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RADIO BROADCASTS

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- **SYDNEY**: 630 AM
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- **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
Deputy Leader of the Australian Greens—Senator Christine Anne Milne
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

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

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

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

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

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

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

Minister for Home Affairs
Hon. Bob Debus MP

Assistant Treasurer and Minister for Competition Policy and Consumer Affairs
Hon. Chris Bowen MP

Minister for Veterans’ Affairs
Hon. Alan Griffin MP

Minister for Housing and Minister for the Status of Women
Hon. Tanya Plibersek MP

Minister for Employment Participation
Hon. Brendan O’Connor MP

Minister for Defence Science and Personnel
Hon. Warren Snowdon MP

Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation
Hon. Dr Craig Emerson MP

Minister for Superannuation and Corporate Law
Senator Hon. Nick Sherry

Minister for Ageing
Hon. Justine Elliot MP

Minister for Youth and Minister for Sport
Hon. Kate Ellis MP

Parliamentary Secretary for Early Childhood Education and Childcare
Hon. Maxine McKew MP

Parliamentary Secretary for Defence Procurement
Hon. Greg Combet AM, MP

Parliamentary Secretary for Defence Support
Hon. Dr Mike Kelly AM, MP

Parliamentary Secretary for Regional Development and Northern Australia
Hon. Gary Gray AO, MP

Parliamentary Secretary for Disabilities and Children’s Services
Hon. Bill Shorten MP

Parliamentary Secretary for International Development Assistance
Hon. Bob McMullan MP

Parliamentary Secretary for Pacific Island Affairs
Hon. Duncan Kerr MP

Parliamentary Secretary to the Prime Minister
Hon. Anthony Byrne MP

Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion
Senator Hon. Ursula Stephens

Parliamentary Secretary to the Minister for Trade
Hon. John Murphy MP

Parliamentary Secretary to the Minister for Health and Ageing
Senator Hon. Jan McLucas

Parliamentary Secretary for Multicultural Affairs and Settlement Services
Hon. Laurie Ferguson MP
SHADOW MINISTRY

Leader of the Opposition
The Hon Malcolm Turnbull MP

Shadow Treasurer and Deputy Leader of the Opposition
The Hon Julie Bishop MP

Shadow Minister for Trade, Transport, Regional Development and Local Government and Leader of The Nationals
The Hon Warren Truss MP

Shadow Minister for Broadband, Communications and the Digital Economy and Leader of the Opposition in the Senate
Senator the Hon Nick Minchin

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

Shadow Minister for Infrastructure and COAG and Shadow Minister Assisting the Leader on Emissions Trading Design
The Hon Andrew Robb AO, MP

Shadow Minister for Foreign Affairs and Manager of Opposition Business in the Senate
Senator the Hon Helen Coonan

Shadow Minister for Finance, Competition Policy and Deregulation and Manager of Opposition Business in the House
The Hon Joe Hockey MP

Shadow Minister for Energy and Resources
The Hon Ian Macfarlane MP

Shadow Minister for Families, Housing, Community Services and Indigenous Affairs
The Hon Tony Abbott MP

Shadow Special Minister of State and Shadow Cabinet Secretary
Senator the Hon Michael Ronaldson

Shadow Minister for Human Services and Deputy Leader of The Nationals
Senator the Hon Nigel Scullion

Shadow Minister for Climate Change, Environment and Water
The Hon Greg Hunt MP

Shadow Minister for Health and Ageing
The Hon Peter Dutton MP

Shadow Minister for Defence
Senator the Hon David Johnston

Shadow Minister for Education, Apprenticeships and Training
The Hon Christopher Pyne MP

Shadow Attorney-General
Senator the Hon George Brandis SC

Shadow Minister for Agriculture, Fisheries and Forestry
The Hon John Cobb MP

Shadow Minister for Employment and Workplace Relations
Mr Michael Keenan MP

Shadow Minister for Immigration and Citizenship
The Hon Dr Sharman Stone

Shadow Minister for Small Business, Independent Contractors, Tourism and the Arts
Mr Steven Ciobo

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

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

Shadow Assistant Treasurer
The Hon Tony Smith MP

Shadow Minister for Sustainable Development and Cities
The 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

Shadow Minister for Ageing
Mrs Margaret May MP

Shadow Minister for Defence Science and Personnel and Assisting Shadow Minister for Defence
The Hon Bob Baldwin MP

Shadow Minister for Veterans’ Affairs
Mrs Louise Markus MP

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

Shadow Minister for Justice and Customs
The Hon Sussan Ley MP

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

Shadow Parliamentary Secretary for Northern Australia
Senator the Hon Ian Macdonald

Shadow Parliamentary Secretary for Roads and Transport
Mr Don Randall MP

Shadow Parliamentary Secretary for Regional Development
Mr John Forrest MP

Shadow Parliamentary Secretary for International Development Assistance and Shadow Parliamentary Secretary for Indigenous Affairs
Senator Marise Payne

Shadow Parliamentary Secretary for Energy and Resources
Mr Barry Haase MP

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
The Hon Peter Lindsay MP

Shadow Parliamentary Secretary for Education
Senator the Hon Brett Mason

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

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

Shadow Parliamentary Secretary for Immigration and Citizenship and Shadow Parliamentary Secretary Assisting the Leader in the Senate
Senator Concetta Fierravanti-Wells
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Wednesday, 12 November 2008

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

NATIONAL FUELWATCH (EMPOWERING CONSUMERS) BILL 2008
NATIONAL FUELWATCH (EMPOWERING CONSUMERS) (CONSEQUENTIAL AMENDMENTS) BILL 2008

Second Reading

Debate resumed from 11 November, on motion by Senator Faulkner:

That these bills be now read a second time.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.31 am)—It is good to go back to exactly where we are. We are coming to the end of Fuelwatch—if you have seen The Castle, Fuelwatch has ended up heading straight off to the poolroom, straight off to the cabinet. Fuelwatch is going to sit up in the cabinet with GroceryWatch, with the war on obesity, with the war on binge drinking, with the education revolution—it is a very violent party, the Labor Party; a lot of wars and revolutions going on. We have the highest interest rates, the highest inflation and the record lowest consumer confidence—with a $10.4 billion expenditure of our surplus with no modelling. Now we have a motor vehicle package. I hope a bit more thought goes into the motor vehicle package. We have a deficit heading towards us. And the good news is that they have not even been in government for a year yet. This is the sort of government we have got. In the Labor Party poolroom are going to be all the adornments of what a marvellous government it is, what an absolute blessing to the nation this Labor government is.

It is interesting to go back through Fuelwatch. I was just having a bit of a read of the notes and looking at all the people who did not support it. The AAA, the RACQ, the RACV and the RAA in South Australia have all indicated that they did not support it. It was also indicated by the ACCC that figures for Perth motorists were based on buying petrol at prices greater than the average price over the cycle. What was Fuelwatch’s purpose? That is the question that is going to be finally left on people’s lips: what was the purpose of that exercise? The purpose of that exercise was the same purpose as the exercise that Mr Rudd used when he disclosed a private conversation with the President of the United States. The purpose of that exercise was purely and simply the media. That was it; that was the purpose of that exercise. The ramifications of that exercise are complete and utter embarrassment. I see Mr Dimasi from the ACCC waiting for the day when he can let the remnants of Fuelwatch slip into dark, distant memory.

What we can learn out of this Fuelwatch debacle is that we have to watch the Labor Party very closely when it comes to detail because they are lacking. When it comes to detail, when it comes to homework, they are very dangerous in how they actually go about spending our money and delivering a program for the nation. What we learned from Fuelwatch is that if the acumen that they deliver into that program is delivered into how they run the economy, if it is delivered into Minister Carr’s motor vehicle package, we will have the expenditure of funds for no outcome. We believe that we should have a strong and vibrant motor vehicle industry. We just do not believe for one moment, on the record that the Labor Party have presented so far, as ably displayed in the Labor Party pool cabinet, that they have any capacity to actually show diligence and efficacy in outcomes. The Australian people
are going to start looking at the Labor Party pool cabinet, the trophy cabinet in the poolroom, and start asking themselves this question very soon: do these people know what they are up to? There have been so many reviews and programs and so much spin doctoring going on, but on delivery of an outcome that can be discernible, that can be attributable, that can actually show the nation benefit, they have not got one run on the board—not one. Not one thing can they show to the Australian people as a program that worked. But we have the instigation of a multiplicity of marvellous ideas. Anybody can come in here with marvellous ideas, but your capacity to govern is your capacity to deliver an outcome—not the initiation of an idea but an outcome of an idea. Not one outcome has this Labor government so far been able to present to the Australian people.

