory memoranda, which I failed to do at the commencement of the committee stage. I was just going to see whether or not the opposition have had an opportunity of looking
Senator Brandis—Yes, we’ve seen it.

Senator LUDWIG—I am advised that the opposition have had the opportunity of looking at that. I table a supplementary explanatory memorandum and a revised supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to this bill. The memoranda were circulated in the chamber on 18 September and 14 October 2008.

Senator HANSON-YOUNG (South Australia) (4.24 pm)—I would just like to acknowledge that the Greens support the government request for amendment. The issue in relation to parenting presumptions was a major concern raised during the inquiry. The concern was that 60H needed to be gender neutral in order to appropriately cover the children of lesbian couples. While the use of gender neutral language is needed, in order to capture all parents we would need to see a complete overhaul of current surrogacy legislation to ensure that there are uniform surrogacy laws across the board. The Greens are pleased that the government has adopted the committee’s recommendation and we fully support the amendment to sections 60H and 90RB.

I would just like to say again that the Greens are very pleased that the government is moving these amendments and we would like to see the legislation passed immediately. Enough is enough. It is 2008. We have been discussing the need for equality for same-sex couples for decades, and yet discrimination is continuing to occur on a daily basis. We must not delay these vital changes any longer. We need to see same-sex couples given the same decency, respect and equality in law that heterosexual couples get so that their families have the entitlement to the support, recognition and equality they deserve.

Senator BRANDIS (Queensland) (4.25 pm)—I move amendment (2) on sheet 5617 revised:

(2) Government amendment (53), proposing new Schedule 3A, omit item 6, substitute:

6 Subsection 60H(1)

Repeal the subsection, substitute:

(1) If:

(a) a child is born to a woman as a result of the carrying out of an artificial conception procedure while the woman was married to another person (her husband); and

(b) either:

(i) the woman and her husband consented to the carrying out of the procedure, and any other person who provided genetic material used in the procedure consented to the use of the material in an artificial conception procedure; or

(ii) under a prescribed law of the Commonwealth or of a State or Territory, the child is a child of the woman and of her husband;

then, whether or not the child is biologically a child of the woman and of her husband:

(c) the child is the child of the woman and of her husband; and

(d) if a person other than the woman and her husband provided genetic material—the child is not the child of that person.

(1A) If:

(a) a child is born to a woman as a result of the carrying out of an artificial conception procedure while the woman was a de facto partner of another person (the other person in the relationship); and
either:

(i) the woman and the other person in the relationship consented to the carrying out of the procedure, and any other person who provided genetic material used in the procedure consented to the use of the material in an artificial conception procedure; or

(ii) under a prescribed law of the Commonwealth or of a State or Territory, the child is a child of the woman and of the other person in the relationship;

then, whether or not the child is biologically a child of the woman and of the other person in the relationship,

for the purposes of this Act:

(c) the child is the child of the woman, and is deemed to be the child of the other person in the relationship; and

(d) if a person other than the woman and the other person in the relationship provided genetic material—the child is not the child of that person.

This, the second of the opposition’s two amendments to the bill, proposes to replace section 60H(1) of the existing act with words alternative to the words proposed by the government. It does that by proposing a new section 60H(1) and a new section 60H(1A), which deal with the circumstances of children who come into the world as a result of an artificial conception procedure.

Before I go through the detail of the amendments, let me explain what the opposition’s approach to this particular aspect of the bill has been, because Senator Pratt a few moments ago made some observations in anticipation of this amendment which were utterly wide of the mark and could not for a moment be rationally countenanced by anyone. The opposition’s approach, which has by and large reflected a spirit of bipartisanship with the government on this bill, has been, in this series of reforms, to respect four principles, which do not always sit perfectly comfortably together.

The first of those principles is to acknowledge and respect the unique and privileged status of marriage among all domestic relationships and to acknowledge that a marriage can only exist between a man and a woman. As to the latter proposition, there has been no cavil from the government.

The second principle which has informed the opposition’s approach to this legislation—as I outlined when I spoke on the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Bill 2008 the evening before last—is our commitment to the principle that people in homosexual relationships should be absolutely protected from discrimination or any disability arising from differential treatment on account of their sexuality. The way in which one reconciles the unique status of marriage as a relationship between a man and a woman and the need to protect homosexual people from any discrimination against them in their relationships on the ground of their sexuality has been to equate the domestic de facto relationships of opposite-sex couples with the domestic relationships of homosexual couples. And that principle, as we understand it, has informed the government thinking as well.

The third principle which the legislation reflects, and to which the opposition subscribes, is to accept the appropriateness of having all relationship breakdowns dealt with by a single court, the Family Court of Australia, or the Federal Magistrates Court in exercising its jurisdiction under the Family Law Act, according to a common set of principles.

This is legislation which had its genesis with the Howard government when the references of power under which this legislation proceeds were originally arranged. So it was
in fact the idea of the previous government that de facto relationship disputes should be brought into the Family Court of Australia or the Federal Magistrates Court, where appropriate. The significant further development to the principle which has been effected by this government, with the opposition’s support, is to extend that coverage to both same-sex and opposite-sex de facto relationships.

The fourth principle that informs the opposition’s thinking is the importance of ensuring children are not less favourably treated in relationship breakdowns, regardless of the nature of the household—whether it is a married household, whether it is an opposite-sex de facto household or whether it is a same-sex household. Children, in whatever the circumstance of the relationship may be, should not be less favourably treated. It is a simple principle of justice that cannot be countenanced or allowed to happen.

In reconciling those four principles, it seems to the opposition that there is a more appropriate way of dealing with section 60H, which we accept needs to be amended so as to deal with the situation in particular of same-sex couples who may decide to bring a child into the world through an artificial conception procedure in relation to one of the two women in such a relationship. The approach of the government has been to homogenise all of the different categories of relationships—marriages, opposite-sex, de facto and same-sex relationships—into a single category. That is of concern to us.

Senator Boswell made a contribution earlier on in which he reflected with, I think, great passion the sensitivities that many more conservative members of the community feel, in particular in relation to the issue of—to use a shorthand expression—gay parenting. I have made it as clear as can be on behalf of the opposition that we absolutely and without hesitation support the government’s attempts to remove discrimination against gay couples. I could not have been more emphatic about that than I was in the speech that I gave in this place the night before last. But, equally, in achieving and moving towards that beneficial law reform, it would be reckless of us to fail to heed the sensitivities and concerns of the very large number of Australians who for religious or ethical reasons find the notion of gay parenting quite a confronting thing to grasp and for whom it sits very uncomfortably.

The opposition therefore suggests a way through this which preserves the principle of non-discrimination in this particularly difficult area but nevertheless respects the sensitivities that were reflected, for example, by Senator Boswell in his contribution—that is, in dealing with the issue in section 60H, to make a distinction between married relationships, as we propose in our new section 60H(1), and de facto relationships, as we would propose in section 60H(1A). De facto relationships would of course incorporate both opposite-sex and same-sex relationships. By doing that we avoid the risk of, as I said earlier, homogenising all forms of domestic relationships so that, for example, marriages and same-sex de facto relationships are treated as if they were the same thing. They are not the same thing and the government does not seek to make them the same thing, because there is no proposal before the parliament to amend the Marriage Act and change the definition of a marriage as being a relationship between a man and a woman.

The second way in which the opposition respectfully suggests that this difficult issue is best dealt with is by removing the word ‘parent’ entirely from section 60H, section 60H(1) and section 60H(1A). In the amendment that we offer to the Senate, the word ‘parent’ is not used in relation to either de
facto or indeed married relationships. Nothing is lost by that other than the offence to the sensitivities of more conservative Australians that the idea of gay parenting might present. What this is about, as I said at the start, is the rights of children. It is unambiguously the case in the opposition’s amendment that children of all types of households—married households, opposite-sex de facto households and gay households—will be treated equivalently. There will be no discrimination; there will be no distinction made. The observations that Senator Pratt made in her contribution before were, frankly, dead wrong and quite irrational. There is no logical or legal difference in the treatment of children among those different categories of household. But by the avoidance of the use of the word ‘parent’ in relation to all categories, we avoid giving offence to the sensitivities of some of our more conservative fellow Australians.

I conclude on that point: when, particularly with bipartisanship, legislation that does acknowledge and usher into being very important social change is passed through the parliament, it is in everyone’s interest to make sure that the concerns not just of the activists but of people of a more conservative disposition are taken into account and respected. Given that there is no respect whatsoever in which the right to equal treatment of gay people is not respected by this legislation and that there is no respect whatsoever that the right to equal treatment of children, in all varieties of households, is not respected by the opposition’s amendment, it would seem prudent to bring about this important social change in the rather more sensitive way that the opposition commends.

Senator BRANDIS (Queensland) (4.40 pm)—I say through you, Mr Temporary Chairman, to Senator Xenophon that they are most appropriate questions to ask and I am very grateful that he did. Let me answer them. The first question you put, Senator Xenophon, is: would the opposition’s proposed amendment put a question mark on the issue of the legitimacy of children? I assume you are talking about children in de facto relationships. The answer to that question is, unequivocally, no—not even a possibility. I cannot begin to imagine what fanciful document Senator Pratt may have produced to
you, Senator Xenophon, but if the document suggested that the effect of the opposition’s amendment was otherwise then it is pure rubbish.

The language that the opposition suggests, if I may read it, is that, in the circumstance of an artificial reproductive technology being used in a de facto relationship giving rise to the birth of a child, subsection (c) of the opposition’s proposed amendment states:

(c) the child is the child of the woman, and is deemed to be the child of the other person in the relationship …

It is also a given that the child is not the biological child of the other person in the relationship, so a legal connection has to be established between the other person in the relationship and the child. That legal connection is established by the use of the words ‘is deemed to be the child’. Senator Xenophon, I cannot remember if you are a legally trained gentleman or not, but may I tell you that a deeming provision—which is a very commonplace form of statutory usage, as you, Mr Temporary Chairman, of course know—applies subject to its terms for all purposes. So there is no possible set of circumstances in which the operation or the correct application of these statutory words could result in any result otherwise than the child being the child of the other person. So the answer to your first question, as I said, is unequivocally no.

The second question you asked is: does it put at risk the existing rights of heterosexual couples who have conceived through ART procedures? Again, for precisely the same reasons, the answer to your question is unequivocally no.

The third question you asked is, having regard to the legislation that may exist in some of the other states or territories, whether or not the government’s or the opposition’s amendments break new ground. I am not in a position to tell you what specific statutory words may have been used in other states and territories—and I imagine this is uncontroversial between the minister and me—but the whole purpose of this bill is of course so that the Family Court of Australia, or the Federal Magistrates Court, exercising family law jurisdiction, will be the sole court that will be seized of these matters in all of this range of circumstances. Because section 60H will cover children born as a result of ART into marriages, into heterosexual de facto relationships and into same-sex de facto relationships, that would seem to cover the field. So the Commonwealth legislation would overtake whatever might possibly be—though I am not aware of it—inconsistent statutory language in the states.

Senator XENOPHON (South Australia) (4.44 pm)—I thank Senator Brandis for his answer. I am legally trained but I do not profess to have Senator Brandis’s skills. It has been about 10 years since I have done any practice as a personal injuries lawyer. Senator Ludwig, in terms of the point made by Senator Brandis that in a substantive sense the rights are not altered, is it more a question of terminology—that in a substantive sense the rights of the child are not in any way affected both in relation to the rights of the child and the rights of the persons in the relationship referred to in the context of this particular amendment?

Senator LUDWIG (Queensland—Minister for Human Services) (4.46 pm)—The short answer is that the substantive rights are not gavelled by the amendment being proposed. The substantive point is this: this amendment to the Family Law Act changes the nature of what a parent is in some people’s minds. What the government says, though, is that the amendment may be motivated by the discomfort of some members opposite towards gay and lesbian parenting. Let us be clear about this: the
changes will affect not only gay and lesbian couples but also heterosexual couples who use ART to have a child, and they form the bulk of couples using ART. It is one of those areas where you either agree to remove discrimination from legislation or you do not. There is difficulty with this question: what is the difference between saying that a child is a child of a married couple but is to be deemed to be the child of a heterosexual couple or same-sex de facto couple? Think about that for a moment.

Let me rephrase it. I have the Child Support Agency within my portfolio and I have Centrelink, which deal with married couples and marital breakdown. They also deal with de facto couples. They deal with about 6.5 million customers. What you are saying to certain people is that their child will be deemed to be either the child of a heterosexual couple or a same-sex de facto couple. Very quickly that becomes the nomenclature that attaches to these people. The message that it sends is, quite frankly, not the message that you would want to be part of. The message it sends to children of couples is that they do not really believe that you are their parent but, for the sake of the law, they will deem you. In this legislation, in the family law area, language is very important to people. It is one of those areas where it could be categorised as an example of the opposition wishing to perpetuate discrimination that they are committed to removing. I do not want to ascribe that to the opposition but it really stretches me as to why they cannot accept the word ‘parent’.

I know that children will regard them as parents, not as ‘deemed heterosexual or same-sex de facto parents’. It is a long piece of language to subscribe to someone, so either you agree or disagree. Substantive provision will not be unchanged by that—I think that is right—but it is a simple statement about whether these people are parents. What the opposition is proposing with this amendment is to remove the word ‘parent’ from a section that confers parental rights and responsibilities and to reintroduce discrimination between married couples and de facto couples, both heterosexual and same-sex.

The substantive effect of the section will not be changed by the amendment. However, as members of the opposition have stated time and time again in relation to this bill and related bills, language is important. Language is important, and that is why we do not agree with Senator Brandis’s position. We do not agree that we should accept the amendment. We do not accept that the word ‘deeming’ should be in the legislation in that way. The position of those opposite might be motivated by a range of issues in respect of gay and lesbian parents.

Let us be clear about this: the changes affect not only gay and lesbian couples. They also affect heterosexual couples who use ART to have a child—the bulk of those who use ART. It also ignores the fact that for the past 20 years the Family Law Act has treated married couples and de facto heterosexual couples in the same way when children have been born by artificial conception procedures. What is the difference between saying that a child is a child of a married couple but is deemed to be the child of a heterosexual or same-sex de facto couple? It sends the wrong message, quite frankly, and language in this act is important. The Family Law Act deals with a whole range of family law matters that will be dealt with by suburban solicitors right through to senior counsel. When you then use the phrase ‘deemed to be the child of the heterosexual or same-sex de facto couple’ the message is wrong, quite frankly. You either agree that they are parents or you do not. I do not think there is anywhere in this debate where you can say that you can walk both sides of the street.
It sends the message to children of such couples that we do not really believe that those couples are the parents, but for the sake of the law we will deem them to be so. That language then gets used in guidelines and procedures, by Centrelink and Medicare in dealing with a whole range of issues, and by the Child Support Agency. Why? Because it is in the legislation and we have to follow the legislation and use the language that is contained within it. Therefore that is what you are perpetuating if you accept the amendments moved by Senator Brandis.

Senator BRANDIS (Queensland) (4.52 pm)—Mr Temporary Chairman, through you to Senator Xenophon—you got your answer from Senator Ludwig in the first sentence he uttered and then several times again during of his contribution. The government’s position is that the opposition’s amendment would not cause any substantive change to the law whatsoever. That is the answer, quite unequivocally, and of course the minister is right. Senator Ludwig and I seem to be in furious agreement about this. It is about terminology and messaging.

The opposition rejects as preposterous the suggestion that the opposition’s amendment involves any discrimination simply on the basis of sexual preference. Opposite-sex and same-sex de facto couples are treated identically, so it cannot logically be said that there is any discrimination against gay people in the opposition’s amendment. On the other hand the opposition makes no apology for treating marriage and de facto relationships as being categorically different. That does not mean that the consequences of the breakdown of such relationships may not be identical and that the treatment of the consequences of the breakdown of those relationships may not be identical. We make no apology for treating marriage as having, as I said before, a unique and privileged status. We note that the government has not sought to amend the definitions in the Marriage Act so we assume by application that the government agrees with us.

Through you, Mr Temporary Chairman, to Senator Xenophon—test the logic of what Senator Ludwig has said to you like this: Senator Ludwig says there is something wicked about not using the word ‘parent’. There are only three ways in which the law might acknowledge that a person is the parent of a child or that a child is the child of a person. Firstly, the most obvious case is if the child is the biological child of that person. If the child is the biological child of that person it is uncontroversial that that person is the parent of the child and the child is the child of that parent. You do not even need to say that in the Family Law Act for that to be a commonplace. Secondly, a child may become the child of a person who is not their biological parent by adoption. This amendment does not deal with adoption but we all know that when a child is adopted then for all purposes the adoptive parent becomes the same as the biological parent. I do not think this is quite the statutory language as elsewhere in the Family Law Act or the states’ statutes but he is deemed to be the parent and standing in the shoes of the biological parent for all purposes.

Thirdly, a person may be acknowledged as the parent of a child or a child might be recognised as the child of a particular person, other than biologically or through adoption, if for some reason the law declares it to be so. The law deems it to be so even though the child is neither the biological nor necessarily the adoptive child of that person. And that is this case of artificial reproductive technology where you have a situation in which the child is the biological child of another. There is no question about that. The mother is in a lesbian relationship with another woman and the law then deems that child to be the child of the other person in...
the relationship. It may well be, depending on what the state and territory laws permit, that that person will go on to adopt that child. But the operation of this provision does not depend upon the adoption because it deems the child, without the need for there to be an adoption, to be the child of the other person in the relationship.

Through you again, Mr Temporary Chairman, to Senator Xenophon—test the logic of the minister’s answer this way. Let us focus on the birth mother, the biological mother of the child. Does anyone seriously suggest that you need a specific provision in the Family Law Act to say that the biological child of a mother is the child of that mother so as to make the birth mother the parent of the child? Of course not. It is preposterous. You do not need to amend the Family Law Act to say that when a woman gives birth to a child she is that child’s mother, that child’s parent. Of course you do not. Therefore if you look at the opposition’s amendment, through you Mr Temporary Chairman, Senator Xenophon, subclause (c) says:

... the child is the child of the woman ...

That is the birth mother. We do not need to use the word ‘parent’ there. Nobody doubts what the biological relationship is. It goes on:

... and is deemed to be the child of the other person in the relationship ...

This is a person, who, it is a premise of this argument, is not biologically related to the child. So you do have to create a legal mechanism. You have to declare or deem it as a matter of law to be the case otherwise it would not be the case. That is all the opposition’s amendment does.

Senator HANSON-YOUNG (South Australia) (4.59 pm)—I still do not see that the argument from the coalition is convincing in any way. Yes, we are talking about terminology, but to suggest that the word ‘parent’ is not important in the relationship between a child and their mother and their father is preposterous. It is absolutely essential to strengthening that relationship, to giving a foundation for the roles and responsibilities for the people involved in that relationship. Yes, it is about terminology, but it is absolutely important.

I am astounded that this amendment by the opposition seems to just be put in here without any kind of understanding of the ramifications for heterosexual couples around the country. We are not just talking about the relationship between parents and children of same-sex couples; we are talking about affecting the fundamental understanding of the roles and responsibilities that underpin the word ‘parent’ with regard to even heterosexual couples. If I were in a relationship and my partner was shooting blanks, so to speak, and I needed to go and get assistance to enable us to create a child, under these amendments the opposition is saying that my husband is not the parent of my child. There are families around the country who would be absolutely appalled to hear that this is the position being put forward by the opposition. The word ‘parent’ is absolutely essential to understanding the roles and responsibilities that we as mothers and fathers, regardless of our sexuality, have with our children. It sets a foundation, and in this place where we make the laws of the country it is absolutely important for us to understand how significant those terminologies are, how significant this symbol of what they carry is. For the opposition to suggest that somehow because I am unable to create a child with the partner of my choice I am therefore not the mother or the father is absolutely offensive and preposterous.

Senator BRANDIS (Queensland) (5.02 pm)—Senator Hanson-Young, you could not possibly be more wrong than you are. It would be almost impossible for you to have
fallen further into error than you have fallen in your contribution. First of all, your assertion that this amendment would have implication for existing heterosexual couples who have used artificial reproduction technology to conceive is absolutely wrong. It has none whatsoever, and only somebody who is profoundly ignorant of the law could suggest otherwise. Secondly, Senator Hanson-Young, you must have, if I may say so with respect, a very strange notion of family if you think that a child needs the reassurance of the Family Law Act to know who its parents are. Do you think that a child is going to be unsettled in its certainty about who its parents are because section 60H(1A) of the Family Law Act does not use the word ‘parent’? I cannot imagine any circumstance whatsoever in which it would occur to anyone to imagine that a child would be consulting the Family Law Act to be better informed about who its parents are. Children know who their parents are. We all know that.

Thirdly and finally—and it is a point I should have made in response to the minister before—if the use of the word ‘parent’ in section 60H(1) is such a big deal, why isn’t the word used in the existing section 60H(1)? This debate has proceeded merrily along a false premise that the opposition is proposing that we displace from section 60H(1) of the Family Law Act a usage—that is, the word ‘parent’. But we are not. Section 60H(1) does not contain the word now. So what the opposition is proposing is, in terms of the terminology and the adoption of the word ‘parent’ in the terminology, no different. It is different in other respects, but in terms of the use of terminology it is no different at all from the statutory provision which our amendment would repeal and replace.

Senator PRATT (Western Australia) (5.05 pm)—Senator Brandis earlier critiqued my remarks in relation to legitimate and illegitimate children. In debating the opposition’s amendments in relation to this matter, I am using that distinction because what the opposition’s amendments do is create a distinction in status between parents who use donor gametes in order to conceive their child. You have two different statuses for two different sets of parents: married parents and unmarried parents. You are prepared to call the married parents parents for the purposes of this act but you are only deeming unmarried people to be parents. That is the reason for my bringing up that example of illegitimate versus legitimate.

We have removed the distinctions between married and unmarried parents for the purposes of family law. These amendments quite clearly bring us back to the days where we have a different set of characteristics for married and unmarried parents—hence my argument with regard to legitimate and illegitimate children. I think this is an unfortunate precedent to be reintroducing into the law. People who need to use donor gametes have struggled through the angst of infertility; through the decision to use reproductive technology, which is not an easy one; through the trauma and the heartache that the use of such technology often involves; through the pregnancy, the birth and the problems with breast-feeding; through the sleepless nights—through all the processes of adjustment, mental and social, that come with the transition to parenthood. These are much-wanted children. You could not have more willing parents than people who resort to using reproductive technology, and they should be referred to as parents within the law.

Senator Brandis raised the fact that the section currently does not use the word ‘parent’. The new provisions do, and you are introducing a distinction between someone who is referred to as a parent versus someone who is deemed to be a parent. The distinction is important. Senator Brandis also
raised the issue of adoption. These provisions are very much designed to make adoption unnecessary. Adoption is for when you need to sever the relationship with the previous parent, so I think that that was an unfortunate analogy on the part of Senator Brandis.

Senator BRANDIS (Queensland) (5.08 pm)—With respect, it was not an analogy. I was merely pointing out that there are ways other than through birth that a parent-child relationship can come into existence. The other ways are by legal rules, of which the most commonly recognised is by adoption, which is not this case. But in the case of the other person in a relationship which has taken advantage of an artificial conception procedure, then the other person in the relationship is, by operation of the law—because it is obviously not through a biological relationship—put in a relationship with the child. Hence, although you, with respect, Senator Pratt, and others have cavilled at the word ‘deem’, that is in fact merely a commonplace, unremarkable way in which a legal relationship is created by statute because a biological relationship does not exist.

Senator HANSON-YOUNG (South Australia) (5.09 pm)—I apologise for being ignorant. I guess it is perhaps because the argument put by the opposition has been so pathetic in terms of explaining why these amendments need to be put forward. I would ask Senator Brandis to explain to me why a married couple who need assistance in sorting out their reproductive issues are somehow more parents than those who are not married but are in a de facto relationship—regardless, I must point out, of whether they are in a same-sex or opposite-sex relationship. Educate the chamber and educate the community, because I do not think that the Australian community would accept that we have to have two different classes of parents and therefore two different classes of children.

Senator BRANDIS (Queensland) (5.10 pm)—The opposition does not say that. That is not our position. But it is our position that marriage, as I said earlier, is a unique and privileged relationship in our society. We respect and demand equal treatment for other domestic relationships, both opposite-sex and same-sex, but one cannot, at the same time, say that marriage is a unique and privileged institution and that it is the same thing as other domestic relationships, both opposite-sex and same-sex, which we respect. This has nothing to do with the way in which this bears on children because, as I also said earlier, one of the principles that guide the opposition’s approach to this is to ensure that there is no differential treatment of children whatsoever, regardless of the nature of the household to which they belong.

Senator HANSON-YOUNG (South Australia) (5.11 pm)—I would like to ask Senator Brandis whether he would be prepared to change the terminology in the rest of the act to ‘deems to be’, even in relation to married couples?

Senator BRANDIS (Queensland) (5.11 pm)—That is not the question before the chair. I think everyone—opposition, government, cross-bench parties—accepts that this is a special case. We are, by the operation of the law and through no other mechanism, creating a relationship which did not previously exist. So it neither follows logically nor is appropriate to deal with the matter in this context.

Senator HANSON-YOUNG (South Australia) (5.12 pm)—I am confused. Perhaps it is my ignorance again, and my lack of education by the opposition. Either we have a set of terminologies and words in our federal legislation that says, ‘You are a parent of a child,’ or we do not. If you are suggesting
that we are not trying to create a two-class system—with one class being those children who are born to parents who are not married, regardless of their sexuality—why not have the same terminology used for each category?

Senator BRANDIS (Queensland) (5.13 pm)—The word ‘parent’ is not used anywhere. It is not used in our descriptor of the other party to a de facto relationship, whether it is opposite sex or same sex; it is not used in our descriptor of the infertile husband in a marriage; and it is not used in the existing section 60H(1) which this replaces. That is why I said before that this is something of a false issue.

Senator XENOPHON (South Australia) (5.14 pm)—I have listened closely to the debate and I was grateful for the very comprehensive explanation that Senator Brandis gave of the coalition’s amendment. I accept everything that Senator Brandis said in terms of what the intent was and in terms of the concerns within the coalition as to why this approach has been taken. On balance I feel uncomfortable with both amendments. I feel less uncomfortable with the government’s amendment for this reason: I am concerned that, in the context of the coalition’s amendment—and I accept all that Senator Brandis has said—there will be a distinction, a difference, a change in the way that de facto heterosexual couples have been described in this context. From my perspective, that tips the issue to support the government’s position. But I do see this as a difficult issue. It is a case of being less uncomfortable with the government’s position than with the coalition’s.

The CHAIRMAN—The question is that the amendment moved by Senator Brandis to the request for amendment moved by Senator Ludwig be agreed to.

Question put.

The committee divided. [5.19 pm]

(The Chairman—Senator the Hon. AB Ferguson)

Ayes............ 27

Noes............ 27

Majority........ 0

AYE

Abetz, E. 
Bernardi, C. 
Brandis, G.H. 
Cash, M.C. 
Coonan, H.L. 
Ellison, C.M. 
Fielding, S. 
Fisher, M.J. 
Humphries, G. 
Kroger, H. 
Mason, B.J. 
Parry, S. 
Ronaldson, M. 
Troyd, R.B. 

NOE

Arbib, M.V. 
Bishop, T.M. 
Brown, C.L. 
Collins, J. 
Farrell, D.E. 
Forshaw, M.G. 
Hanson-Young, S.C. 
Hurley, A. 
Ludlam, S. 
Marshall, G. 
McLucas, J.E. 
Sherry, N.J. 
Sterle, G. 
Xenophon, N. 

PAIR

Barnett, G. 
Birmingham, S. 
Boswell, R.L.D. 
Eggleston, A. 
Ferravanti-Wells, C. 
Johnston, D. 
Minchin, N.H. 
Nash, F. 
Scullion, N.G. 
Troeth, J.M. 

Ludwig, J.W. 
Carr, K.J. 
Milne, C. 
Wong, P. 
Evans, C.V. 
Faulkner, J.P. 
Pratt, L.C. 
Conroy, S.M. 
Stephens, U. 
O’Brien, K.W.K.
Question negatived.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.27 pm)—by leave—I want it noted on the record that I did not support the section of the government’s amendment, noted on ZA242, being (5) of subsection 60H(1).

The CHAIRMAN—The question now is that Senator Ludwig’s request for an amendment be agreed to.

Question agreed to.

Bill, as amended, agreed to, subject to requests.

Bill reported with amendments and requests; report adopted.

OFFSHORE PETROLEUM AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008

OFFSHORE PETROLEUM (ANNUAL FEES) AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008

OFFSHORE PETROLEUM (REGISTRATION FEES) AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008

OFFSHORE PETROLEUM (SAFETY LEVIES) AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008

Second Reading

Debate resumed from 15 October, on motions by Senator Sherry and Senator Ludwig:

That these bills be now read a second time.

Senator STERLE (Western Australia) (5.28 pm)—I would like to continue my remarks on the Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008 and related bills. Yesterday I was quoting the comments of the member for Kalgoorlie and I was saying how happy I was to hear opposition senators and members endorsing these bills. I was saying that when the member for Kalgoorlie was endorsing the bills he was also seriously pushing the line of Woodside. As I said yesterday, and as I have said in this chamber on a number of occasions, I like to push Woodside’s argument too, and I am very supportive of Woodside. In fact, I am sounding like a broken record on the wonderful opportunity they have given a lot of Western Australians and other Australians in the great state of Western Australia, particularly up on the North West Shelf and with the future gas reserve areas in the Browse Basin.