One outcome that we do have is that we started with a surplus in excess of $20 billion and we have now lost most of it. We are now heading towards a deficit. The Australian people are going to have to go to the marketplace to borrow the money to run a nation which was left in surplus. We will go into the most tenuous credit market in the world to borrow those funds. And think of the profligate waste of money! On 8 December money will be spent in lump sums that will appear in retail therapy, and everybody will be happy to get it. I am not denying for one moment that people are going to be happy to get it. But a lot of it will end up in poker machines and being spent on alcohol. In some areas of our nation, 8 December will be like Guy Fawkes night, the Fourth of July and Christmas all rolled into one. Unfortunately there will be the abuse of alcohol, the abuse of gambling and the assaults and everything that get rolled into that practice. I know because I will see some of it outside my window—I live next door to a pub.

This also is part of Labor Party management. They actually lack the acumen to see the social implications of some of their policies and exactly what happens next when the big lumps of money turn up in certain bank accounts in one fell swoop. This also is a reflection of the lack of Labor Party planning. After the money has been squandered on 8 December, the thought that the people of Australia will have to go to the market to borrow back the money I find absolutely incredible. But it fits well with Fuelwatch. If someone said, ‘Describe the Labor government to people from another nation, another planet,’ I would say, ‘Fuelwatch. That is the Labor Party.’ That is them to a tee. They think it is a marvellous idea, but they have absolutely no conviction whatsoever to bolster the powers of the Fuelwatch commissioner so they could actually do something. It was all rushed, with the ridiculous situation whereby people had to work 36 hours straight towards the delivery of a program with no efficacy or modelling on what the outcome was going to be. Then there was the huge charade, the absolute rubbish of a launch, with all the earnest faces that said, ‘Look at us bringing the price of fuel down.’ That was so insincere when you actually got behind and saw that they did not do the homework. That is the issue that I hope the Australian people start connecting to. The Labor Party do not do the homework. They can spend half the nation’s surplus without doing the modelling. I believe that if you ask them right at this moment, you would find that they still have not done it. This is the sort of management that is now running our nation. The results are so clear.

We are heading towards a deficit. We now have one of the highest inflation rates in recent history. We are now heading towards record growth in unemployment. We now have one of the lowest levels of business confidence on record. We have interest rates
at their highest levels on record. That is certainly a quantifiable and salient picture of Labor Party management. It cannot be attributed to anybody else. If they say that it is unfair, you only have to balance it up with Fuelwatch. And the next fiasco tearing down the path towards us is GroceryWatch. You would think after you made one complete and utter botch up of a job that you would be smart enough to curtail the embarrassment and not continue down exactly the same path in another field. But, no, not only have they botched up the job, they have the arrogance to not be able to reflect on what they have done and improve the process. Fuelwatch today will be taken off to the poolroom to be stored in the trophy cabinet where it will gather dust and be an item of ridicule. Slowly, that Labor Party trophy cabinet in the poolroom will fill up to such an extent that the people who come to visit will ask: do these people know what they are on about? This sort of banal and kitsch policy, which it is, will be seen clearly as the emblem of Labor Party government. The honeymoon is over today, ladies and gentlemen, with the purposeful burial of Fuelwatch. It will be interesting to hear the requiem that is now going to be sung by the Labor Party about the proposed benefits or losses to the Australian people for what could have been had things been different. What any person looking at this has to ask is: why would things be any different when the planning was so completely lacking?

Mr Walker is a classic endorsement of the Fuelwatch package. He was the person in charge of it and he bolted. That is the ultimate indictment of the package. The boss was appointed with such lauding and fervour and one of the first things he did was to run for his life because it was an absolute and utter mangy dog. This has to be seen. But, no doubt, Mr Bowen is going to come up with some other political fascinator to be worn on his head in the near future. We will wait for that and we will treat it with the same contempt with which we treated Fuelwatch.

Senator CAMERON (New South Wales) (9.42 am)—I heard Senator Joyce commence his tirade last night, and I thought it was a bit flippant, a bit lightweight and a bit without substance. Well, it did not get any better this morning. Here is the National Party criticising the government’s economic capacity. Let me tell you that the nation will not be running down to put money into poker machines, they will not all be getting drunk and they will not all be fighting outside the pubs. Our economic security package is there for hardworking families in this country. I think it is an absolute disgrace for Senator Joyce to come in here and flippantly run those tired old lines that people cannot look after themselves and they should not have access to the government security package. Listening to Senator Joyce this morning, you would think that nothing has changed in the world, that we are still in the middle of an economic boom and that there is no economic crisis or no failed banks around the world. Senator Joyce continues with the same claptrap that he went on with for the 11½ years that the Libs were in government.

I will now turn to the National Fuelwatch (Empowering Consumers) Bill 2008. I appreciate the opportunity to participate in this debate. This is an extremely important bill that will provide significant benefits to the Australian public. The public are entitled to get some access to information on where the cheapest fuel is; it should not be just the public who do not have access to information. Fuelwatch will go directly to the problem of the lack of information available to consumers. It will provide detailed information to consumers. It will not leave us with the current situation whereby the only detailed advice or information on petrol prices belongs to the producers, the wholesalers and the
retailers. This inequality of information is described in economic terms as ‘information asymmetry’. We did not hear any argument about this economic issue from Senator Joyce; we just heard a flippant rant about the government. Joseph Stiglitz, who won the 2001 Nobel prize for his work on information asymmetries in the market, put it this way:

Efficiency requires that information be freely disseminated. The private market will often provide an inadequate supply of information … there are various market failures associated with imperfect information …

That is exactly the position that the Australian public find themselves in in relation to fuel. The public do not have access to the breadth and depth of information available to the big oil companies, the wholesalers and the retailers. Yet we are going to see Liberal senators get up and argue that the public should not have access to information while their mates in big business, their Maserati-driving mates who do not need to find cheap fuel, have better access to information than the Australian public do.

The public are expected to predominately rely on petrol station billboards—that is the Liberals’ answer to Fuelwatch—which requires the visual sighting of a number of billboards at different petrol stations to establish the lowest price amongst that range of petrol stations. That is what the Liberals are saying to the Australian public: you depend on the billboards and let the retailers and big business have access to minute-by-minute information on petrol prices which you will not get. The public have to rely on an extremely inefficient, time-consuming and—for most of the public—frustrating exercise to find cheap fuel. During a Senate Economics Committee inquiry the cheap fuel day was described as ‘magic Tuesday’. Nobody could explain during any of the committee hearings that I was involved in how magic Tuesday worked. Magic Tuesday, in my view, is a manipulation of the market. It gives big business a very big incentive to make sure petrol prices stay high. Nobody could explain to me whether magic Tuesday was about black magic or white magic. Everybody knew magic Tuesday was there, but nobody could explain how it worked. Yet the Liberals want magic Tuesday to stay. I do not want the Australian public to have to face magic Tuesday, the black magic of big business, supported by the Liberals, keeping proper information from the public.

It is interesting to note that the Australian Competition and Consumer Commission have commented on this information asymmetry and its potential to distort the market in favour of the petrol industry. The industry uses a private company, Informed Sources, to provide instantaneous advice on movements in petrol prices to it. Using Informed Sources is an extremely expensive proposition that is beyond the reach of the general public and even a lot of businesses within Australia. Evidence was given to the committee in Rockhampton by Mr Steve Marshall of WIN Television—and WIN Television would not be the poorest lot around and not the poorest company in the country—that the cost of obtaining price information was extremely high. WIN Television wanted to provide a community service in the Rockhampton region. They conducted their own surveys. But Mr Marshall told the Economics Committee it was going to cost ‘an extraordinary amount of money’ to pay Motor Mouth, which is a subsidiary of Informed Sources, to collate that information for WIN Television. He said they were quoted $50,000 per year per market to get access to the information that is available to big business. All WIN Television wanted to do was provide that information to the community of Rockhampton. As WIN Television cover five Queensland markets, it would have cost them...
$250,000 to participate in the Informed Sources program.

This demonstrates that, if you have money and power, you can participate in the Informed Sources program to give you an advantage in the market. That is what the Liberals are going to stand up here today and support: an advantage for big business, an advantage for the retailers and a disadvantage for ordinary Australians. If you are an ordinary consumer, according to the Liberals, you are to depend on the billboards. But if you are one of their big business mates, you can spend money and get access to the computer technology that lets you manipulate the market. If you are a small independent petrol station operator and you cannot afford to participate in the Informed Sources program, you have to either hope for the best or seek to conduct your own local survey of prices at significant cost to your small business.

This is not a good system. This is a system that the Liberals wanted to continue. This is a bad system. It is a system that provides benefits to the business users of Informed Sources and, in my view, disadvantages Australian consumers. This is what the government wants to fix. We want to deal with it in an economically credible manner. We want to deal with the information asymmetry. We do not want to deal with the rant that we heard from Senator Joyce. The unfair advantage that business has over consumers has prompted the ACCC chairman, Graeme Samuel, to comment on the current system. He said that while the use of Informed Sources information by large retailers was not illegal—and I say that in inverted commas—it could be described as being as close to illegal collusion as you can get. So what do the Liberals want? They want ordinary Australians to depend on the billboards, and they want their big business mates to have access to illegal collusion to disadvantage ordinary Australians. Fuelwatch will move the retailing of petrol from a system which is close to illegal collusion to one which is open and transparent for the Australian public. Why should the Australian public not have an open and transparent system? Why should the Australian public not have access to the same information that big business has? Do you know why? It is because the Liberals do not want the Australian public to have access to that information. It is an absolute disgrace.

Concern has been raised about the 24-hour rule, which requires companies to lock their prices in for 24 hours. There has been an argument put that this would be anticompetitive and that it would distort the market. There was no substantive argument put to the committee in support of this unfounded proposition. The people who argue this proposition are the same people who take advantage of the collusion that now goes on in the industry at the expense of ordinary Australians. I expect it is also supported by the mates of big business on the other side, the Liberal Party. To the contrary, on this proposition, evidence from the ACCC, the NRMA, the Western Australian Department of Consumer and Employment Protection, Professor Wang and Commerce Queensland supported the 24-hour rule. The NRMA said:

By having to quote fixed fuel prices for a 24 hour period, petrol retailers will have to make better judged and more competitive choices on fuel prices.

Thus the pressure comes back onto the retailers, not the consumers. Professor Wang, an international expert on fuel prices, said:

The disincentive to be the first to hike price is much greater under the 24-hour-rule. Without the rule, the price leader for a cycle knows that once its price is hiked, other firms can respond very quickly (within hours) by hiking their prices as well. If other firms do not respond quickly, the price leader can quickly retract its price hike to avoid losing much market share. However, under
the 24-hour-rule, after a price leader hikes its price, other firms cannot respond within 24 hours. The price leader has to lose market share for an entire day—it cannot retract its price hike either.

Senator Joyce’s rant this morning suggested that we were not dealing with economic reality. The economic reality is that the Treasury, via evidence from its executive director, Mr Jim Murphy, has clearly said that it is in support of the need to provide consumers with some counterbalance to the unfair advantage that petrol retailers have by their use of Informed Sources. So it is collusion. It is an unfair advantage. That is what the Liberals are standing up to support this morning: maintaining a position that disadvantages Australian consumers. Jim Murphy, from Treasury, said this:

Realistically, if you want to get the best deal you can for Australian consumers, you have to start looking at getting pressure coming, at the grassroots level in my view, from consumers to be seeking out the best prices for petrol. Hopefully they will then put pressure on the retailers to actually compete more aggressively in the supply of petrol. The only way you can do it, given the introduction by the retailers of this informed sources device or mechanism, is to actually try to redress that and get an energetic consumer awareness out there.

How do you get energetic consumer awareness out there? How do you try and get this disadvantage against consumers dealt with? You do it with Fuelwatch. If there are other issues that are problems in the industry, they should be raised and dealt with, but what we can do immediately, in the short term, is to even up the disadvantage that ordinary Australian consumers have against big business in this country in the retail petrol industry and give them access to the same information that is available to big business.

I am sure we will hear the same refrain from the Liberals here this morning about the econometric modelling, so let me turn to that. Opponents of Fuelwatch have asserted—in the absence of any evidence—that the scheme led to higher petrol prices in Western Australia. The reason for this assertion was never put in a proper manner to the committee. The reasons were never stated. In the face of the criticism, the ACCC conducted a model of the Fuelwatch scheme to test the assertions that had been put by those opposed to putting more market information in the hands of the consumer. The overall conclusion of not only the ACCC study but also of the analysis done by Professor Harding, Professor Davidson, Access Economics and Concept Economics, is that, since the Western Australian Fuelwatch scheme was introduced, the average retail margin in Perth relative to other mainland capitals had fallen. This was the evidence that was put forward, and what the Liberals want to do is to deny consumers access to the information that is paid for by big business in order to give them an advantage over ordinary Australian consumers. It is an absolute outrage.

It was clear that the wild fluctuations in fuel prices that had characterised the petrol market in all the capital cities no longer existed in Perth. So what the econometricians really argued about was whether Fuelwatch, some other factor or a combination of factors contributed to this highly beneficial phenomenon in Perth. Let me tell you what we heard from some of the econometricians in their arguments to the committee. They said that Perth is just different from the rest of Australia.

Senator Mark Bishop interjecting—

Senator CAMERON—It might have been their strongest point. They said that Western Australians think differently to Victorians; that Melbourne is in a valley and Perth is not; that Melbourne is the home of Coles Myer; that the introduction of the GST had different effects in WA than it had in the rest of the country; that there is only one
refinery in Perth; and that Perth is closer to Singapore than the rest of the country is. The committee was left to determine what effect any of these factors have had in WA, if any.

The ACCC found that the introduction of Fuelwatch in WA had had the effect of dropping the retail margin by 1.9c per litre. The ACCC’s conclusions are supported by Treasury, which found their methodology ‘reasonable, valid and robust’. Professor Joshua Gans described the ACCC’s work as ‘a far more rigorous investigation of the WA scheme than anyone had ever done’. These were the facts that were before the committee, and all the support for big business to have an advantage over Australian consumers will not hide the facts about the need for the Fuelwatch scheme for the benefit of ordinary Australian consumers. If the Liberals want to protect their big business mates, they should be upfront about it. Do not hide behind some crook econometric modelling. Do not hide behind an argument that says this is bad for consumers. Because none of those points can be sustained. None of those points were argued with the committee. This is a good thing. Fuelwatch will be good for the economy and good for consumers. It will fix up the information asymmetry in the industry and give ordinary Australian consumers a good old Australian fair go. (Time expired)

Senator ABETZ (Tasmania) (10.02 am)—It is apt and fortuitous that the Senate is discussing the National Fuelwatch (Empowering Consumers) Bill 2008 and related legislation on the eve of the first year of Rudd Labor. It is apt because the Fuelwatch legislation typifies Rudd Labor’s first year in office, and it is fortuitous we are debating it because it allows us to summarise the ever-emerging flaws in Rudd Labor. When people think of Rudd Labor they think of overpromising and underdelivering. They think about spin over substance. Senator Mark Bishop—They think of progress; they think of change and progress.

Senator ABETZ—They think about the abuse of the Public Service for political purposes. They think about the manic prime ministerial behaviour. They think about policy based evidence rather than evidence based policy. And they think about abuse of parliamentary processes. Fuelwatch is all that and more, wrapped up in this one packet of legislation.

During Mr Rudd’s desperate attempt to win the election, he made promises to the Australian people he must have known he could not keep. Mr ‘I feel your pain’ Rudd told Australians he would reduce petrol prices for them. He has not. The only way he could have done so would have been by reducing the excise tax, but the only positive move to reduce petrol prices was deliberately rejected by Mr Rudd and Labor.

Senator Carr—And Mr Turnbull.

Senator ABETZ—The coalition would decrease petrol prices by reducing the tax by 5c per litre.

Senator Carr—Turnbull’s going to drop it and you know it.

Senator ABETZ—Every Australian knows that, if the coalition were in power, petrol would be 5c per litre cheaper.

Senator Carr—What happened to Turnbull’s promise?