I do not wish to mention the opposition senator’s name—and I will not. However, when opposition Western Australian Liberal senators are endorsing a private company, it would not hurt them to let the Senate know that there may be a conflict of interest. I wish that I could say that I owned Woodside shares. I really do. Unfortunately, I do not. When senators and members want to bag the government and push Woodside’s line, the least they could do is let the Senate know that they do, or may, have a conflict of interest. We know that the opposition would certainly not condone a senator for having interests in Woodside shares. But there is enough talk going around about shareholdings, so I will leave it at that.

I commend these bills to the Senate. They are very important. The Rudd government initiative for greenhouse gas storage is a wonderful initiative. We have certainly had some endorsement from senior executives in industry and in science. Therefore, I will say it one more time: I commend these bills to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Parry)—Thank you, Senator Sterle. I think it is important to note that...
senators do complete a register of senators’ interests.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.31 pm)—I do not have a pecuniary interest in Woodside. I want to speak briefly to the Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008 and related bills in the wake of the comments of my colleague Senator Christine Milne. The legislation needs amendment, because it is legislation to facilitate carbon storage—carbon being captured and transported to places under the seabed off Australia—without liability. There needs to be liability, and it ought not to be public liability. We are talking here about private enterprise moving to ameliorate the impact of the burning of fossil fuels in an age of climate change, with the public again being the guarantor.

The position of the Greens is that carbon capture and storage is a long way off. It is certainly not the immediate answer to the need to drastically reduce greenhouse gas emissions in this country. We should, as a priority in this place, be dealing with a bill to end the logging of native forests and woodlands in Australia, which would reduce greenhouse gases by 25 per cent straight off. But politics gets in the way of common sense when it comes to greenhouse gas emissions. What we have is this legislation to facilitate some future storage of greenhouse gases under the ocean. The question arises: if you have a hole from which petroleum or gases have been removed so as to be burnt to produce energy for society, will we in the future see the capture of carbon, or indeed other greenhouse gases, from the burning of coal or fossil fuels onshore being transported back out through pipes and deposited in those same vacated holes under the seabed? If that is possible and it can be safely done, the next question that arises is: what about guaranteeing that, once plugged, the greenhouse gases deposited in that hole will stay there? If they are not guaranteed to stay there, the whole exercise becomes pointless. If, in the future, there is leakage, then ameliorating action will have to be taken.

We know that due to human, industrial and other actions over the last two to three centuries, we have increased enormously greenhouse gases in the atmosphere. They are increasing now at the greatest rate in history; it is accelerating. We are moving past the point of no return as far as the onrush of cataclysmic climate change is concerned. A further question arises: if the technology is found to store the carbon, who should be the guarantor for that? We maintain that the guarantee should come from the people, the entities, who are making the profits from burning fossil fuels and who put it under the ground. It is as simple as that. That is how it should be.

I want to make it very clear that the Greens do not believe this technology is available. We know it is not available. Everybody knows it is not available. We do not believe it is going to help us get to the very urgent challenge which scientists put to us: to be past the peak emissions of greenhouse gases and rapidly reducing them within the next two, three, four, five years. That is the critical thing. We should be more urgently dealing with legislation on an end to native forest logging and on energy efficiency for this country and with Senator Milne’s program on behalf of the Greens for retrofitting every house in Australia with energy saving devices like hot water services which could reduce the greenhouse gas emissions of this country by 10 per cent in one go and create tens of thousands of jobs and businesses—not least in rural and regional Australia—right across this country, as well as add to export income.
Senator Fierravanti-Wells—We could bring back solar panels.

Senator BOB BROWN—Senator Fierravanti-Wells said that we could bring back solar panels. Senator, we should be producing them in this country. But the Howard government took the incentives away from the solar panel producing industries, and our excellent technology has been exported to Berlin and Beijing. I recently put a solar hot water service onto my house. It is Australian technology and manufactured in China. That is because the Howard government put hundreds of millions of dollars into the coal industry—wrong way—and took that support from the new solar panel producing industries that you talk about: the solar hot water services and other renewable energies.

I am afraid the same pattern of behaviour is happening under the current government. It undercuts the investment that should be going to ensuring that Australia becomes a powerhouse for new renewable energy, that it develops its own technology and becomes an exporter. Instead of that we have left it to cloudy Germany to be the exporter. I would add, and Senator Milne, if she were here, would be saying this: where are the feed-in laws that not only will make those solar panels you talk about good for households but will also produce money for them? If a person puts solar panels into their household, they produce electricity. When they are away on holidays, then they can feed it into the grid and, when they take it out of the grid, they should get three to four times more electricity than they paid for. That is how the German system works and that is why they have got the steal on the rest of the world.

One little anecdote on that is the pig farmer in Germany who thought he was not doing too well with pigs. In came feed-in laws, and he decided to cover his two hectare farm with solar panels. He now sits on the veranda watching the meter ticking over and makes money out of it. That is the way it should be going but Australia is way behind in that sort of thinking, and the Greens intend to continue to campaign to put us at the forefront.

But here we are dealing with what the big corporations want, legislation for facilitating their so-called carbon capture and storage somewhere down the line, perhaps decades down the line, not legislation to do the things we can do immediately to help small business in this country and to make an immediate impact on the reduction of carbon and other greenhouse gases pouring into the atmosphere due to lack of government action in this country.

Senator PRATT (Western Australia) (5.39 pm)—I rise to speak on the Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008. In speaking to this bill it is important to recognise that Australia needs to move towards a cleaner, greener future—an energy future with a greater dependence on renewable energy and energy efficiency. We cannot overlook the fact, though, that Australia obtains 80 per cent of its electricity from coal-fired power stations and exports somewhere in the vicinity of 30 per cent of the world’s coal. This is somewhat of a major contribution to global warming. We need to look not only at the footprint of our own country but also at that of our exports.

If we continue to think of this as a viable proposition without reducing the CO2 we emit and that others emit from coal-fired power then I think we are kidding ourselves. It is therefore incumbent on Australia to reduce the amount of CO2 it releases into the atmosphere. Carbon capture and storage—CCS or geosequestration—may prove an effective mechanism for contributing to the reduction of Australia’s greenhouse gas emissions. As highlighted by the Senate
Standing Committee on Economics, a clearly set out competitive framework for CCS will potentially lower the cost of addressing the climate change challenge.

Ultimately this should translate into a smaller increase in household electricity bills to achieve the goal of limiting climate change. However, I do recognise that CCS is not a silver bullet for our greenhouse problems. There are indeed some serious technological and economic challenges to its viability. As Senator Bob Brown pointed out, it is indeed unclear as to the viability and at which point in the future this technology will be able to make a contribution. To highlight this point, the committee was concerned about the location of geologically suitable storage sites, as many existing power stations are a long way from sites of capture. We can see that this is the case with the Hunter Valley.

There are also those against geosequestration as a means of reducing emissions. I can understand those concerns; they are real concerns. There were those who questioned the safety of CCS technology, including both Greenpeace and the Australian Network of Environmental Defenders offices. There was no evidence from the Department of Resources, Energy and Tourism or Geoscience Australia to suggest that the technology is inherently unsafe. However, it is important to note that in our committee we thought it appropriate that the onus of proof should lie with the proponents to demonstrate that the technology is safe. Other concerns arise because those concerned about climate change do not want to see this technology used as a free ticket for carbon polluting industries to continue to pollute. They do not want to see the fact that we are working on CCS used as a way of maintaining a ‘business as usual’ attitude.

Encouraging reliance on this technology as an answer to our problems could divert the investment from the transition to cleaner fuels and renewable energy. It is indeed an expensive and somewhat unproven technology. So we do need to look seriously at how CCS will interact with and affect the drive towards greater use of renewable energy. There is no reason for the government to favour carbon capture and storage techniques over other ways of reducing emissions. It is notable that, for this reason, the committee was not convinced by arguments that the government should be subsidising users or providers of CCS by actively taking over long-term liabilities from them either for demonstration or commercial projects.

It is indeed the government’s position that that long-term liability is to be treated in the same way that petroleum production activities are currently treated. The legislation treats liability for offshore injection and storage activities in the same manner as existing offshore petroleum production activities have been treated under the Offshore Petroleum Act—that is, the OPA will not immunise greenhouse gas titleholders or other participants in GHG projects from common-law liability to persons who suffer injury or loss as a result of their actions. This nonintervention will extend to all forms of common-law liability, including long-term liability. Greenhouse gas industry participants will therefore need to make their own arrangements to deal with the potential common-law liability as an ordinary cost of doing business, as must members of any other industry. The Commonwealth will not take over any long-term liability if for some reason, such as the passage of time, the damages are irrecoverable in the long term. The community in those circumstances would, effectively, bear the cost of any damage.

The committee was concerned and, as such, recommended that the government re-
ject calls from some people for the government to assume explicitly long-term liability for any leakage from carbon storage projects. We will need robust arrangements, as companies may not still exist to accept liability for stored CO2 over the decades or centuries. On this basis, the government will need to work with companies undertaking such projects so that they contribute to the future costs of coping with any such leakage. Notwithstanding that, the evidence presented to the committee demonstrated that, when sites are assessed and managed properly, CO2 can be made stable in geological formations and that the prospect of such leakage does not appear to be a significant risk. We also need to be aware that CCS may not be capable of sequestering enough CO2 in the future or be commercially operational to mitigate climate change in optimal time. On that basis, carbon capture and storage, or CCS, should not really be considered the only answer to reducing our CO2 emissions; rather, it should be developed along with other technologies capable of reducing the impact of climate change.

Carbon capture and storage or no carbon capture and storage? We have to remain committed to diversifying our power sources, including our baseload, to do things within those power sources that will reduce their emissions. Nevertheless, as I stated earlier, we are currently highly reliant on fossil fuels. We will need to look at all possible ways of reducing the carbon intensity of our emissions from the use of fossil fuels. To do otherwise would be very irresponsible. It is time to end the old days of industry and big business being able to freely pollute at the expense of everybody else. Action on climate change will involve costs, but I think the Carbon Pollution Reduction Scheme is the best way of reducing carbon pollution at the lowest possible cost to families, industry and business. If polluting industries want to stay viable into the future then they need to find a way forward. That is why many fossil fuel industries are turning to carbon capture and storage. This is clearly the case with the Western Australia Gorgon project. The Gorgon project in the north-west of WA is one example of a project that plans to reduce greenhouse gas emissions through storing CO2 underground.

It is widely accepted that measures need to be taken to reduce the impact of energy supply on the concentration of CO2 in our atmosphere—and I very much believe that carbon capture and storage is a useful means of reducing atmospheric CO2. It is therefore really significant that we put forward this legislation today so that we provide the framework for these things to be put in place. Industry are looking to make really big investments into carbon capture and storage to lower their emissions, and this investment needs to be facilitated and encouraged. We should be working towards lowering our emissions via all technologies available.

While great advances are being made in renewables, the world is overwhelmingly still reliant on fossil fuels. I really hope that Australia is able to make a contribution by leading the way on a range of technologies—from solar, tidal, wind, solar thermal and geothermal to carbon capture and storage. Carbon capture and storage should be legally provided for so that we have at our disposal all means for reducing emissions. To make a meaningful contribution to tackling global warming we must indeed get on with reducing our emissions. We must facilitate investment through things such as CCS and, following the passing of this legislation, we must get things such as the Carbon Pollution Reduction Scheme up and running. The introduction of the government’s CPRS provides an appropriate price signal for energy consumers to economise on energy and for energy producers to switch emphasis towards
providing energy in ways which involve fewer emissions of CO2 into our atmosphere.

Dr Geoffrey Ingram, Regional Manager, Australasia, Schlumberger Carbon Services, told the committee:

As you will no doubt hear from other witnesses, technologically we believe carbon capture and storage is ready to go. What the industry is waiting on is for the legislation and economic drivers to materialise. We believe the federal government’s commitment to a price on carbon in the amended legislation going through Parliament House at the moment is the start of this process. We have previously provided evidence to the House of Representatives inquiry into the same legislation. We recognise its report has a number of key recommendations that would enable large-scale storage projects.

What we know is that fossil fuels currently provide cheap energy. In order to get investment in things like carbon capture and storage, which is going to add a cost to our energy, we really need to get things like the Carbon Pollution Reduction Scheme up and running. We need a price signal to do that, and I hope the CPRS will provide such a price signal.

I know senators will have concerns, in the current economic climate, about taking on responsibilities that cost the economy money. Reputable economists, though, have quantified the future impacts of climate change. They have based this work on what hundreds of reputable scientists have said may happen, has happened and will happen to our environment as a result of carbon pollution and the consequential climate change. We are looking towards the very real impacts of more extreme weather in Australia, including more droughts, water shortages, floods, bushfires, rising sea levels and the loss of biodiversity and habitat. These changes in our environment will have very real impacts on the economy. What they say is that a failure to mitigate against the causes of climate change and its impacts will be economically disastrous. In this time of multiple economic challenges, the worst thing we can do is put our head in the sand. I think it is a good time to be stimulating growth in new industries and investing in the jobs of the future.

This legislation will see Australia become the first country in the world to establish a specific legislative framework for carbon capture and storage. In its submission to the Senate economics committee inquiry, this is what the Australian Petroleum Production & Exploration Association had to say about the legislation:

… it will make Australia the first jurisdiction to develop a comprehensive framework for greenhouse gas injection activities.

I enjoyed the opportunity, through the Senate committee’s inquiry, to look at the technical side of carbon storage. The evidence presented to me illustrated that it is technically viable. Still unproven are its economic competitiveness and its capacity to sequester meaningful quantities of CO2. But, to my mind, it is technically viable and we may well have a price signal in the future that will facilitate investment in this technology.

I note that significant issues have been raised with regard to who has the right to tenure of geosequestration sites. This is an interesting point. On the one hand we have Woodside, which says:

… the greenhouse gas derived from the extraction and processing of that gas from an integrated petroleum development should be able to be sequestered within that project and without the need to bid for access to the disposal site, regardless of the number of existing petroleum licences involved.

Woodside submitted:

… that, provided the fields are covered by petroleum exploration permits, retention leases or production licences, the opportunity for the commercial entities to agree commercial terms for a real
and credible geosequestration activity, including early geological studies and tests, should not be impeded by the overlay of an additional and unnecessary acreage bidding system.

On the other hand, Mr Ralph Hillman, Executive Director of the Australian Coal Association, asserted:

Currently, the oil and gas industry naturally have a very large advantage in terms of the information they have to make and defend their case compared with what a storage proponent has.

He went on to say:

… we do want to see this be an open, competitive industry where new proponents can enter quickly and effectively and with certainty and invest.