Senator ABETZ—So, despite all the electioneering and promising of reduced petrol prices by Labor, it is only the coalition that has a decisive plan to reduce the burden that pensioners—

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Order! Minister Carr and Senator Bishop, could you restrain yourselves for a moment to allow Senator Abetz to continue.
Senator ABETZ—Thank you, Mr Acting Deputy President. We are not at Trades Hall at the moment. So, despite all the electioneering and promising of reduced petrol prices by Labor, it is only the coalition that has a decisive plan to reduce the burden of petrol prices for pensioners, wage earners, small business and, indeed, everyone.

Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Abetz is entitled to be heard in silence.

Senator ABETZ—Mr Rudd promised to reduce petrol prices. He has not. Labor has failed and broken this fundamental pledge, like Labor has done with grocery prices. So Mr ‘I feel your pain’ Rudd has failed to provide pain relief through price relief at the bowser. The coalition has the plan and the will to ease the burden.

Another hallmark of Labor is the triumph of spin over substance, and Fuelwatch is the exemplar of spin over substance. First we were told that Fuelwatch would reduce petrol prices by 1.9c per litre. Then it was to be 2c per litre. Then we had the hapless Fuelwatch commissioner—remember him?—saying it would be 5c per litre. Then we were told Fuelwatch was not even about reducing petrol prices. And then we had the Treasurer, in a most desperate and quite pathetic effort, claim that savings of $10 per tank, or 20c per litre, could be achieved. And all these quite ridiculous and misleading claims were made in the face of all the evidence clearly indicating the contrary and, indeed, suggesting that prices would increase under Fuelwatch.

So overtaken by spin were Labor that they spent $100,000 of taxpayers’ hard-earned funds to develop a logo for Fuelwatch—before it was even passed through this place. Before the legislation was passed, they arrogantly concentrated on getting a slick logo to help us overlook Fuelwatch’s failures. I could have saved Labor that $100,000, because a perfect logo for Fuelwatch would have been the visage of Mr Rudd wearing a dunce’s hat with a big ‘F’ on it—F for failure, F for fatally flawed, F for foolish or F for ‘foolwatch’! Take your pick, the logo would be a great and accurate descriptor.

Throughout this disastrous process, we also witnessed the shameful and unacceptable abuse of the Public Service. We had Treasury trying to advocate for Fuelwatch before the Senate Standing Committee on Economics when we know that they, along with three other senior economic departments, had advised the government against Fuelwatch because it was so badly flawed. But Labor forced these public servants to appear before committees to support Fuelwatch against their advice to the government. They also forced individuals in Treasury to work 37 hours around the clock to get this legislation ready for tabling. Why? What was the urgency of it? We still do not have an answer despite that question being raised at Senate estimates.

Why was it done? It was done to answer the coalition’s popular and highly regarded budget response to reducing petrol prices. Mr Rudd unconscionably forced Treasury and other officials to work 37 hours straight in a pathetic attempt to regain the political agenda. There was no imperative other than Mr Rudd’s partisan political agenda. It was an abuse of the Public Service, which is totally and utterly unacceptable. This behaviour links in with Mr Rudd’s quite bizarre and manic predisposition. Why would any self-respecting Prime Minister make such a bizarre and manic demand of his Public Service to prepare, in 37 hours straight, that which the department itself had recommended against? It was simply for politics and for no other reason.
What was the reason the departments recommended against Fuelwatch? The evidence did not support the policy. Having promised evidence based policy during the election, Labor again broke faith with the Australian people and embarked on Fuelwatch, deliberately ignoring the wealth of evidence against it. In desperation, Labor even abused the parliamentary process of the Senate committee system. We got an urgent interim report in August because of an alleged urgency to get this report out to the community. That was in August. And here we are, three months later, debating it. The government could have brought this legislation on for debate in August if they had wanted to, but they did not. They made bureaucrats work 37 hours straight to get the legislation ready—because it was so urgent it had to be rushed—and now we have had a hiatus of three months. What happened to the urgency?

Even more concerning was the maltreatment of witnesses and the deliberate misquoting of evidence in the Senate economics committee report. Labor did not cherry-pick the evidence; they manufactured it. Witnesses wrote into the committee complaining of exactly that. It was not only the Australian Institute of Petroleum—who you might think may have had a vested interest—that made a complaint. The respected Royal Automobile Association of South Australia made a similar complaint. If there is one thing the Royal Automobile Association of South Australia are concerned about, it is representing the consumers—the petrol buyers—in South Australia. And they themselves were moved to write to the Senate committee to object to the way that the evidence had been mishandled, mistreated and, I would say, distorted. Although urgency was claimed in relation to bringing down the interim report, the final report was tabled two weeks after it could have been tabled in this place. There was no explanation from Labor as to the reason for that, and I think the Senate is entitled to one. What all this highlights is that Labor will stop at nothing to pursue their flawed agenda.

Let us now turn to Fuelwatch proper. This $21 million impost on Australia’s taxpayers will, if anything, increase petrol prices and not reduce them. Indeed, the one independent fuel provider quoted by Labor senators in the Senate economics committee report into Fuelwatch said that he favoured Fuelwatch—and that is where Labor stopped the quote, of course. They did not go on to tell the readers of the report why this independent vendor of petrol supported Fuelwatch. And do you know why it was? It was because Fuelwatch would increase his margins; he would make more money out of Fuelwatch. But the Labor senators deliberately cut and pasted the quote to make it read as though there was an independent fuel provider who actually supported Fuelwatch. The only one who supported it did so on the basis that he was of the view that he could make even greater profits. Who do you think would bear the consequence of that? The petrol-buying public of Australia—the consumers of Australia. That is why I compliment Senator Xenophon on his very strong stance against Fuelwatch. If there is one state and one lot of consumers in this country who would suffer very heavily under Fuelwatch, there is no doubt that it would be South Australia and the petrol buyers of South Australia.

The one place where Fuelwatch does operate, Western Australia, has been unable to provide any proof that there is in fact a reduction in price in that state. What is more, when we as a committee were over there in Western Australia asking questions of that department, they admitted as much. They agreed that they could not point to a price reduction for Western Australian consumers as a result of Fuelwatch.
I must say that the conversion of the ACCC to supporting Fuelwatch after years of opposition and ridiculing of Fuelwatch smacked of the adoption of the government’s agenda. To change their mind so conveniently around the time of the change of government in November last year does not build confidence or trust in the ACCC’s objectivity. Indeed, if we accept their evidence now, it leaves big questions over their previous advice to the Senate committees.

Senator Carr—Here we go. This is more abuse of the Public Service, is it? More abuse of the Public Service!

Senator ABETZ—They cannot have it both ways. I can accept that they have come to this view and have now been converted along the road to support Fuelwatch, but what it shows is that all their previous reports and discussions on Fuelwatch have been flawed. As a result, one has to question the robustness of the way that they approach their business—and that is the point that I am seeking to make.

Confronted with the ACCC’s new approach, we have to balance against that four independent Public Service departments that all recommended against it. And, of course, now, thankfully, Senator Carr has stopped his interjecting, because I am sure he would have been at the cabinet meeting where those four departments’ recommendations against Fuelwatch were presented. Despite all the evidence against Fuelwatch, he and other Labor ministers in cabinet voted for Fuelwatch for one simple reason. It was for politics—for the spin—not the substance, because cabinet ministers were told by their own departments that there was no credibility to the claim. Then, of course, on top of the view of the four departments, you have got such distinguished people as Professor Don Harding, Mr Henry Ergas and Associate Professor Frank Zumbo—whom I see in the gallery and who has shown very real interest. When you combine all that evidence, and the late conversion of the ACCC as the only ones who actually support Fuelwatch, I confess that I do have some questions about the way that they have arrived at their conclusion.

But, above all, Fuelwatch would be, without any doubt, anticompetitive. Retailers could not reduce their price for 24 hours because, if they did, they would be fined. How could that be of benefit to Australian consumers? Of course, it would not be. It cannot be and it never will be. Fuelwatch will overwhelmingly hurt the small independent operator and the small chains. Interestingly, the supermarket chains seem quite comfortable and relaxed with Fuelwatch. Yet Mr Rudd disingenuously inserts into the public debate that somehow the opponents of Fuelwatch are the friends of big oil. I can tell you that the Senate Standing Committee on Economics heard time and time again from independents and the small chains that they were opposed to Fuelwatch and the big companies told us that they could live with Fuelwatch. Who is on the side of big oil? But, once again, it is all about spin—say whatever you like and hope you can get away with it. That is where the importance of these Senate committees comes in, because we can unravel the spin and get to the substance. What we have done in this case is expose the huge flaws in Fuelwatch.

The legislation will impose penalties—and this is interesting—as of 30 November 2008 on those retailers not providing price information. Today, if I am correct, it is 12 November. There are 18 days to go before its implementation, and the small operators will have to be set up for that. I hope, without reflecting on or suggesting the way the Senate will vote, that this will not happen—and I suggest to the Senate that it cannot happen. Interestingly enough, though, Labor have got...
a logo in place but not the mechanics to make it work. So they have got the spin in place but they do not have the substance in place. That is the hallmark of the Rudd Labor government—spin above substance each and every time.

It is time for Labor to level with the Australian people. Labor should say they should never have made their promise about reducing fuel prices—a promise they knew they could never keep. They should also acknowledge that all this Fuelwatch nonsense was about trying to create an impression of taking action rather than actual action. Labor should admit their spin contained no substance. Labor should repay the Australian people the $100,000 wasted on developing a logo for Fuelwatch.

Hopefully, today, Fuelwatch will be laid to rest. Fuelwatch has been running on empty now for a very long time. Labor, still sitting at the wheel, despite the needle being on empty, think they can still drive this vehicle. Well, it has been on empty for a long, long time, and I think later on today, hopefully, we will see Fuelwatch coming to a spluttering halt. That is what happens if you keep trying to drive on empty for too long. That is a lesson that I hope Labor will learn from this exercise. The people have a right to be angry with Rudd Labor. They are right to be angry over the electoral deceit, the spin, the waste of money, the abuse of the Public Service, and the overpromising and the underdelivering.

I conclude as I began: the exercise of Fuelwatch provides us with a great insight as we approach the first anniversary of the Rudd Labor government. It provides us with an insight as to how Rudd Labor does business: overpromise and underdeliver. Spin first; do not worry about the substance. If need be, manufacture the evidence. If need be, have policy based evidence rather than evidence based policy. This has become the hallmark of the first year of Labor in office, and Fuelwatch embodies all those fatal flaws of Rudd Labor. That is why, sad as it is that the Senate has to be debating Fuelwatch, it does provide an excellent window into the operations of Rudd Labor. Fuelwatch is a dud and should be opposed. (Time expired)

Senator MARK BISHOP (Western Australia) (10.23 am)—I rise, proudly, in support of the National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008. As a Western Australian, I believe I can speak with some authority on the intent of these bills. The reason for that is that Fuelwatch has operated in metropolitan and regional areas in Western Australia since January 2001, so we have had almost seven years of comprehensive experience of how Fuelwatch operates and the benefits it provides to consumers in Western Australia. Fuelwatch in Western Australia was introduced by the Court Liberal government in response to a select committee report. Since that time it has been supported by both the Gallop and Carpenter Labor governments and it will be maintained by the Barnett Liberal government.

So how does Fuelwatch work? At 2 pm petrol retailers are required to provide a price at which they will sell petrol the next day. At around 4 pm that information is available on a website. Fuelwatch also operates a personalised email service. On evening news bulletins, information on the cheapest petrol prices and the suburbs that have the cheapest petrol prices is listed for viewers. The information is also available regularly and readily on radio, and the next morning the daily paper also lists the daily petrol prices. It is an extraordinarily popular scheme. Why? Be-
cause motorists know what petrol prices will be for that day. If there is going to be an increase, they have 14 hours to decide whether they need petrol and to take advantage of the lower price. Consumer surveys have reported that over 90 per cent of Western Australian motorists are aware of Fuelwatch. A Royal Automobile Club of WA—the RAC—survey shows that 57 per cent of motorists use the service. Over 32,000 motorists receive daily emails on petrol prices. The point is that almost all motorists are generally aware of the range of petrol prices on any given day.

Much has been made about how supplying pricing information to motorists will lead to a reduction in competition, but that has not been the experience in Western Australia for the last seven years. Pricing information in the eastern states is available but you have to pay for it. Large petrol retailers subscribe to a company called Informed Sources, which collects information on petrol prices in defined geographic areas. Updates are then provided to large retailers several times a day. Informed Sources was not willing to disclose the cost of collecting data on retail prices throughout the day or what it charged its clients for the service. I would imagine that it is rather an expensive service. Apparently the company relies heavily on people driving from service station to service station to get the information. So what we have are large petrol retailers with information on competitors’ prices throughout the day. If their competitors are cheaper, they drop their prices. But what if their competitors have a higher price? Do they maintain the price advantage they have or do they make a decision to maximise profit? It is a fair question that is difficult to answer because petrol prices can change throughout the day.

I understand it is common for someone who is looking for the best price on their way to work to find that the same retailer is not the cheapest on their way home. Receiving updated information on petrol price fluctuations throughout the day is not an illegal practice; however, the ACCC has described it as being ‘as close to illegal collusion as you can get’. Fuelwatch, by comparison, will provide retailers and motorists alike with up-to-date and accurate information on petrol prices in their particular suburb. The information would also be available to independent retailers who, I understand, are not regular subscribers to Informed Sources. It is my understanding that independents drive around a few times a day and do their own research on local competition. However, by far the greatest advantage is that Fuelwatch will provide motorists with information on what petrol prices will be tomorrow, not what they were half an hour ago.

There is considerable merit in a national Fuelwatch scheme. The Senate was not so sure about that and referred the matter to the Senate Standing Committee on Economics back in June 2008. Unusually, the committee was told not to report until 29 September 2008, and that report was tabled around the middle of October. The report properly recommended that the Senate support the introduction of a national Fuelwatch scheme. It also recommended that a review of the scheme be undertaken 12 months after its introduction and the data collected by Fuelwatch be released to independent academic researchers.

But, in what has become common practice, those opposite have chosen to issue a dissenting report. Their main opposition to the plan is that watching fuel prices will not bring them down. What an obvious comment to make. What an obvious theme to have in their report. Clearly the opposition do not understand the intent of the bills, which is to provide consumers across Australia with information on the price of petrol at each service station in the metropolitan and major regional areas every day.
The value of the scheme comes from its utility. The utility lies in the fact that every evening on each of the major news bulletins there will be 30 seconds in which the price of petrol by suburb and by retailer will be disclosed. The price will then be fixed for a 24-hour period so that we as consumers will know that, for example, tomorrow the cheapest fuel will be available from Caltex in Belmont. The utility, the drive, lies in the disclosure. Disclosure leads to price competition, price competition leads to consumer choice, and consumer choice leads to maximisation of welfare. The benefit of disclosure is that it is an aid to effective price competition. Consumers will be able to ask the most obvious of questions: why? Why are petrol prices 20c a litre higher in an outlet 300 yards away from another? Why is there a 20c a litre differential? This in turn will require responses from major wholesalers and fuel companies to justify to the public their price settings and margin settings. Again, it will assist in the elimination of hyperbole, disinformation, misinformation and outright lies about a product critical to industry and households alike. The bills will also give compliance and enforcement powers for the scheme to the ACCC.

There are many critics of this scheme. They are found only on the benches opposite. However, there is no—and I quote from the dissenting report—’overwhelming evidence that it provides a greater certainty of higher prices’. The truth is that price volatility does not equal competition, that weekly price cycles cannot guarantee motorists get the best price if they fill up on a Tuesday and that supermarket shop-a-docket discounts have not led to a measurable increase in competition in petrol prices. I quote from the dissenting report:

The evidence also suggested that a national scheme would adversely affect the position of independent retailers, making the market less competitive.

The truth is that there is the same percentage of independent retailers in the Perth market as in other capital cities and that they are not disadvantaged by fixing petrol prices for 24 hours. Motorists and independent petrol retailers in my home state support Fuelwatch and want it to continue. And, in the Western Australian experience, the Fuelwatch scheme has received for the last seven years, with different governments, bipartisan support.

Coalition members recommend in their dissenting report that the bills be opposed. My question to those opposite is: why is it only motorists under a Liberal government that are permitted to enjoy the benefits of a Fuelwatch scheme? This is a scheme that will empower motorists to make informed decisions about where and when they fill up their cars. It will increase the reliability and certainty of fuel price information for motorists every day of the week, and it has done so every day of the week for the last seven years. It will also provide motorists with information that in most Australian cities is only available to large petrol retailers.