They did not want to see any barriers to entry. The committee recognised these issues in its work. An important element of the bill is ensuring a balance between attracting investment to the new CCS industry and protecting the pre-existing rights of oil and gas producers. The committee believed the bill seems to get this balance right, although there is inevitably some uncertainty about this judgement, given the groundbreaking nature of the legislation.

To conclude, I think we need everything in our arsenal to effectively tackle climate change. I know some people have doubts about carbon capture and storage, but it is something that we must facilitate. As legislators, we must play our part in putting the frameworks in place so that we can demonstrate we are serious in our message to the fossil fuel industry that they do not have a limitless mandate to pollute. We need to be serious about the climate change challenge and we especially need to ensure that big polluters are serious about it too.

Debate interrupted.
munications reviews that were scheduled to be undertaken. This is an important document and an important review process, because it is the first such review to be undertaken since the passage of the sale legislation for Telstra and since the establishment, by the previous government, of the $2 billion Communications Fund. That fund ensured that ongoing funds were made available for regional and rural communications services around Australia. It ensured that there would be approximately $300 million every three years to be invested in critical regional and rural communications infrastructure and service support. We on this side of the chamber recognised that the demand for special assistance in regional Australia, as it relates to rural telecommunications and communications infrastructure, would ever be ongoing. We recognised that communications by its very nature is an evolving and changing area of technology and that there will always be a demand for new services and new infrastructure.

The importance of the framework that we put in place when in government was that it ensured perpetual support through this fund for such infrastructure. At any time when government looked to regional communities and saw that they were missing out, we could step in and deliver. It was towards the end of our time in government that Dr Glasson and his committee were appointed to undertake this work and commence this review. They have presented a comprehensive analysis of the communications needs of rural and regional Australia. In doing so, they have laid out many challenges for the government. I will touch on a couple of those briefly, but most importantly what I wish to reflect on today is the challenge for the government of providing ongoing support. Whilst this is the first review set up to spend the funds generated by the Communications Fund, it will, of course, be the last review if the government has its way and closes the Communications Fund.

The report details the critical nature of communications and how further investment could be made to support education and health services in rural Australia through enhanced communication services. It also details how our emergency services and Indigenous communities would benefit from greater assistance, and how businesses in rural and regional areas would equally benefit strongly from the recommendations in this report. It certainly tackles how, in the future, we should guarantee services to people in rural Australia, that we should move away from the old framework and develop a new framework to guarantee the minimum services that people throughout Australia should expect—especially those in regional areas who would otherwise miss out.

These are all welcome recommendations and ideas. I am sure they will be analysed by the government, and I hope that some of them—if not all—will indeed be taken up. But what is critical about this report is that it shines a spotlight on the fact that the government is leaving regional Australia hanging out to dry at the end of this process. I say that because the Minister for Broadband, Communications and the Digital Economy, as part of the national broadband network process, is planning to take all of the $2 billion in the Communications Fund and spend it on the network—a network that has seen many delays so far, will not cover at least two per cent of Australia’s rural and regional areas and will leave people missing out. There will be no money left for future reviews and for, most importantly, the implementation of the recommendations that would have come out of those future reviews. That will leave rural Australians worse off. The government’s first challenge in responding to this review is to guarantee that it will leave the Communications Fund
intact, that there will be future three-yearly reviews and that funding will be made available for rural communications infrastructure.

The ACTING DEPUTY PRESIDENT—Order! Senator Birmingham, your time has expired.

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

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to government documents were considered:


COMMITTEES

Rural and Regional Affairs and Transport Committee

Report

Debate resumed from 13 October, on motion by Senator Sterle:

That the Senate take note of the report.

Senator BIRMINGHAM (South Australia) (6.08 pm)—It is my pleasure to speak on the report by the Standing Committee on Rural and Regional Affairs and Transport on the Coorong and Lower Lakes situation. I speak in light of the remarks that were made by fellow senators in relation to the report, which was tabled earlier this week. This report is critical to my home state of South Australia. Senator Fisher, who is in the chamber, has already made a strong contribution on this. The government’s stance on this report conflicted with the stances taken by the senators of the coalition and the Greens, and also Senator Xenophon, who participated in the inquiry and offered comments at the end. Unfortunately, it seems the government has waved the white flag on the future of the Lower Lakes. The government is unwilling to commit to saving those lakes through to the end of next year.

Senator Sterle—There’s no water—it’s as simple as that. It’s got to rain.

Senator Fisher interjecting—

Senator BIRMINGHAM—Senator Sterle says there is no water. Well, the government has been provided with an opportunity, a little bit of time. As Senator Fisher rightly points out, there certainly is water. There is not enough water to do everything, and we recognise that, but the challenge becomes one of prioritisation and doing what is achievable. What is achievable is for the government to guarantee and commit to securing the future of the Coorong and the
Lower Lakes at least until winter 2009—and that is possible.

It became quite evident that was possible from the evidence that was presented during this inquiry. The government was provided with a get out of jail card during this inquiry. When it started, the prognosis for the river system was grim; it was dire. The likelihood was that we were talking, in a worst case scenario, of hundreds of gigalitres being required to avoid the risk of acidification of the Lower Lakes. But as time went on, and as rainfall in the Mount Lofty ranges in South Australia proved a little more favourable to the Coorong and Lower Lakes than had been expected, we suddenly saw the opportunity to save those lakes. That expectation of hundreds of gigalitres has progressively come down, and the worst case scenario, on the last evidence provided by the Department of the Environment, Water, Heritage and the Arts, is that 10 to 50 gigalitres is required. That is right: the department now says only 10 to 50 gigalitres would be required to ensure acidification of the lakes does not occur between now and next winter.

It beggars belief that, for want of 10 gigalitres or so, the government will not make a commitment to stop acidification. It beggars belief that they would risk taking decisions such as building a weir and flooding these lakes with seawater for want of 10 to 50 gigalitres. It beggars belief that they would potentially risk permanent damage to the ecology of the lakes and to the surrounding farmland—that they would put all of that at stake—for the want of a very small amount of water to maintain the required level of the lakes. If we look at the evidence that was tendered to this inquiry, that could be achieved by a range of different ways that do not appear to have been even considered by the government.

It could be achieved through a minimal lowering of the weir pools. Evidence tendered by other witnesses suggested that a lowering by between 100 and 150 millimetres of the weir pools in the lochs in the lower Murray system could actually provide around 50 gigalitres—at the maximum end of the 10- to 50-gigalitre range. Other evidence suggested that, because you are talking about such small flows, it would be possible to have a ‘shandying’ effect. In fact, you could add a small volume of seawater at present just to keep the level up. You would not have to flood the lakes because, as you admitted freshwater—the 350 gigalitres of dilution flows that are already guaranteed for the lakes—you could shandy them with a little bit of seawater to maintain the required level.

Did the government commit to pursue any of these options—options that would not hurt upstream irrigators and would not take further rights way from those who are struggling to guarantee the food supply of Australia? Did the government offer to look at those options and guarantee that they would use them as a last resort this year to secure the future of the lakes? No, they did not. The government said it was all too hard and seemed to want to concede the future of the lakes at the first possible opportunity. It seems as though they wish to get the problem of the lakes off their hands. They wish to wash their hands of the problem. They know that the sooner that tipping point is reached the sooner the difficult decision to flood the lakes can be made—and no longer will we have this debate about how to manage their future.

That will make life a whole lot easier for them in all the other decisions they have to make. Bugger the consequences, and the environmental and ecological damage that could be done be damned! They do not bother considering the relevance of history, which says that at best those lakes have been
an estuarine environment with occasional saltwater incursions that have been flooded out by regular freshwater floods from an unregulated river system. We now have a very regulated river system. Freshwater floods will not reach those lakes again any time soon, if ever. Flooding them with seawater would be a permanent decision, and therefore a permanent change to the ecology of those lakes that would cause ongoing damage.

On top of this failure of the government to guarantee the short-term future of the lakes, we can look at their failure in the longer term as well. They are proposing a plan that would take 75 to 110 gigalitres out of the Murray-Darling Basin catchment area and supply it to Melbourne. Once again, that is a decision that defies logic and beggars belief for anyone who looks at this situation. At a time when the government is buying water entitlements from irrigators—entitlements in the main that do not actually have any water allocation attached to them—and at a time when the government is considering flooding the lakes for the want of 10 to 50 gigalitres, they are proposing to build a pipeline in Victoria that would take another 75 gigalitres out.

In South Australia, the state government is being held to account at present to try to take Adelaide off the Murray as much as possible. That is why they have been pressured—pressure that they have resisted—into committing to build a desalination plant. That is why they have been pressured with Liberal Party policies in South Australia to commit to stormwater harvesting. There is enormous pressure in South Australia to reduce the reliance of Adelaide on the River Murray. Yet at the same time we have the Labor government in Victoria and the federal Labor government doing some type of dirty deal behind closed doors to commit to taking a minimum of 75 gigalitres out of the river and sending it off to Melbourne.

We are going to put another city that is outside of the basin catchment area on the river system just at the time when we are trying to get the major city that has been reliant on the river to reduce its reliance. It is a nonsensical approach. The biggest challenge that this government should take up is the challenge of stopping that pipeline. It needs to say to its Victorian mates: ‘We’re not going to accept a deal for a pipeline to take more water out of the catchment. We expect that Victoria will play ball on this and pursue the infrastructure and the water saving methods that they have talked about and return that water to environmental flows.’ The water should not be shifted to Melbourne through some pipeline but be returned to environmental flows.

This report was a great disappointment for many South Australians, because it failed the challenge of securing the short-term and long-term future of key environmental sites in our state. We know that there will be much further debate as this committee goes on to look at the longer term management of the lakes and at the Water Amendment Bill 2008 that has been introduced into this place. Those will be opportunities for us to hopefully hold the government to account and deliver proper long-term management. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Rural and Regional Affairs and Transport Committee Report

Debate resumed from 25 September, on motion by Senator Sterle:
That the Senate take note of the report.

Senator FISHER (South Australia) (6.20 pm)—As a participating member of the Senate Standing Committee on Rural and Re-
Regional Affairs and Transport, I support the committee report and recommendations on the administration of the Civil Aviation Safety Authority. However, in so doing, I draw attention in particular to that part of the report that comments upon CASA’s relationship with industry and the evidence given by witnesses, in a somewhat conflicting way, that CASA’s focus on becoming a partner with industry was prejudicing what many in the community saw should be its stronger regulatory and enforcement role. To the extent that the report recommends that CASA at the very least reconsider its partnership with industry, I urge the Senate to consider that recommendation in the light of the fact that the evidence about the undesirability of CASA’s close partnership with industry was, in my view, largely about the commercial airline sector.

In respect of the private operators, it is my view that sufficient evidence was given to the committee that CASA’s relationship with the owner-operator sector of the aviation industry is appropriate—with a view to a greater self-regulatory outcome for that sector of the industry, as opposed to a prescriptive outcome—despite significant evidence that, in respect of the commercially operated sector, that modus operandi for CASA is no longer appropriate or needs reconsidering. So I would urge the Senate to look at those sectors of the aviation industry in a different light when it considers CASA’s role going into the future.

Question agreed to.

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Legal and Constitutional Affairs—Standing Committee—Report—Independent Reviewer of Terrorism Laws Bill 2008 [No. 2]. Motion of Senator Ludlam to take note of report agreed to.

Community Affairs—Standing Committee—Report—Towards recovery: Mental health services in Australia. Motion of the chair of the committee (Senator Moore) to take note of report called on. Debate adjourned till the next day of sitting, Senator Boyce in continuation.

Foreign Affairs, Defence and Trade—Standing Committee—Fourth progress report—Reforms to Australia’s military justice system. Motion of the chair of the committee (Senator Bishop) to take note of report agreed to.

Rural and Regional Affairs and Transport—Standing Committee—Report—Implementation, operation and administration of the legislation underpinning Carbon Sink Forests. Motion of the chair of the committee (Senator Sterle) to take note of report called on. Debate adjourned till the next day of sitting, Senator Macdonald in continuation.

State Government Financial Management—Select Committee—Report. Motion of the chair of the committee (Senator Macdonald) to take note of report called on. Debate adjourned till the next day of sitting, Senator Macdonald in continuation.

Procedure—Standing Committee—First report of 2008—Restructuring question time; Reference of bills to committees; Questions to chairs of committees; Deputy chairs of committees; Leave to make statements. Motion of the chair of the committee (Senator Ferguson)—That the Senate take note of the report called on—and on the amendment moved by the Leader of the Family First Party (Senator Fielding)—At the end of the motion, add “, but the Senate is of the opinion that, instead of restructuring question time in a manner that could reduce the accountability of ministers to the Senate, the rules relating to questions and answers, contained in past presidential rulings, which require, amongst other things, that questions actually be questions relating to ministerial responsibilities, and
that answers be responsive and relevant to the questions, be written into the standing orders, and that the Procedure Committee, with the assistance of external expert advisers, review the effectiveness of question time and the application of those rules at the end of each period of sittings”. On the motion of the Parliamentary Secretary for Social Inclusion and the Voluntary Sector (Senator Stephens) debate was adjourned till the next day of sitting.


Environment, Communications and the Arts—Standing Committee—Report—Save Our Solar (Solar Rebate Protection) Bill 2008 [No. 2]. Motion of the chair of the committee (Senator McEwen) to take note of report agreed to.

AUDITOR-GENERAL'S REPORTS
Report No. 6 of 2008-09

Senator IAN MACDONALD (Queensland) (6.25 pm)—I move:

That the Senate take note of the document.

This report by the Australian National Audit Office looks into what has been one of the most successful programs the Australian government has ever been involved in in relation to protection of its borders and its marine assets. I am delighted that the Audit Office has taken the time to do a fairly intensive investigation into all aspects of the Southern Ocean Maritime Patrol and Response Program that has, since 1997, been administered by the Australian Customs Service.

By way of background, when the Howard government came to power there was indeed a lot of illegal pirate activity in Australia's EEZ in the Southern Ocean, particularly around Heard Island and McDonald Islands, which are part of the Australian Antarctic Territory. Australian concessions had received licences to fish for the very valuable but very rare Patagonian toothfish, which lives deep in the icy Southern Ocean and attracts a premium price, particularly for the restaurant trade in Japan and North America. That toothfish, which can live for up to 100 years, is a very fine eating fish and attracts very high prices. But it is of course, like all our marine ecology, under some threat.

Over the years the relevant authorities—mainly those associated with the Commission for the Conservation of Antarctic Marine Living Resources, referred to as CCAMLR—had set a total catch limit and divided it amongst responsible nations, and Australia had a share of that overall catch limit. The allowable catch was worked out by scientists and fisheries managers to ensure the continuation of the species. But unfortunately, because of the value of the fish and the money to be made, many pirate vessels started taking a real interest in the Southern Ocean and in catching Patagonian toothfish, without any permits or licences whatsoever, and real pressure was put on the sustainability of that species. In response to that, the Australia government commenced patrols and also did a lot of diplomatic work with the French government, which also has a very significant interest in the Southern Ocean and the Patagonian toothfish. That resulted in a treaty between France and Australia which has led to joint patrols, joint enforcement and sharing of intelligence obtained from a wide range of sources to fight the presence of these illegal fishing boats.

Many of the pirate boats became household names over a series of years. The Aliza Glacial, as some might remember, was a very valuable boat that was arrested by Australia back in 1997. Some very tricky international law was employed there. A bank
claimed it had a mortgage over the vessel and, under the old English admiralty law, the Australian government were unable to hold it—the mortgagees were successful in court and claimed possession. After that, the Australian laws were changed quite substantially to ensure that that sort of legal trickery could not result in pirates escaping.

There was the South Tomi, a vessel flagged to Togo, which was involved in a long chase across the Southern Ocean; the Lena and the Volga, two Russian vessels; and the Viarsa I, a Uruguayan flagged vessel that, as senators might recall, was involved in the longest maritime chase in Australia’s maritime history. The vessel, found fishing illegally around the Heard and McDonald Islands, was chased by the Australian Customs and Fisheries patrol vessel the Southern Supporter for 21 days across some of the wildest seas known to mankind. Eventually the vessel was apprehended halfway between South Africa and Montevideo—the home port of the vessel—in Uruguay, by a combined international effort involving the South Africans, the British out of the Falklands and the Australians, with the vessel the Southern Supporter. Not many people knew at the time—although it is history now—that the Southern Supporter, whilst following this vessel and continually threatening to board it unless it stopped, was unarmed. I suspect there was not even so much as a cap gun on board. Certainly it was not an armed vessel in any way. But the crew of that vessel and those involved at the time did a magnificent job.

It was as a result of that that the current vessel, the Oceanic Viking, was acquired by the then government to patrol the Southern Ocean. It was a vessel specifically appropriate for the quite horrendous seas that occur in the Southern Ocean and was substantially armed, so for the first time Australia had a real capacity to apprehend pirate vessels down in the Southern Ocean. The Australian Navy had done a lot of work in apprehending some of the vessels. The Lena and the Volga were both apprehended by the Navy, as was the Maya V, in 2004. But, whilst very capably and bravely manned by Australian sailors, the Navy vessels are not really equipped for the sorts of seas you get in the Southern Ocean—hence the acquisition of the Oceanic Viking.

This is a very good report of the ANAO. It gives a big tick, as I read it, to Customs and the Australian Fisheries Management Authority, who are very much involved in this. I do want to speak more about this report, and will do so in the future. Suffice it to say at this time that this report does go into, in some detail, the work done by Customs and Fisheries in relation to the Southern Ocean Maritime Patrol and Response Program. I want to pay tribute to the men and women of Customs, and the mainly men—perhaps there are some support staff who are women—in the Australian Fisheries Management Authority who have over many years ensured that our interests are protected and that our assets remain our assets and are not subject to piracy from vessels running flags of convenience. Those people do a magnificent job, to such an extent that, since the Oceanic Viking began to be so visible in these areas and perform such good work, no pirate vessels have been sighted in the Southern Ocean for a considerable time. It is a great credit to the work of Customs and Fisheries that their efforts have saved Australia and chased from our waters these illegal, unreported and unregulated fishing vessels. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Consideration

The following order of the day relating to reports of the Auditor-General was considered:
Auditor-General—Audit report no. 4 of 2008-09—Performance audit—The Business Partnership Agreement between the Department of Education, Employment and Workplace Relations (DEEWR) and Centrelink. Motion of Senator Parry to take note of document called on. On the motion of Senator Boyce debate was adjourned till the next day of sitting.

Order of the day no. 2 relating to reports of the Auditor-General was called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! It being 6.35 pm, I propose the question:

That the Senate do now adjourn.

Parental Leave

Senator CAROL BROWN (Tasmania) (6.35 pm)—I rise to speak tonight on the recent release of the Productivity Commission’s interim report Paid parental leave. As a mother of two young children who has been fortunate enough to have accessed paid maternity leave in the past, I know firsthand just how important it can be for those crucial first months of a child’s life—both for the development of the child and the proper recovery of the mother. Apart from allowing new mothers the grace to reskill, albeit rather quickly, in the practical realities of parenthood, paid maternity leave takes some of the pressure off new parents and, to a certain extent, allows them to just be that: parents. However, as the report details, at present a significant number of parents, particularly new mums, do not enjoy access to paid maternity leave. The report notes that only around half of working mums, and even fewer working dads, are currently eligible to access paid parental leave arrangements.

Indeed, for some time the debate regarding paid parental leave entitlements has been, and continues to be, plagued with constant undertones of doubt, with persistent questioning of why new parents should have access to such a scheme. We all know that argument well—that if couples choose to have children then it should be their sole responsibility to support them. Let us consider for a moment the practical realities facing new parents in the present day, in which the demands on new parents, particularly young mothers, have arguably never been greater.

Working mothers today, as I am well aware, more often than not find themselves in a constant state of strain, trying to juggle the demands of work with the responsibilities that come with parenting, not to mention the ever-increasing weight of social expectations that all new mothers should be able manage all of this with a smile on their face and bounce back instantaneously. The reality is that, at present, an increasing number of mums are sleep deprived and running themselves ragged just to keep up.

A long-running study by the Australian Institute of Family Studies, Growing up in Australia, reveals that full-time working mothers are spending only four hours less per day with their young children—working at least 7.5 hours a day then, on top of that, squeezing in almost the equivalent of another full day’s work outside work hours to take care of their children. In the end, whether we want to admit it or not, something has to give, and the government recognises this.

When taking office last November the government pledged to do what it could to take the pressure off working families. So far we have introduced a number of family based policy initiatives in the areas of early childhood learning, child care and workplace relations that are aimed directly at alleviating this pressure. These include increasing the childcare tax rebate from 30 per cent to 50 per cent, the introduction of more flexible unpaid parental leave options in our new National Employment Standards and the in-
vestment of $533.5 million over the next five years to provide universal access to quality early learning programs for 15 hours a week—just to name a few. Indeed, as the Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, highlighted earlier in the year, the government’s new approach to family policy has been to put children at the centre of policymaking and not on the margin.

The introduction of a national paid parental leave scheme lies at the heart of such an approach, with a plethora of evidence suggesting that babies benefit physically, socially and mentally from having at least one of their parents home with them for the first six months of their life. That does not even take account of the benefits for parents when they can have that time at home with their newborn babies. Therefore the release of the Productivity Commission’s draft report Paid parental leave: support for parents with newborn children represents a logical and practical step in the right direction, both in terms of reconceptualising the work-home debate and moving toward providing both parents and children with the support they need.

As the interim report into paid parental leave highlights, such an approach to family policy is much needed and long overdue, as your typical working family now features a working dad and, more often, a run-off-her-feet working mum. The report notes that roughly 285,000 children were born in Australia last year. Of these, 175,000 were born to mothers who were in the paid workforce prior to giving birth, with at least 80 per cent of these mothers intending to return to full-time work. Further, it notes that women’s participation in the paid workforce is at a historical high, particularly in the key reproductive years age group, between 24 and 34 years. Workforce participation rates in this bracket increased from around 45 per cent to 70 per cent between 1978 to 2008. However, our birth rate currently hovers around 1.81 babies per woman.

Another report released by the Australian Institute of Family Studies earlier this year, titled Fertility and family policy in Australia, reveals that most couples would actually like more children but lack the confidence in their ability provide for them. The handing down of the Productivity Commission’s interim report could not have occurred at a more crucial time. With a government now in power that is committed to instituting socially responsible policy, the tide is beginning to turn—the interim report is testament to this. The report recommends the introduction of a paid parental leave scheme which provides 18 weeks parental leave for new mums, which can also be shared with their partners, and an additional two weeks exclusively reserved for new dads.

The commission is now inviting public comment on the recommendations until 14 November and is due to hand its final report to government in February 2009. The commission will be holding public hearings around the country, starting from 10 November. The National Foundation for Australian Women, and Security for Women, with the support of the Commonwealth Office for Women, will also be holding consultations in each state, including my home state of Tasmania. I understand that the public consultation in Tasmania will occur on 10 November. I strongly encourage people to get involved and have their say about the possible shape of our nation’s future paid parental leave scheme.

Whether the commission’s current recommendations represent the final recommendations they hand to the government next year or not, the handing down of the report has effectively shifted the debate from not if but how a paid parental leave scheme
will operate in this country. Not so long ago—just over two years ago in fact—things were not so progressed under the previous government, with the former Treasurer boasting, ‘Have one for mum, one for dad and one for the country,’ whilst all but completely ignoring the demands on new families. Indeed, for 12 long years, those opposite ignored the needs of Australian families and failed to act when it came to the practical realities faced by mums and dads around the country.

While the former Treasurer was encouraging Australians to go out and have more children for the health of the future economy, those opposite neglected the most basic needs of Australian families, whether in relation to the provision of affordable child care or a fair and flexible workplace relations system. Indeed, the failure, by those opposite to even acknowledge the issue of paid parental leave for 12 long years has left Australia as one of only two countries in the developed world without a paid parental leave scheme.

For far too long the needs of Australian mums and dads have been ignored. At the last election we made the commitment to the Australian people that we would address this neglect, beginning with the reintroduction of the concept of flexibility and choice back into the workplace—and that is exactly what we intend to do. Our new National Employment Standards will deliver that flexibility and choice, giving mums and dads a choice to sequence their unpaid maternity and unpaid paternity leave to have a parent at home with a newborn child for the first two years of a child’s life. At the last election we also pledged to ask the Productivity Commission to conduct an inquiry into a paid parental leave model for the country and, as I have said, the interim report represents the first real step forward on this issue.

For far too long Australian mums and dads have been forced to choose between their work and home lives, often having to pit the priorities of one over the priorities of the other. For far too long Australian families, particularly mothers, have had little or no choice when it comes to deciding how best to approach the first few months of their child’s life. The government understands this and, unlike those opposite, understands just how critical the issue of paid parental leave is to promoting a healthier and more productive work-life balance for Australian mums and dads.

Scenic Rim Region

Senator BOYCE (Queensland) (6.45 pm)—I would like to tell the Senate tonight about a recent visit I made to the Scenic Rim region in Queensland. When we talk about tourist icons of Australia, the Scenic Rim region of Queensland probably is not top of mind, not even for Queenslanders. But this beautiful region very much should be. In fact the Mayor of the Scenic Rim Regional Council, Councillor John Brent, proudly points out that the region has recently been listed by Tourism Australia as one of the most scenic regions of Australia—‘Right up there with the Great Ocean Road,’ as Mayor Brent comments.

The Scenic Rim region is barely one hour’s drive from the Brisbane CBD. It has a current population of 35,000 and takes in the former shires of Boonah and Beaudesert. The Scenic Rim includes the historic areas of Canungra, Mount Tamborine, Kalbar, Aratula, Beechmont and Rathdowney—all names that I am sure are familiar to Queenslanders but should be more familiar to all Australians. However, despite its physical beauty, the Scenic Rim is a struggling region. Firstly, it struggles with the bizarre shape given it by the recent Bligh government council amalgamations. The new council has
an area of 4,250 square kilometres. It is larger than the combined area of the Gold Coast, Logan, Ipswich and Redland city councils. So its sheer size is a challenge for the new council.

Secondly, as I have already noted, it has a small population. Despite being on Brisbane’s doorstep, the Scenic Rim currently has a population of only 35,000 and consequently a relatively small revenue base of $53 million this year and a projected income of $58 million next year. The state Labor government amalgamation, which does in fact seem to have singled out the Scenic Rim for some sort of special victim status, has left the council stuck in a classic catch 22 situation. They do not have the income to develop their infrastructure; without their infrastructure they cannot increase their population and their rate base.

Thirdly, the Scenic Rim region has a desperate need for additional infrastructure. They need the additional infrastructure for future development, but until they get funding to do that development they will not be able to afford the infrastructure, and so we go around in circles. Nevertheless, on my recent visit to the Scenic Rim region I was struck by the very brave and confident attitude of this community and its leaders. The council are anticipating that they will have a very small debt at the end of the year of about $3,500—an amazing effort in the circumstances.

I would like to now look at some of those infrastructure needs, starting with the roads. There are, in a region of this size, of course a lot of roads. Of the 1,688 kilometres of roads that run through the region, only about half are sealed. A total of 814 kilometres of the roads in the region are unsealed. One of the biggest problems for the region is the very large number of old, underrated timber bridges. They have lots of beautiful scenery and lots of beautiful creeks, but that means that they have 143 bridges and only 35 of those are concrete. There are 105 timber bridges, many of them dating back to early settlement times. So when construction trucks try to reach these newly planned state government developments around the region, they will be using timber bridges and unsealed roads to do so—not a very satisfactory situation.

Right now, 4½ million tonnes of sand, soil and rock a year are transported through Beaudesert’s main street because there is no alternative. The council has proposed a six-kilometre bypass to take this traffic out of the centre of town, but it needs $20 million in funding to do so. The council has had no response to its request from the state or federal level for that $20 million, which represents virtually half of the yearly revenue of the council. The state government, after ignoring areas like the Scenic Rim, has thrown the Boonah and Beaudesert councils together and said, ‘Now you work it out.’

On my way to the region’s main centre, Beaudesert, I visited the township of Kalbar. Kalbar is in many ways the typical Queensland country town. On Anzac Day, just about the whole population of 600 turns out for the morning service. But Kalbar is being seriously affected by the expansion and growth of greater Brisbane. One development at Kalbar that was originally planned for 79 houses has now expanded to 153 development lots. That is close to doubling the population of the town and impacts, of course, on current roads, shopping amenities and sewerage systems. This is just a microcosm of what is happening locally.

The state government have some wonderful developments planned for all around the Scenic Rim—not in the Scenic Rim but around it. Last month they approved a residential development at Ripley Valley near
Ipswich that is projected to bring 100,000 residents to the area. This will not benefit the Scenic Rim area, although it will further clog the roads of the region.

Developments for 60,000 residents are also planned at both Yarrabilba and Flagstone. They again are in the Logan and Ipswich council areas, not the Scenic Rim’s. Even in this area the state government is not doing the job it should be doing to support councils in developing the infrastructure needed for this massive growth. You can plan to have great population growth, but if you just leave it to the councils to work out what they are going to do with the roads, the bridges, the schools, the sewerage systems etcetera that are needed to support this population growth, you are looking at a recipe for disaster. The councils are the ones currently bearing the brunt of the lack of infrastructure planning by the government.

The Scenic Rim does include, though, the Bromelton state development area. It covers 16,000 hectares and it is the largest privately funded industrial park planned anywhere in Australia. Bromelton will be South-East Queensland’s inland port. It will act as a hub for road, rail and sea connections. The formal declaration of the area as a state development area was made on 28 August. The actual development of the area itself is expected to generate 18,000 jobs by 2026. At that time the population of Beaudesert is expected to exceed 30,000. These are conservative estimates.