In summary, Fuelwatch is a scheme that was championed by the Court Liberal government in 2000. It was supported by the Gallop and Carpenter Labor governments. And in the lead-up to the last state election, barely two months ago, Mr Barnett—now the Liberal Premier for Western Australia—said he would not tamper with the existing state Fuelwatch scheme. As late as 3 October 2008, the daily paper in Western Australia reported the Liberal state Treasurer as saying that he had received advice from his department, the Department of Consumer and Employment Protection, that Fuelwatch in Western Australia was working successfully. He went further and said to the West Australian that allowing petrol stations to lower their prices on the same day to match those
of their competitors would ‘undermine the integrity’ of the system. He also said:

What Fuelwatch does is provide information to consumers to allow them to make decisions as to where they buy their petrol …

That is precisely what the national scheme is intended to do, it is precisely what the national scheme wants to do and it is precisely what the national scheme, if enacted, will do. It will provide information on a website and through reports in the media on the price of petrol for the next day. It will allow consumers to identify when and where to buy fuel at the lowest price.

It is incomprehensible to argue that competition will be eroded by fixing the price of petrol for a 24-hour period. It is incomprehensible to argue that a motorist who stumbles across a retailer offering a lower petrol price at, say, three o’clock in the afternoon is participating in a competitive process. Fuelwatch will provide a competitive environment because it will allow motorists to buy the cheapest petrol at the cheapest petrol stations at the cheapest times. You cannot ask for a better scheme. There will be no guesswork involved in picking the best time and place to get the best price. Fuelwatch is not a silver bullet that will lower petrol prices, but it will ensure that drivers do not pay one cent more than they have to or one cent more than they choose to. The government has committed to a review of the effectiveness of the national Fuelwatch scheme after 12 months. I am betting that consumers across Australia will be as supportive as those in Western Australia. I commend the bills to the Senate.

Senator XENOPHON—Here we go. Senator Conroy asks: why do I hate Australian motorists? I love Australian motorists. Senator Conroy should know that I want to do the right thing by consumers, and that is why I have taken the position that I have.

Senator Conroy interjecting—

Senator XENOPHON—Just as I have listened to other speakers in silence, I hope that Senator Conroy can afford me the same courtesy.

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Order! Senator Xenophon, you have the call.

Senator XENOPHON—Thank you, Mr Acting Deputy President—that is apparent to me but not to others! It is a matter of record that I was initially attracted to the idea of Fuelwatch when I was a member of the South Australian parliament. That was in 2004, and the initial indications from Western Australia were that the scheme could help motorists. I was subsequently contacted by the RAA, the peak motoring body in my state, which cast serious doubts about whether such a scheme could assist in reducing retail petrol prices. And, just as significantly, I was contacted by independent petrol retailers who told me unambiguously that Fuelwatch could well squeeze them out of the market because small players could not spread the risk if they locked in a price for 24 hours and got it wrong, compared with the larger operators who had the financial muscle to be able to do that. The independent operators told me that the most effective way to make a difference with fuel prices at the pump would be to tackle the wholesale market and the stranglehold that the big four oil companies have in this country over the supply and distribution of fuel.

I subsequently moved for a select committee inquiry into the wholesale fuel market in
South Australia and the impact the mothballing of the Mobil Port Stanvac refinery and storage facility was having on consumers. The evidence that that inquiry heard was clear. It showed that consumers could get a benefit of some 4c a litre, possibly more, if the wholesale market was freed up and made more competitive. So in a sense I agree with Minister Bowen’s intended policy destination—to reduce the price of fuel. Where we differ is on the best path to achieve that. At this stage I want to thank the minister for his time in discussing this issue with me. I am also grateful for the meeting I had with ACCC chairman Graeme Samuel a few weeks ago on this issue, when Mr Samuel well articulated the ACCC’s views in support of Fuelwatch. But, after significant research and discussions with motoring groups such as the RAA in my home state, and after talking with independent fuel retailers, I am convinced Fuelwatch is a bad idea.

I note that the RAA, the RACV and the RACQ do not support Fuelwatch. The RAA, in its submission to the Senate inquiry on this issue, stated that by forcing retailers to lock in prices for a full 24 hours you actually flatten the price cycle and reduce the opportunity for motorists to seek out a bargain. To quote directly from the RAA submission:

RAA has long opposed the introduction of a Fuelwatch scheme into South Australia (1) due to the absence of comprehensive modelling which shows South Australian motorists would benefit from such a scheme; and (2) on the basis that Adelaide’s retail market is highly competitive and operates under a distinct and predictive weekly discount cycle. Indeed Adelaide’s discount cycle clearly demonstrates that the price available at the bottom of each week’s cycle (Tuesdays) is consistently lower than those prices likely to be available under Fuelwatch.

The RAA goes on to conclude:

Analysis of current pricing data suggests SA motorists would be no better off should a national Fuelwatch scheme be introduced. In fact, such a scheme has the potential to deliver higher fuel costs.

Mr Acting Deputy President, I want to achieve a reduction in the retail price of fuel. And I believe there are significantly better ways for the government to achieve this than by running a Fuelwatch scheme. One way forward is that the whole issue of oil retail prices needs to be simplified. Price boards are almost written in code these days, and motorists are the ones being left confused or, worse, misled. I believe the ACCC should work with petrol retailers to develop a price board protocol to minimise confusion amongst motorists. So-called discounted prices can be deceptive. If you do not have a discount docket, what is the price then? Sometimes the discounts are 4c, sometimes they can be 20c—depending on whether you have gone to an associated liquor outlet. Sometimes it is not a true discount—if the retail price is inflated, as it has been in recent times. How can motorists really know what they are going to be paying? But that is at the retail end. It is important, but it is not the main game.

I believe that, if the government is serious about helping motorists, it needs to be tackling the wholesale market. It is here that significant savings can be achieved. We need to inject new competition at the wholesale level. This means opening up the current buy-sell arrangements between the big four oil companies to competition rather than letting these arrangements continue to operate as a cosy club between the oil companies to the detriment of independent retailers and to the detriment of motorists. We need to open up access to terminal and storage facilities, controlled by the oil companies, to inject new competition into the market. Without access to these facilities importers simply cannot get the product into Australia to help break the oil companies’ stranglehold over the wholesale fuel market.
Associate Professor Frank Zumbo, from the Australian School of Business at the University of New South Wales, has made a number of recommendations to tackle this vexed issue, including, firstly, introducing complete transparency surrounding the wholesale-pricing practices of the oil companies, including transparency about the level of preferential pricing given to Coles and Woolworths and the level of discrimination faced by independent service stations; secondly, having an immediate review of the current operation and possible abuse of import parity pricing; thirdly, giving the ACCC the power under the Trade Practices Act to formally monitor LPG and diesel prices; and, finally, the government immediately strengthening the Oilcode regulations under the Trade Practices Act to ensure independents continue to play an important and competitive role in the retail market. On this I note the work of Minister Ferguson in reviewing the Oil Code. That is important because the Oil Code needs to be reviewed and reformed to give the independent operators a fighting chance.

I had a discussion with Professor Zumbo earlier this morning and I believe that these recommendations have real merit. I also want to refer to the removal of the ‘sites’ act from our legislative framework several years ago. It was supported—and I believe shamefully—by both the coalition and the Labor Party. It was opposed by some crossbenchers, including Senator Joyce, who crossed the floor to oppose the abolition of the sites act. The sites act had a ceiling of five per cent on the control that oil companies could have over petrol sites. That has been lifted. We are now seeing a slow, creeping but steady acquisition of sites and a greater degree of vertical integration in the market.

So when the government talks about trying to do something at the retail level, that to me just does not cut it. It does not address the fundamental issue that, where the wholesale price can be manipulated and is less competitive than it should be, that obviously impacts on the retail price. That is what we need to do. We need to have real transparency at the wholesale level. Without this transparency we will never know if the pump price is a fair price.

I refer you to a 20 October article in the Age by economics correspondent Peter Martin entitled ‘Petrol giants quizzed over margins’. The article reported that petrol prices had fallen by less than 14c a litre at a time when the international oil price had more than halved. Even after factoring in the slide in the Australian dollar, the crude oil price had fallen from a peak of $153 a barrel in July to $100 a barrel back on 20 October. Whilst I accept that there are a number of factors at play, the question has to be asked whether consumers are getting the full benefits of a reduction in world oil prices. I and many other Australians would suspect not.