I very much support the development of the Bromelton area. I support proper planning for industry, buffer zones that minimise impact and an effective transport logistics that will reduce the distance needed to be covered by transport that will feed the whole of the greater Brisbane area in the 2020s.

I note that companies including Australia, Specialised Container Transport and York Developments, in association with Patrick Corporation, Pacific National and Toll Holdings, are the active participants in the Bromelton area in conjunction with the Scenic Rim Council. They are developing freight handling for Brisbane, Sydney and Melbourne to and from the Port of Brisbane.

Bromelton is probably the only area available for future industrial development in South-East Queensland that currently has access to the national standard-gauge rail network, and it will be a major link in the proposed Melbourne to Brisbane rail link that is currently under investigation by the Australian Rail Track Corporation, which is due to report back by August 2009.

Bromelton is being developed specifically for high-impact industries with particular emphasis on industries requiring large buffer zones and separation from residential areas. It has close access to the Mt Lindesay Highway, making it suitable for major road freight operations and logistics services. In short, it will be a significant major national infrastructure project. But it is taking place in a regional area on a scale that overwhelms any previous development.

I took the opportunity when I was in the Scenic Rim region to inspect some of the site with the council—(Time expired)

Senator BOYCE—I seek leave to have the remainder of my speech incorporated in Hansard.

Leave granted.

The remainder of the speech read as follows—
I took the opportunity to inspect some of the site with the Council and Mr Graeme Newton, CEO of Qld Water Infrastructure. I would like to thank Mayor John Brent, and Councillors Derek Swanborough, Richard Adams, Virginia West, Dave Cockburn, Kathy Benstead and Heather Wehl for their hospitality.
We saw a proposed development area near the newly-constructed 8,000 megalitre offstream storage site. This is an area of a few hundred hectares that will be flattened and levelled, requiring an adjustment of up to 10 metres in land height. Just shifting that much soil is a major undertaking and this is just one section of the first stage of the development.

This is an indication of the sheer scale of development in the area, and why it must be supported with necessary, and overdue, infrastructure funding. The Queensland Government can no longer issue press releases about the number of people moving to Queensland each week—as the former Premier did—and not consider that they might need water, or schools, or police, or hospitals.

We need to plan our dams and desalination plants now—just as we need to train our doctors, nurses, police and teachers.

In the long term Queensland and Australia will benefit—and in the short term our Federal and State Governments need to shoulder some of the cost now.

**Millennium Development Goals**

*Senator POLLEY (Tasmania) (6.56 pm)—* I rise in the Senate this evening to speak on the issues of the Millennium Development Goals: health and, in particular, child mortality. The world is now past the halfway point to achieving the Millennium Development Goals, which set out an internationally agreed plan to halve global poverty by 2015. The Millennium Development Goals represent a global partnership that has grown from the commitments and targets established at the world summits during the 1990s.

The MDGs respond to the world’s main development challenges, such as poverty, education, maternal health and gender equality and they aim at combating child mortality, AIDS and other diseases. It is certainly evident that something has to be done. Presently about 70 per cent of people living on less than US$1 a day are women, and women own only one per cent of the world’s assets; every minute around the world, a woman dies in childbirth and 20 are injured or disabled; every minute 40 teenage girls become pregnant; every 90 seconds a woman is raped; every minute four babies die because they are not adequately breastfed; a quarter of all deaths of children under five years of age are due to easily preventable diseases such as diarrhoea and malaria; every minute four infants under the age of two die because they have not been vaccinated against diseases like measles and tetanus; and every day 30,000 children die as a result of extreme poverty. These statistics shame us, especially when we think that the world’s poorest nations are just a short plane ride from Australia.

The Millennium Development Goals have underlined the importance of improving health, particularly the health of mothers and children. Millennium development goal 4 aims to cut the under-five mortality rate by two-thirds from year 2000 levels by 2015.

The statistics are telling. The number of children who died in the developing world before their fifth birthday was 10.1 million in 2005. In Cambodia, one in every 12 children will not reach their fifth birthday. An estimated 148 million children in the developing world remain undernourished. To ensure these children have the opportunity to survive, efforts to address the nutritional needs of women, infants, and children must be accelerated. The highest child mortality rate is still found in Africa. In Sierra Leone, the country with the worst under-five mortality rate in the world, 262 out of every 1,000 children die before their fifth birthday. It is worth noting that many of these deaths were preventable.

Recent data indicates encouraging improvements in many of the basic health interventions, such as early and exclusive breastfeeding, measles immunisation, vita-
min A supplements, the use of insecticide treated nets to prevent malaria and the prevention and treatment of HIV-AIDS.

A United Nations report that was released on Monday, 22 September this year stated that two-thirds of children of secondary school age in Oceania are not attending school and that while mortality rates for children under five are dropping they remain 10 times higher than in developed countries.

The other vital goal to improve family health is No. 5, which aims to reduce maternal mortality by three-quarters by 2015. Here the news is less promising. A woman dies in childbirth somewhere around the world every minute. Ninety-nine per cent of those women are in developing countries, and for every woman who dies giving birth 20 more suffer illness or disability. The numbers of women dying has not improved in a generation. We have evidence that money directed at the right projects can make a huge difference.

The recent economic downturn caused by the financial crisis in the United States may increase the pressure to delay action on meeting these goals. But there is good news that encourages us to know that our actions are worthwhile. According to UNICEF figures released this month, the rate of deaths of children under five continued to decline in 2007.

We are part of the global village and we have a responsibility to use the knowledge and resources we have to help. As AusAID has pointed out, ‘Interventions that can prevent most deaths of women and children are well understood.’ The time to act is now. The Rudd Labor government has matched the commitment made in 2005 by former Prime Minister John Howard and his government to increase aid levels to around 0.35 per cent of our gross national income by 2010. The May budget provided for an estimated $3.7 billion in official domestic assistance for 2008-09.

As United Nations Secretary General Ban Ki-moon has stated:

Looking ahead to 2015 and beyond, there is no question that we can achieve the overarching goal: we can put an end to poverty. In almost all instances, experience has demonstrated the validity of earlier agreements on the way forward; in other words, we know what to do. But it requires an unwavering, collective, long-term effort.

Rwanda has made remarkable progress since the 1994 genocide and civil war. Rwanda’s key challenge going forward is to leverage its recent progress for a much higher development path that will put the country’s long-term economic and social aspirations within reach. In Rwanda, child and maternal mortality rates were amongst the highest on the continent due to physical, geographic and financial barriers to accessing high-quality services and to behavioural and cultural factors. Malnutrition rates in children under five have declined from about 24 per cent in 2000 to 18 per cent today, but faster progress is needed. Infant mortality dropped from around 107 per 1,000 in 2000 to 86 in 2005 and maternal mortality decreased from 1,071 per 100,000 to 750 over the same period. Recent estimates suggest that Rwanda is now on track to achieve millennium development goal No. 4 with a drop in under-five mortality to 103 per 1,000. The percentage of assisted deliveries increased from 39 to 52 in 2005-08.

I would like to take this opportunity to thank Melinda Tankard-Reist for all her work in protecting life, particularly children. Melinda is a shining light and has campaigned on a number of different issues, such as the pre-sexualisation of children, the sanctity of life and of course improving the quality of life for those living in Third World countries.

As a woman, a mother and grandmother speaking today in Australia, I find it incredi-
ble that the health of pregnant women is such a low priority in many places, especially when we know that mothers are vital to the stability of families and communities. We need to empower mothers and protect our children. Although many countries are not on track to reach the Millennium Development Goals, child mortality targets and inexpensive medical treatments have nonetheless helped reduce the number of child deaths. We are making headway, but we need to do more.

As a further note, I recently met with representatives from the Micah Challenge. This group is doing a fantastic job in raising the awareness of parliamentarians and our community on the benefits of international aid. This week I had a meeting with representatives from my home state of Tasmania, which was led by Mr Ben Pengas, and there were two other young Tasmanians. They delivered to me a simple kit that illustrated just how basic the medical supplies are that women lack in developing countries. The lack of these supplies is causing incredible difficulties for new mothers. We are not talking about high-tech medical science here; we are talking about bandages, plastic sheets for women to give birth on, soap and rope to tie off the umbilical cord.

I would like to urge all senators and those listening to this broadcast to educate themselves on the further need to accelerate the Millennium Development Goals.

The PRESIDENT—Before calling Senator Fielding, I understand that there is an informal arrangement between Senator Fielding and Senator Colbeck to share the next 10 minutes equally between them. I will ask for the clock to be set accordingly for Senator Fielding for five minutes and then for Senator Colbeck for the same period.

**Millennium Development Goals**

**Senator FIELDING** (Victoria—Leader of the Family First Party) (7.05 pm)—Family First supports the Millennium Development Goals and in particular backs the goal to reduce by three-quarters the rate of death during pregnancy and childbirth in the Third World. It is important to note that this is the millennium development goal where the world has made the least progress. A woman dies in childbirth somewhere around the world every minute. Ninety-nine per cent of those women are in developing countries, and for every woman who dies giving birth 20 more suffer illness or disability. It is a staggering reality that the numbers of women dying has not improved in a generation.

When I consider my wife and daughter I find it incredible that the health of pregnant women can be such a low priority when we know that mothers are vital to the stability of families and communities.

Earlier this year I asked AusAID about the level of unmet need to ensure that women in developing countries in the Asia-Pacific region can give birth safely. AusAID replied that the main measure of unmet need is the maternal mortality rate, which is the number of maternal deaths per 100,000 live births. In the Asia-Pacific region, East Timor, Bangladesh, Nepal, Laos, Cambodia and Papua New Guinea have high maternal mortality ratios that are above the International Conference on Population and Development Program of Action goal of 100 women dying per 100,000 live births. In the Asia-Pacific region, East Timor, Bangladesh, Nepal, Laos, Cambodia and Papua New Guinea have high maternal mortality ratios that are above the International Conference on Population and Development Program of Action goal of 100 women dying per 100,000 live births. In the Asia-Pacific region, East Timor, Bangladesh, Nepal, Laos, Cambodia and Papua New Guinea have high maternal mortality ratios that are above the International Conference on Population and Development Program of Action goal of 100 women dying per 100,000 live births. In the Asia-Pacific region, East Timor, Bangladesh, Nepal, Laos, Cambodia and Papua New Guinea have high maternal mortality ratios that are above the International Conference on Population and Development Program of Action goal of 100 women dying per 100,000 live births. It is terrible to think of that as a goal, but that reflects how high maternal mortality is in some countries.

In the case of East Timor, one of our nearest neighbours, the maternal mortality ratio is 660 maternal deaths per 100,000 live births, which is a horrific number. Surely we can do something to bring down such a high rate. For Papua New Guinea the number is 300
deaths and for Indonesia the number is 230. Both rates are way above Australia’s rate of eight per 100,000 live births. Another important indicator is the number of births attended by a skilled birth attendant. In the Asia-Pacific region there are nine countries where more than half of all childbirths are without a skilled birth attendant. Maternal deaths in the Asia-Pacific account for almost half the maternal deaths in the world. That is why Family First called, as part of its overseas aid policy during the election last year, for an extra $100 million in maternal health funding per annum by 2010. That money would be spent in the Asia-Pacific region.

Over the past week people from Micah Challenge have been visiting the parliament as part of an annual meeting to mark Anti-Poverty Week. They brought with them a simple birthing kit, which is in a plastic box and includes a plastic sheet, soap, gloves, a razor, string and bandages. The extraordinary thing about this kit is that it, along with simple measures like community education and training birth attendants, can cut maternal deaths in the Third World by up to two-thirds. This kit costs about $2, which is a paltry amount when you weigh it up against the lives it could save. There is a unique challenge presented to us here. The Asia-Pacific region accounts for almost half of all the world’s maternal deaths but there is a simple kit that can help save up to two-thirds of those women from death. What can we do to get this kit distributed widely across the region to give women a better chance of living and to enjoy their new children?

Amongst these high death rates and the clear opportunities we have to save so many women and their children, there are calls in Australia for the government to spend some of its scarce aid money on abortion. Family First opposes abortion and opposes diverting scarce aid funds to abortion. Instead we should act—like we have acted decisively to address the world financial meltdown—to spend a relatively small amount of money to save lives. Family First wants an extra $100 million a year to go to maternal health in developing countries in our region to save thousands of women from unnecessary death.

Drought: Tasmania

Senator COLBECK (Tasmania) (7.09 pm)—I would like to speak briefly this evening on a visit to Tasmania by the coalition rural and regional affairs policy committee, who were in Tasmania last Wednesday to look through some of the drought affected areas in south-eastern Tasmania. The first place that we visited was Bothwell and the Clyde River irrigators. The Clyde River irrigators were in Canberra a couple of weeks ago because they are in real strife. Not only are the Clyde River and the irrigators who work on that river in trouble but even the township of Bothwell is under the threat of running out of water.

They have been seeking an emergency water release from the Commonwealth government and they came here to see Minister Garrett. They got a meeting with one of Minister Garrett’s staff but did not get to see Minister Garrett, even though they thought they had an appointment with him. At the same time they met with our rural and regional affairs policy committee and it was that meeting which triggered the visit to Tasmania. By coincidence, when we arrived in Bothwell, we received word that Minister Garrett was also in Tasmania. He was not there to meet the farmers from Bothwell and the Clyde River but was there to make an announcement about some new fish species. Again the farmers from the Clyde River catchment were extremely disappointed that they had missed out on an opportunity, despite their invitation to Minister Garrett to come and see them.
There was one thing that did come out of the visit which we were all very pleased about. We received a phone call from David Llewellyn, the Tasmanian Minister for Primary Industries and Water, the day after the visit to say that he was going to make an application for that emergency water release. The Tasmanian government had not yet made the application, and it is not as if these farmers are wasteful. Last year they received an emergency release of 2,000 megalitres for domestic and stock use. They only used 1,500 but they were not allowed to access the remaining 500 megalitres without a new application which, unfortunately, the Tasmanian government had not made at that stage. My understanding is that the application was lodged with Minister Garrett this week. So we can only hope that Minister Garrett does not go missing again in respect of these farmers in the Clyde River catchment, because they are in desperate need of that emergency water release.

Our next visit was to a little town called Levendale, which is under enormous pressure for a number of reasons. It is also in the middle of the drought area in the south-east of Tasmania. There are several areas in Tassie that are affected by drought at the moment. There is the south-east, which is EC declared, and the north-east in the seat of Bass and Flinders Island, which are really doing it tough. We have had some communication with people on the island over the last couple of weeks. Unfortunately they too are not receiving the sorts of responses that they would like to receive from their local members. The member for Bass has been written to by one person on Flinders Island 15 times. There have been 15 letters from the Flinders Island constituent and there has been only one reply.

Down in the south-east, where they are really doing it tough, I spoke to a woman who came in to see us and spoke to the committee. She told me that they had had over 11,000 sheep on their property and they had reduced that number down to fewer than 2,000. They had had to destroy all this year’s lambs—2,000 had to be put down. They had kept 200 for breeding purposes and the only way that her husband could justify it was because he was saving his breeding ewes. It is really a tragic situation. And there are many more stories like that. I have assisted one farmer on agistment for his last 45 breeding ewes. That is how tough it is. Again he has had a very disappointing response. One lady from the region rang the member for Lyons, Mr Adams, to come and talk to some of the community. All she got was a questioning of her political motives, of which there are none. She was just trying to get her local member to come down and have a chat to some of the people who are doing it really tough. That is all that she was about. It is a very disappointing perspective.

But the local community are really pulling together. They are working extraordinarily hard and all they are looking for is support from their state and federal governments. Unfortunately, the state government has no drought plan. The TFGA, the Tasmanian Farmers and Graziers Association, has put together a very good policy which calls on the Tasmanian Premier to bring the matter into his department and coordinate the whole process. There are a lot of good things happening in that neck of the woods but they are not being coordinated and, unfortunately, we cannot convince the Tasmanian government to pull them into a coordinated approach and get the best benefit out of all the things that are available.

Senate adjourned at 7.15 pm
The following documents were tabled by the Clerk:

Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number.

- Aged Care Act—Aged Care (Conditions of Allocation – Extended Aged Care at Home – Dementia) Determination 2008 (No. 1) [F2008L03765]*.
- Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—
  - AD/BD-700/1—Elevator PCU Attachment Bolts [F2008L03774]*.
  - AD/BELL 206/49—Hydraulic Servo Actuator Servo Valve Drive Locknut – Inspection [F2008L03662]*.
  - AD/BELL 206/54—Tail Rotor Gearbox Assembly – Inspection [F2008L03665]*.
  - AD/BELL 206/56 Amdt 1—Starter Generator Retaining Clamp T Bolt – Inspection [F2008L03666]*.
  - AD/BELL 206/58—Full Cell Cavity and Vent Line Modification [F2008L03671]*.
  - AD/BELL 206/59—Oil Pressure Tube Assemblies – Inspection and Replacement [F2008L03669]*.
  - AD/BELL 206/60 Amdt 1—Flight Control System Bolts – Inspection and Replacement [F2008L03670]*.
  - AD/BELL 206/67—Tail Rotor Drive – Inspection of Clamp Type Bearing Hangars [F2008L03671]*.
  - AD/BELL 206/70 Amdt 2—Hydraulic Servo Actuator Support Assembly – Inspection [F2008L03672]*.
  - AD/BELL 206/71—Main Rotor Split Cone Set – Inspection [F2008L03673]*.
- AD/BELL 206/78—Freewheeling Outer Race Shaft – Inspection [F2008L03674]*.
- AD/BELL 206/88—Battery Relay Diode Assembly P/N 30-037-13 – Replacement [F2008L03675]*.
- AD/BELL 206/96—Fuel Supply Tube Assembly [F2008L03676]*.
- AD/BELL 206/97 Amdt 2—Quick Disconnect Dual Controls [F2008L03677]*.
- AD/BELL 206/105 Amdt 1—Airframe Fuel Filter Assembly [F2008L03678]*.
- AD/BELL 206/106—Float Inflation Valve [F2008L03679]*.
- AD/BELL 206/110—Tail Rotor Pitch Links [F2008L03680]*.
- AD/BELL 206/124 Amdt 1—Driveshaft Seal [F2008L03684]*.
- AD/CASA/30—Autopilot Servo Drive Actuators [F2008L03685]*.
- AD/CL-600/87 Amdt 1—Flap Failure [F2008L03686]*.
- AD/CL-600/103—Refuel/Defuel Valve Electrical Bonding [F2008L03687]*.
- AD/DH 90/1—Fire Precaution Measures on Refuelling [F2008L03688]*.
- AD/DH 104/11—Engine Instrument Arrangement – Modification [F2008L03689]*.
- AD/DH 104/16—Flap System Modification to Prevent Crossing of Pneumatic Lines [F2008L03690]*.
- AD/DHC-2/2—Hydraulic Control Unit – Selector Lever Hub Inspection [F2008L03691]*.
- AD/EC 225/5—Main Rotor Blade Leading Edge Protective Strip [F2008L03704]*.
- AD/EMB-120/45 Amdt 1—Stall Warning Computer [F2008L03692]*.
AD/PA-24/24—Propeller Inspection and Operating Instructions [F2008L03695]*.
AD/PA-34/1—Compass Installation – Inspection for Accuracy [F2008L03696]*.
AD/PA-34/26—Fuel Line – Inspection and Modification [F2008L03702]*.
AD/PA-34/30—Hose Assembly – Inspection and Replacement [F2008L03703]*.
AD/PREMIER/5—Cabin Altitude and Barometric Pressure Switches [F2008L03769]*.
Customs Act—Tariff Concession Orders—
0808251 [F2008L03549]*.
0808275 [F2008L03548]*.
0808302 [F2008L03547]*.
0808724 [F2008L03546]*.
0808853 [F2008L03545]*.
0808856 [F2008L03544]*.
0808968 [F2008L03586]*.
0808971 [F2008L03587]*.
0810248 [F2008L03585]*.
Federal Court of Australia Act—Select Legislative Instrument 2008 No. 206—Federal Court (Corporations) Amendment Rules 2008 (No. 2) [F2008L03766]*.
Higher Education Support Act—VET Provider Approvals—
(No. 5 of 2008) [F2008L03777]*.
(No. 6 of 2008) [F2008L03789]*.
National Health Act—Instruments Nos FB—
103 of 2008—Amendment determination – pharmaceutical benefits [F2008L03779]*.
104 of 2008—Amendment determination – responsible persons [F2008L03780]*.
105 of 2008—Amendment determination – conditions [F2008L03781]*.
Radiocommunications Act—
Radiocommunications (861-865 MHz Land Stations and Handsets) Class Licence Revocation 2008 [F2008L03752]*.
Radiocommunications (Cordless Telecommunications Devices) Class Licence Variation 2008 (No. 1) [F2008L03751]*.
Radiocommunications Miscellaneous Devices Class Licence Variation 2008 (No. 1) [F2008L03753]*.
Telecommunications Act—


* Explanatory statement tabled with legislative instrument.

Departmental and Agency Appointments

The following document was tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency appointments—Supplementary budget estimates—Statement of compliance—Environment, Heritage and the Arts portfolio agencies.

Departmental and Agency Grants

The following documents were tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency grants—Supplementary budget estimates—Statements of compliance—Environment, Heritage and the Arts portfolio agencies.

Health and Ageing portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Environment, Water, Heritage and the Arts: Media Staff
(Question No. 30)

Senator Minchin asked the Minister representing the Minister for the Environment, Heritage
and the Arts, upon notice, on 12 February 2008:

As at 26 November 2007, with reference to the department and all agencies in the Minister’s portfolio:

(1) How many employees are engaged in positions responsible for public affairs, media management,
  liaison with the media and media monitoring.
(2) What are the responsibilities of these staff.
(3) What are the Australian Public Service classifications of these positions.
(4) For each of the financial years 2007-08, 2008-09, 2009-10 and 2010-11, what is the current operat-
    ing budget for these media-related sections within the department or agency.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the
following answer to the honourable senator’s question:

The information provided below relates to the minister’s portfolio after the machinery of government
changes which took place on 3 December 2007.

Department of the Environment, Water, Heritage and the Arts

(1) The Department employs 28 people in positions responsible for public affairs, media management,
    liaison with the media and media monitoring. Some of these people are in part-time positions.
(2) These staff are responsible for communicating and raising awareness of Australian Government
    policies and programs relating to the environment, heritage and the arts, and associated corporate
    functions.
(3) The APS classifications of these positions are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
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<tbody>
<tr>
<td>Senior Public Affairs Officer Grade 2</td>
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(4) Operational budgets include staffing, IT costs and all expenditure.

<table>
<thead>
<tr>
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<td>2007-08</td>
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<td>2009-10</td>
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</tr>
<tr>
<td>2010-11</td>
<td>Not available</td>
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</tbody>
</table>

Sydney Harbour Federation Trust

(1) Seven
(2) These staff are responsible for communicating and raising awareness of the role of the Sydney
    Harbour Federation Trust, marketing of its programs, community education, public programs, and
    events.

QUESTIONS ON NOTICE
(3) The APS classifications of these positions are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
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<tbody>
<tr>
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<tr>
<td>APS 6</td>
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(4) Operational budgets are:

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<tr>
<td>2007-08</td>
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<td>2009-10</td>
<td>Not available</td>
</tr>
<tr>
<td>2010-11</td>
<td>Not available</td>
</tr>
</tbody>
</table>

Great Barrier Reef Marine Park Authority

(1) Seven

(2) These staff are responsible for communicating and raising awareness of the role of the GBRMPA, marketing of its programs, community education, public programs, and events.

(3) The APS classifications of these positions are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
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<tr>
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(4) Operational budgets are:

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<td>2007-08</td>
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<td>Not available</td>
</tr>
<tr>
<td>2010-11</td>
<td>Not available</td>
</tr>
</tbody>
</table>

Australia Business Arts Foundation

(1) One full-time equivalent position shared across nine AbaF staff.

(2) The role is to communicate and raise awareness of AbaF’s role.

(3) Not applicable – AbaF staff are not employed under the Public Service Act 1999.

(4) Operational budgets are:

<table>
<thead>
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<td>2008-09</td>
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<td>2009-10</td>
<td>$ 111,700</td>
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<tr>
<td>2010-11</td>
<td>$ 123,400</td>
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</table>

Australian Film, Television and Radio School (AFTRS)

(1) Nil

(2) Not applicable

(3) Not applicable
(4) Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>$68,457</td>
</tr>
<tr>
<td>2008-09</td>
<td>$70,380</td>
</tr>
<tr>
<td>2009-10</td>
<td>$72,324</td>
</tr>
<tr>
<td>2010-11</td>
<td>$75,290</td>
</tr>
</tbody>
</table>

**Australian National Maritime Museum**

(1) Two

(2) The role is to develop and maintain the Museum's public profile and corporate image through a range of media, and through arranging events and activities and administration of a Volunteer Speakers Panel to promote the Museum to community groups and organisations.

(3) The APS equivalent classifications are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Level 1</td>
<td>1</td>
</tr>
<tr>
<td>APS 3</td>
<td>1</td>
</tr>
</tbody>
</table>

(4) Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>$228,510</td>
</tr>
<tr>
<td>2008-09</td>
<td>Not available</td>
</tr>
<tr>
<td>2009-10</td>
<td>Not available</td>
</tr>
<tr>
<td>2010-11</td>
<td>Not available</td>
</tr>
</tbody>
</table>

**Australia Council**

(1) Four

(2) These staff are responsible for promoting the Australia Council’s support for Australian artists, arts organisations and arts projects, event management and copywriting, design and production management.

(3) The Australia Council staff are employed under the Australia Council Act 1975 and do not have APS classifications.

(4) Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>$339,502</td>
</tr>
<tr>
<td>2008-09</td>
<td>$339,502</td>
</tr>
<tr>
<td>2009-10</td>
<td>$339,502</td>
</tr>
<tr>
<td>2010-11</td>
<td>$339,502</td>
</tr>
</tbody>
</table>

**Bundanon Trust**

(1) None

(2) Not applicable

(3) Not applicable
Operational budget for such activities is:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>$30,000</td>
</tr>
<tr>
<td>2008-09</td>
<td>$16,000</td>
</tr>
<tr>
<td>2009-10</td>
<td>$16,000</td>
</tr>
<tr>
<td>2010-11</td>
<td>$16,000</td>
</tr>
</tbody>
</table>

**National Film and Sound Archive (NFSA)**

1. Three
2. The role is to develop and implement marketing and communications strategies, events/activities/public access programs/announcements, publicity and advertising.
3. The APS classifications of these positions are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Level 1</td>
<td>1</td>
</tr>
<tr>
<td>APS 6</td>
<td>1</td>
</tr>
<tr>
<td>APS 4</td>
<td>1</td>
</tr>
</tbody>
</table>

Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>n/a *</td>
</tr>
<tr>
<td>2008-09</td>
<td>$451,119</td>
</tr>
<tr>
<td>2009-10</td>
<td>$450,000</td>
</tr>
<tr>
<td>2010-11</td>
<td>$450,000</td>
</tr>
</tbody>
</table>

*The NFSA commenced operations on 1 July 2008.

**National Gallery of Australia**

1. Three
2. The role is to develop and implement communications and marketing strategies and event management.
3. The APS classifications are

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Level 2</td>
<td>1</td>
</tr>
<tr>
<td>Executive Level 1</td>
<td>1</td>
</tr>
<tr>
<td>APS 4</td>
<td>1</td>
</tr>
</tbody>
</table>

Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>$1,633,975</td>
</tr>
<tr>
<td>2008-09</td>
<td>$1,630,253</td>
</tr>
<tr>
<td>2009-10</td>
<td>Not available</td>
</tr>
<tr>
<td>2010-11</td>
<td>Not available</td>
</tr>
</tbody>
</table>

**National Library of Australia**

1. 3.5 full time employees
2. The role is to develop and implement communications and marketing strategies and event management.
(3) The APS classifications of these positions are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Level 2</td>
<td>0.5</td>
</tr>
<tr>
<td>APS 6</td>
<td>2</td>
</tr>
<tr>
<td>APS 5</td>
<td>0.8</td>
</tr>
</tbody>
</table>

(4) Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>$406,000</td>
</tr>
<tr>
<td>2008-09</td>
<td>$367,000</td>
</tr>
<tr>
<td>2009-10</td>
<td>Not available</td>
</tr>
<tr>
<td>2010-11</td>
<td>Not available</td>
</tr>
</tbody>
</table>

National Museum of Australia

(1) Two

(2) The role is to develop and implement communications and marketing strategies and event management.

(3) The APS classifications of these positions are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Level 2</td>
<td>1</td>
</tr>
<tr>
<td>APS 6</td>
<td>1</td>
</tr>
</tbody>
</table>

(4) Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>$234,912</td>
</tr>
<tr>
<td>2008-09</td>
<td>$263,218</td>
</tr>
<tr>
<td>2009-10</td>
<td>Not available</td>
</tr>
<tr>
<td>2010-11</td>
<td>Not available</td>
</tr>
</tbody>
</table>

Screen Australia

(1) Four (with other duties).

(2) Develop and implement public relations and advertising strategies, event management, internal communications and promotion of Screen Australia produced documentaries.