In reference to the raw deal independent fuel outlets are getting in the current market, can I say that just a few days ago in Sydney Marie El-Khoury, the owner of the BP petrol station on Sunnyholt Road, Blacktown, received enormous community support when she and other independent operators took on the big four oil companies. She slashed the unleaded petrol price to 94.5c a litre in protest against the petrol companies and supermarkets, which she says are killing small business enterprises. Yesterday in Adelaide a number of independent fuel outlets made similar complaints about this unlevel playing field.

Recently I met with the Petrol Commissioner designate, Joe Dimasi. It was a good meeting and I certainly wish Mr Dimasi well in his new role. One of the issues I would urge him to investigate is whether oil com-
panies are passing on the full extent of the drop in world oil prices.

The Motor Trades Association of Australia also supports real transparency at the wholesale fuel level. They are also seeking a review of import parity pricing in the way that the benchmarks are set.

I am strongly committed to cutting the cost of petrol for motorists, but Fuelwatch is not the answer. I support the RAA when it says 'there is more merit in looking to expand the availability of real-time pricing information to motorists rather than introducing a national Fuelwatch scheme'. The RAA said:

This option would make real-time price information available to the public for each petrol retailer—ideally through a website managed by the ACCC and/or utilising the Australian automobile clubs.

There has been a suggestion that those who do not support Fuelwatch support the big four oil companies. I think it is clear from what I have said that that is not the case. We need to tackle the big four oil companies, and there has been a lack of political will in this country over many years, under both coalition and Labor governments, to take on the big four oil companies and their cosy arrangements. I do not think anyone could possibly suggest that Associate Professor Zumbo is in any way a friend of big oil, given his outspoken criticism of the big four oil companies. Indeed, he was at the hearing of the Senate Standing Committee on Economics only last night giving evidence in relation to the North West Shelf and the joint marketing arrangements there.

I agree with the destination Minister Bowen has been seeking—that is, to lower the price of fuel for motorists. But Fuelwatch is the wrong road to achieving that. I look forward to working with the government to find the right road to cheaper petrol. If the government want my support in tackling the wholesale price of fuel and retail transparency and in tackling the power of the big four oil companies over fuel supply and distribution in this country, they have it. If you want to drive down fuel prices, you need to tackle the wholesale market and you need to tackle the big four oil companies. We must find better ways to help motorists, but Fuelwatch is not that way.

Senator MILNE (Tasmania) (10.50 am)—I rise today to comment on the National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008, which concern the Fuelwatch scheme. I note that the basis on which Fuelwatch was proposed was increased petrol prices in Australia. For the 20 years that I have been in politics, every time fuel prices go up governments rush around and announce yet another inquiry into fuel prices—and I have absolutely no doubt that there is manipulation in the market to a certain degree—but the underlying driver of increased fuel prices is the increasing price of oil at a global level and the underlying driver of that is that the world is running out and has already run out of cheap, easily accessible oil.

Global oil, in my view, has peaked. That is not to say that it has run out. It is saying that from now on extracting oil globally is going to become more and more expensive as the explorers have to go into deeper water, more difficult terrain and, of course, have to deal with the extreme weather events of climate change, which we have already seen in terms of reduced field capacity, especially when you have a look at what is happening in the
Caribbean as a result of extreme storms, cyclones and the like. The issue is, as the International Energy Agency said recently: The future of human prosperity depends on how successfully we tackle the two central energy challenges facing us today: securing the supply of reliable and affordable energy; and effecting a rapid transformation to a low-carbon, efficient and environmentally benign system of energy supply.

In my view, Fuelwatch is actually fiddling while Rome burns. We need to deal with the fact that Australia is no longer self-sufficient in oil. We are already importing more than 50 per cent of the oil used in this country, and it is to the detriment of motorists and farmers. You only have to look at the increased price of petrochemical fertilisers to see the impact on agriculture and the flow-on effects to food prices. There is the whole dependence of the working fleet in Australia—whether it is in agriculture, fisheries or whatever it is—on petroleum based product. We are now in a situation where Australia has lost its independence in terms of energy security and we, just like the Europeans, are reeling from the fact that we are not sustainable or self-sufficient. We are now dependent on what is out there.

We had the oil inquiry, which I initiated when I first came into the Senate in 2005, to look at Australia’s future oil supplies and alternative fuels because at that time it was obvious to me that this dependence on foreign oil was a bad thing not only for climate change and our dependence on oil products but also for Australia economically. We had, at the time, ABARE telling us that it did not matter because Australia could always buy oil on the global market and that we could be net energy positive because of our gas supplies. To an extent that is true in terms of the exports but it does not alter the fact that, when you import that much foreign oil and are vulnerable to the machinations of the oil supply globally, you are going to end up in this scenario.

Fiddling around with a scheme that is just to give motorists a more informed choice is really not delivering on the critical issue, which is: what are we going to do to get off our dependence on imported foreign oil, which is also driving up our greenhouse gas emissions? That is what we should be doing. That means that the government should have a national energy and transport strategy that gets Australia off its dependence on foreign oil and makes a significant contribution to our targets, which we have already under Kyoto but also under a post-2012 scenario.

The first thing the government should be doing is looking at the issue of urban design and how we might redesign and rethink our cities and convert them into urban villages linked by rapid mass transit. Then they should look at our national transport system to get off our dependence on road based transport and get our freight onto the rail networks. To do that we have to spend money through Infrastructure Australia. We need to get our north to south, eastern states freight rail link in place and fix up the bottleneck in Sydney.

We need to consider the fact that aviation fuel is one of the few fuels that, at the moment, is not substitutable with anything else and that we are going to see increased prices for aviation fuel. We saw it in the price spike earlier this year and it is going to come again. That means that we need to start looking in Australia at building, particularly between Sydney and Canberra, for example, the kind of fast rail networks that you have in Europe. It is a logical thing to do.

When we look at rescuing the car industry we need to not only go with a strategy of electrifying the car fleet and moving to plug-in hybrids, which I support, but also look at building public transport systems. We need
to be actually building those systems and rolling them out in Australia as part of a national transport strategy. When the fuel prices went up, people went to get out of their cars and onto public transport, but the public transport was not able to do the job because it has been run down over a long period of time. People will use public transport if it is safe, clean and efficient. At the moment, depending on where you are, there is a variety of combinations of how that might be achieved.

We need to look at having this national strategy which recognises that we need to get off oil and to electrify the transport fleet, to get the freight onto the trains, to get more people out of their cars and onto that public transport. We need to ensure that the cars are plug-ins and that they are powered by renewable energy sources, which goes to the national strategy on energy security. This means rolling out more renewable energy and enabling consumers to be energy suppliers by putting photovoltaics on their roofs, by having small-scale hydro, by having small wind turbines or whatever they are going to have domestically, plus plug into solar thermal and the like. This is the kind of big picture thinking Australia ought to be engaged in to come up with a really bold national strategy which looks at squarely facing climate challenges and oil challenges.

I will just go through the way the government is responding. You have Fuelwatch, which is a tiny fiddling-around-the-edges program. I agree with Senator Xenophon and others who have spoken—particularly Senator Joyce—about the need to actually look at the wholesale market and at the transparency issues with regard to that. We need to look at the import parity issues and the Oil Code regulation. All those sorts of things need to happen, and I do not think there would be anyone in the Senate who would object to those things happening.

That will make a marginal difference, but Fuelwatch and even dealing with those wholesale issues will still only make a marginal difference. If you are serious about acting and acting fast, we need to get on to mitigation strategies and planning strategies for the long term. As the Hirsch report to the US Energy Agency said in 2005:

The obvious conclusion from this analysis is that with adequate, timely mitigation, the costs of peaking can be minimized. If mitigation were to be too little, too late, world supply/demand balance will be achieved through massive demand destruction (shortages), which would translate to significant economic hardship…

That is what we had recently when the oil price went above $100 a barrel and approached $150 a barrel. Then you start getting chronic dislocation and shortages in places, like Western Sydney, where there is very little public transport. We know that the way Australian cities have developed the poorest people live furthest from the centre of the city; drive the oldest, least efficient cars and have the least, if any, access to public transport. So they are the people who are disproportionately affected when you get higher oil prices flowing on to high petrol prices. With Fuelwatch you might be able to give them some certainty around one or two cents, but in the longer term we need to ensure that there are better options for moving those people so that they are protected permanently.