(3) The APS classifications of these positions are:

<table>
<thead>
<tr>
<th>APS Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Level 1</td>
<td>1</td>
</tr>
<tr>
<td>APS 6</td>
<td>1</td>
</tr>
<tr>
<td>APS 5</td>
<td>1</td>
</tr>
<tr>
<td>APS 4</td>
<td>1</td>
</tr>
</tbody>
</table>

(4) Operational budgets are:

<table>
<thead>
<tr>
<th>Year</th>
<th>Operational budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>n/a*</td>
</tr>
<tr>
<td>2008-09</td>
<td>$164,000</td>
</tr>
<tr>
<td>2009-10</td>
<td>$164,000</td>
</tr>
<tr>
<td>2010-11</td>
<td>$164,000</td>
</tr>
</tbody>
</table>

* Screen Australia commenced operations on 1 July 2008.
Skilled Migration
(Question No. 510)

Senator Birmingham asked the Minister for Immigration and Citizenship, upon notice, on 26 June 2008:

In regard to Senator Birmingham’s letter to the Minister of 7 December 2007, to which a response had not been received as at 26 June 2008:

(1) Will the Minister consider the introduction of such transitional measures that would enable people who have committed significant funds and periods of their lives to building futures in Australia, to be assessed against the conditions that were in place at the time of their arrival.

(2) Specifically, with reference to the changes on 1 September 2007 to the points test for General Skilled Migration visas, will the Minister consider applying the former points test to people granted a Student visa who had a clear intention of subsequently applying for permanent residency prior to the changes having been announced.

Senator Chris Evans—The answer to the honourable senator’s question is as follows:

The previous Government determined that it was not in the best interest of Australia to include a transitional period for the implementation of changes to the GSM program on 1 September 2007. A transitional period would have substantially delayed the favourable impact which these will have on labour market outcomes for GSM migrants and hence on the broader economy. In line with the normal principle that new legislation should not have retrospective adverse effect, GSM applicants who had valid applications in force at the time the reforms came into effect, will be considered against the pre-existing criteria.

This, of itself, is a very substantial number of people.

The holder of a student visa is able to enter Australia on a temporary basis for a specified period to undertake study at an Australian educational institution. While many overseas students make a decision to apply for permanent residence upon completing their studies, it is a separate process and is not a guarantee that they will later meet the legislated migration criteria at the time they apply for permanent residence.

I do not see grounds to reverse the previous Government’s approach, noting that:

• the student visa application and migration visa application are entirely separate processes;
• there was widespread public consultation on and knowledge of the proposed changes over a sustained period;
• graduating students still have pathways to a permanent visa;
• the reforms addressed identified aspects of the then existing selection system which were delivering less than favourable labour market outcomes.

Carbon Pollution Reduction Scheme
(Question No. 570)

Senator Milne asked the Minister for Climate Change and Water, upon notice, on 8 August 2008:

In regard to Appendix D of the report Carbon Pollution Reduction Scheme: Green Paper, ‘Analysis of the emissions intensity of Australian industries’:

(1) Why were the industry emission intensities calculated using ‘revenue’ and not ‘value added’.

(2) Will the Government release a revised table of industry emission intensities calculated using emissions per unit of value added; if not, why not.
(3) Do the statistics for pulp, paper and paperboard (industry code 2303), sawmill products (industry code 2301), other wood products (industry code 2302), and paper containers and products (industry code 2304) include both the plantation and native forest sectors: (a) if so: (i) why were they not disaggregated for the same reason given for disaggregation in other sectors, namely considerable variation of emissions in sectors within an industry, and (ii) will the Government release revised estimates for the above four industries showing the plantation sector separate from the native forest sector; and (b) if not: (i) why not, and (ii) what sectors are actually included in the calculations.

(4) Do the statistics for forestry and logging (industry code 0300) include both the plantation and native forest sectors; if so, why were they not disaggregated for the same reason given for disaggregation in other sectors, namely considerable variation of emissions in sectors within an industry; if not, what sectors are actually included in the calculations.

(5) The emissions intensities calculated for forestry and logging include emissions net of sequestration: (a) what is the actual emission intensity (excluding sequestration) of forestry and logging in the plantation sector; and (b) what is the actual emission intensity (excluding sequestration) of forestry and logging in the plantation sector.

(6) Will the Government release revised data showing the emission intensity (excluding sequestration) for native-based forestry and logging calculated using emissions per unit of value added; if not, why not.

(7) Can a copy be provided of the analysis conducted by the Centre for Integrated Sustainability Analysis, University of Sydney on which the appendix is based.

Senator Wong—The answer to the honourable senator’s question is as follows:

(1) In order to treat diverse industries in the same manner, the potential carbon cost impact of the introduction of the Carbon Pollution Reduction Scheme needs to be measured in a comparable and transparent way across industries. The Green Paper discussed a number of alternative metrics for comparing the emissions intensity of different industries and proposed the use of revenue as the preferred option as it was assessed as enabling the emissions intensity of different industries to be compared in the most transparent and comparable way, using readily available data. The Government is consulting with stakeholders on alternative metrics for assessing emissions intensity.

(2) The Government will consider whether to release a revised table following consultation and feedback through the Green Paper submission process, however, as discussed in the Green Paper, final decisions about eligibility for emissions-intensive trade-exposed assistance are proposed to be based on activity-level rather than industry-level data.

(3) The figures in the Green Paper for the pulp, paper and paperboard (industry code 2303), sawmill products (industry code 2301), other wood products (industry code 2302), and paper containers and products (industry code 2304) are based on information from the National Greenhouse Gas Inventory. These include emissions from both native and non-native plantations. Currently there is limited data on emissions from native and non-native plantations, which do not allow us to disaggregate these sectors at this time.

(4) The figures in the Green Paper for the forestry and logging sector (industry code 0300) are based on information from the National Greenhouse Gas Inventory. These include emissions from native and non-native plantations. Currently there is limited data on emissions from native and non-native plantations, which do not allow us to disaggregate these sectors at this time.

(5) The figures in the Green Paper for the forestry and logging sector (industry code 0300) are based on information from the National Greenhouse Gas Inventory. The emissions intensities calculated for forestry and logging include emissions net of sequestration as the data provided in the National Greenhouse Gas Inventory is net of sequestration.
The Government will assess information provided through the consultation and feedback during
the Green Paper submission process and consider if sufficient additional information is available to
enable further disaggregation of the information in Appendix D.

(7) The report and analysis undertaken by the Centre for Integrated Sustainability Analysis, University
of Sydney will be placed on the Department of Climate Change website.

**Foreign Affairs and Trade: Carbon Offsets for Air Travel**

(Question Nos 586 and 587)

Senator Minchin asked the Minister representing the Minister for Trade and the Minis-
ter representing the Minister for Foreign Affairs, upon notice, on 25 August 2008:

(1) What are the department’s guidelines on the purchasing of carbon offsets for air travel.

(2) In 2008, how many flights undertaken by departmental officials were carbon offsets purchased, and
of these, how many were purchased for: (a) business class fares; and (b) economy class fares.

(3) In the 2007-08 financial year, what was the additional cost to the department of purchasing carbon
offsets for travel.

**Senator Faulkner**—The following answer has been provided by the Minister for Trade
and the Minister for Foreign Affairs to the honourable senator’s question:

(1) The department does not have any guidelines.

(2) Nil.

(a) Nil.

(b) Nil.

(3) N/a.

**Water**

(Question No. 731)

Senator Siewert asked the Minister representing the Minister for the Environment, Heri-
tage and the Arts, upon notice, on 3 September 2008:

With reference to the findings of recent reports, such as the Commonwealth Scientific and Industrial
Research Organisation’s *Water availability in the Murray: A report to the Australian Government from
the CSIRO Murray-Darling Basin Sustainable Yields Project*, dated July 2008 and *Water availability in
the Goulburn-Broken: A report to the Australian Government from the CSIRO Murray-Darling Basin
Sustainable Yields Project*, dated May 2008 and the report by the Murray-Darling Basin Commission
*Sustainable Rivers Audit: A report on the ecological health of rivers in the Murray-Darling Basin,
2004-2007*, dated June 2008, which suggest that the impacts on the Goulburn and Murray systems of
sending water to Melbourne may be much greater then initially thought: Will the Sugarloaf Pipeline
proposal be reconsidered under section 78A of the Environment Protection and Biodiversity
Conservation Act 1999 to assess its impact on the Ramsar-listed wetlands further
down the river system and the migratory bird species which are protected by international conventions;
if not, why not.

**Senator Wong**—The Minister for the Environment, Heritage and the Arts has provided the
following answer to the honourable senator’s question:

The decision that the Sugarloaf Pipeline Project is a controlled action was reconsidered under s. 78A of
the EPBC Act, by the Minister’s delegate. As part of the statutory reconsideration process, each of the
documents to which the Honourable Senator refers was taken into consideration. The outcome of the
reconsideration is that the original decision was confirmed on 5 September 2008.
**Air Traffic Control Service Interruptions**

(Question No. 736)

*Senator Bob Brown* asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 12 September 2008:

1. Was air traffic control inoperative in the Canberra, Sydney or any other capital city area on Sunday, 31 August 2008 or Monday, 1 September 2008; if so, can details be provided of reasons and durations, including an account of subsequent traffic delays, costs and safety factors.

2. On which days in 2008 has air traffic control for Canberra International Airport failed.

*Senator Conroy*—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

1. Airservices Australia has advised that there were air traffic control service interruptions in Sydney and Canberra terminal airspace only on 31 August 2008 due to staff unavailability. There were no service interruptions in any capital city area on 1 September 2008.
   - Sydney: 2.30am-3.30am local time, no aircraft were affected; and
   - Canberra: 4.30pm-5.00pm and 7.30pm-8.00pm local time, 4 aircraft were affected with 18 minutes of delay in total.

2. Airservices Australia has advised that the air traffic control system for Canberra International Airport has not failed in 2008.

**Tasmania: Black Spot Program**

(Question No. 738)

*Senator Bob Brown* asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 22 September 2008:

Will the $1.2 million pledged in the 2008-09 Budget to improve Tasmania’s road safety ‘black spots’ be used to improve the safety of the Huon Highway in the Kingsborough Municipality which has recently been the site of a number of serious accidents and fatalities.

*Senator Conroy*—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

The Australian Government announced on 13 August 2008 that it would commit more than $1.5 million to fix seventeen dangerous black spots on local roads in Tasmania. However, this announcement did not include funding for the Huon Highway in Kingsborough. Approved projects in Tasmania for 2008-09 are:

<table>
<thead>
<tr>
<th>Road Name 1</th>
<th>Road Name 2</th>
<th>Suburb</th>
<th>Project</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primrose Sands Road</td>
<td>From Fulham Road to Protea Street</td>
<td>PRIMROSE SANDS</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$40,000</td>
</tr>
<tr>
<td>Main Road</td>
<td>From Merley Road to Wakehurst Road</td>
<td>AUSTINS FERRY</td>
<td>Pedestrian refuge</td>
<td>$20,000</td>
</tr>
<tr>
<td>Main Road</td>
<td>From Pascoe Avenue to Abbotsfield Road</td>
<td>CLAREMONT</td>
<td>Median treatment</td>
<td>$100,000</td>
</tr>
<tr>
<td>Vermont Road</td>
<td>Clare Street</td>
<td>MOWBRAY</td>
<td>Right turn lane and splitter island</td>
<td>$30,000</td>
</tr>
<tr>
<td>Inglis Street</td>
<td>York Street</td>
<td>WYNYARD</td>
<td>Traffic islands</td>
<td>$25,000</td>
</tr>
<tr>
<td>Murray Street</td>
<td>Patrick Street</td>
<td>HOBART</td>
<td>Kerb extensions</td>
<td>$60,000</td>
</tr>
<tr>
<td>Penna Road</td>
<td>From Vancouver Street to Shark Point Road</td>
<td>MIDWAY POINT</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$70,000</td>
</tr>
</tbody>
</table>
Nominated sites within a state are competitively ranked according to criteria which identify the crash history of a site and the expected benefit from a proposed treatment. The Program’s Notes on Administration require discrete sites, such as intersections, to have a history of at least three casualty crashes over a five year period. Black Spot treatments must also exhibit a benefit/cost ratio greater than two.

All sites nominated for Black Spot Program funding within Tasmania are first assessed by the Tasmanian Department of Infrastructure, Energy and Resources (DIER) which has details of the crash history of the site and the expertise to assess the appropriate treatment. Eligible nominations are then considered by the Tasmanian Black Spot Consultative Panel, which is chaired by Ms Julie Collins MP and includes representatives from road user groups, industry and state and local government. Projects recommended by the panel are then submitted to the Minister for Infrastructure, Transport, Regional Development and Local Government for consideration and approval.

The honourable senator is able to nominate this site for Black Spot Program funding through DIER which will make an assessment of the merits and eligibility of the project and put it to the Tasmanian Black Spot Program Consultative Panel for consideration.

Nomination forms for Black Spot projects and information on project eligibility can be downloaded from <www.auslink.gov.au>.

<table>
<thead>
<tr>
<th>Road Name 1</th>
<th>Road Name 2</th>
<th>Suburb</th>
<th>Project</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elderslie Road</td>
<td>From Midland Highway to Jordan River</td>
<td>BRIGHTON</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$70,000</td>
</tr>
<tr>
<td>Nicholls Street</td>
<td>North Fenton Street</td>
<td>DEVONPORT</td>
<td>Roundabout</td>
<td>$170,000</td>
</tr>
<tr>
<td>Lachlan Road</td>
<td>From Humphrey Street to Lachlan</td>
<td>LACHLAN</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$90,000</td>
</tr>
<tr>
<td>George Town Road</td>
<td>From Newnham Drive to Parklands Parade</td>
<td>NEWNHAM</td>
<td>Median treatment</td>
<td>$35,000</td>
</tr>
<tr>
<td>Nicholls Rivulet Road</td>
<td>From Channel Highway to Kemps Road</td>
<td>OYSTER COVE</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$160,000</td>
</tr>
<tr>
<td>Briggs Road</td>
<td>From Gage Road to Teal Tree Road</td>
<td>HONEYWOOD</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$100,000</td>
</tr>
<tr>
<td>Perth Mill Road</td>
<td>From Arthur Street to Evandale Road</td>
<td>PERTH</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$85,000</td>
</tr>
<tr>
<td>Acton Road</td>
<td>From South Arm Road to Tasman Highway</td>
<td>ACTON</td>
<td>Improved delineation and roadside hazard reduction</td>
<td>$200,000</td>
</tr>
<tr>
<td>Penquite Road</td>
<td>From Hoblers Bridge Road to Amy Road</td>
<td>NEWSTEAD</td>
<td>Median treatment</td>
<td>$80,000</td>
</tr>
<tr>
<td>Invermay Road</td>
<td>From Forster Street to Lindsay Street</td>
<td>INVERMAY</td>
<td>Remove median parking</td>
<td>$200,000</td>
</tr>
</tbody>
</table>