It is actually cruel to keep building cities that do not take into account the need to mitigate greenhouse gases and oil prices. I know there will be some people saying, ‘Oh well, this doesn’t really matter so much because the underlying issue is not peak oil; there is plenty out there.’ I would draw their attention to the International Energy Agency report which has just come out on 6 November which is pointing out that, whilst there is a global economic slump that has curbed
energy demand and pushed oil prices down in recent months, it will only provide a short-lived respite for consumers. The International Energy Agency is saying that supply shortfalls that pushed oil prices into triple-digit territory this year are far from resolved and could lead to a new period of high prices. In fact, it goes on to say that we are going to see oil consumption reach 106 million barrels a day in 2030, up from 86 million barrels a day this year. If that is the case, where is this oil supply going to come from? There have been several large-scale new developments announced but they have not been taken forward—the investment has not been forthcoming. We are rapidly going to reach a time when the economic stimulus packages get the economies going again, the demand is going to rise but the supply is not going to be there for the reasons I mentioned in the beginning—the cheap, easily accessible oil is gone and now we are into accessing oil from much trickier scenarios: deeper sea, more difficult terrain and extreme weather events.

What I would like to see the government do is actually give a sense to Australians of whether they believe in peak oil—whether they think peak oil has occurred and what we are going to do about it. How are we going to get rural Australia off its dependence on petrochemical fertilisers—off its dependence on petroleum based products, whether it is in fisheries or farming? How are we actually going to do that? When are we going to say there is a win-win scenario here by getting our rural community back to more sustainable farming practices and by giving them adaptation strategies to farm renewable energy as well as to increase their soil carbon, build more resilience in the face of climate change, and reduce their prices and improve their margins? That is the kind of strategy we should be looking at as a nation rather than what I see as a political exercise to disguise the reality of the situation. Governments are going to wring their hands and say, ‘There is nothing we can do about the international oil price.’ That is right; there is nothing we can do about that. What we can do is get ourselves off the dependence on foreign oil and that oil price and at the same time meet our climate objectives.

It is not a sensible policy to spend millions on coal to liquids, which is what the Australian government strategy is at the moment, saying: ‘Yes, we could well be in a situation where we can’t run our cars on petrol because we cannot afford it. Therefore we are going to run them on coal.’ That is a terrible strategy. It is a bad climate strategy. You cannot be serious about addressing climate change if you go down that route, and that was one of the conclusions of the oil inquiry conducted in the Senate three years ago—that we ought not to be issuing policies to deal with energy security that undermine our climate strategies. So I would like to see that work on liquefying coal finished, over, done with, and instead the effort going into electrifying the car fleet and, as I said, rebuilding the rail network so that we have that freight network along the east coast of Australia and the Sydney bottleneck dealt with—and at the same time the rollout of public transport systems, urban metros and a fast train between Sydney and Canberra, for example.

I just think what we have got with Fuelwatch is a political reaction to high fuel prices that disguises the actual problem we are dealing with. Yes, you have got manipulation by the oil companies. I am sure that is the case. As Senator Xenophon said, we can deal with those things; bring them in here and let us deal with the Oilcode, let us deal with import parity and let us deal with transparency in pricing. But it is not going to change anything when the oil price gets to $150 or even goes north of $150 and higher towards $200 a barrel. That is what I would
like the government to exercise its mind on. There is an opportunity to do it now when there is a respite in the oil price, where it has fallen back in the short term because of the global economic downturn and less demand now. The pressure is not on so much now, so now is the time to bring out a national strategy to tell Australians how we are going to get off oil, how we are going to electrify the transport fleet, how we are going to invest in the rail networks and how we are going to roll out renewable energy so we can electrify the fleet. It was exciting news to hear that we had a company here ready to invest in three Australian cities with plug-in stations for the electric cars. That goes hand-in-hand with the investment in what I hope will be plug-in hybrids.

The second thing we can be doing is looking at second generation biofuels. We certainly do not want to go down the track of substituting food-growing land for fuel-growing land. That has been a bad strategy globally and has had many perverse outcomes, including the loss of tropical forests, which is a disaster. The second generation of biofuels using lignocellulose and actually generating a fuel from a waste product is well worth investing in. Also, ANU have developed algae grown from salt pans which can be put in the centre of a solar collector and the chemical reaction makes a high-grade transport fuel. That is a win-win for rural Australia because it means that people who have salt pans and high levels of salinity on their properties can actually do something with that, and frequently those areas also have very good solar radiation. So it is a win-win scenario, again providing rural Australia with an alternative to the kind of farming they do now. They could be not only farming renewable energy but also generating a transport fuel if we get behind that research.

What we need is a national strategy that deals with energy security and climate change that says, upfront, it is an unacceptable scenario for Australia to be left so vulnerable and exposed as to be dependent for more than 50 per cent of its oil on foreign imports. It is an unacceptable scenario for us in a climate change world to go down the route of liquefying coal. Therefore, what do we do that addresses climate change, that gives us self-sufficiency in transport fuel, and, at the same time, builds competitiveness and new jobs? The competitiveness and new jobs will come from the investment in those technologies and the rollout of the green new deal infrastructure. Fuelwatch, as I see it, is just fiddling while Rome burns.

The kind of strategy I am talking about is what Australians want to hear from their government—a strategy that says there is a whole-of-government approach that is internally consistent. Infrastructure Australia with its building fund will roll out public transport systems and the freight links that we are talking about. We then go to Resources and to Education and say, ‘Let us invest in commercialising those technologies which give us self-sufficiency, keep our best brains in Australia and get the jobs out there in rural Australia.’ We go to Agriculture and say, ‘Adapt to climate change. If you can’t continue to do what you are doing on your land now because of the temperatures and the climate then let us farm renewable energy.’

The Greens position is that we will support Fuelwatch because, on average, we think it will not do any harm and it may do some good, but it is fiddling while Rome burns. I implore the government to see that there is a big picture here. This is a political gesture towards a problem which is going to come back as the oil price goes up to $150 again, before they will have made any decisions about how to address it, and we will have
another inquiry at that point and be no further advanced.

**Senator PARRY** (Tasmania) (11.10 am)—I seek leave to incorporate speeches by Senators Ronaldson and Bushby.

Leave granted.

**Senator RONALDSON** (Victoria) (11.10 am)—The incorporated speech read as follows—

During the great fire of Rome in AD 64, the historian Seutonius tells us that the Emperor Nero played the lyre while his city burned. And in the best imperial tradition, our pretentious Prime Minister is similarly engaged in a game of trivial pursuit during a crisis.

The American economy is in a shambles. The European markets are in utter disarray. The ASX has plummeted farther and faster than at any time over the past three years. Business confidence throughout Australia is the lowest in over a decade. The prosperity of millions is at risk like at no time since the Great Depression.

And what does the Prime Minister offer us? What solution to our economic woes does Kevin 07 provide in 08? Well, among his overseas jaunts; among his speeches at the UN, and his hobnobbing with the global glitterati; the Prime Minister has offered us a panacea to our petrol pump pain. This Hail Mary manoeuvre goes by the name of Fuelwatch. But Fuelwatch is nothing more than bread and circuses. It is nothing more than a gigantic distraction. The Prime Minister’s Fuelwatch policy is like the chariot race scene out of Ben Hur. The only difference is that it is the Australian people who are in danger of being devoured, not by lions, but by the bear market.

Before last year’s election, Kevin Rudd promised new thinking on the question of fuel costs. Wayne Swan promised to “crack down” on “skyrocketing petrol prices.” During their election courtship dance to win the votes of the Australian public, Rudd and co. promised effective action to reduce prices at the pump. But now that those votes were firmly in their party’s pocket, the Labor Government is trying to pass off a mere website as a solution to this problem that has inflicted so much pain to Australian hip pockets. The government contends that this scheme will ease the squeeze on motorists by informing the public of where fuel prices are lowest in their area. And petrol stations would be obligated to set their prices for a 24 hour period, on pain of a hefty fine.

In other words Fuelwatch is a giant government-mandated price-fixing scheme. And price-fixing constitutes the antithesis of competition. The Coalition Critique of the Labor’s interim report on Fuelwatch in the Senate Economics Committee explained this basic economic principle as follows:

“Fuelwatch, with its requirements to fix a price a day in advance and then to hold that price for 24 hours, does not make the market more competitive, and tends to a higher average price.”

Now, few have ever argued that the former trade union hacks who dominate the Labor government are endowed with a sense of economic sophistication. Few have ever argued that economic management is the ALP’s strong suit. But even economic semi-literates who occupy the government front bench should be aware that constraints on competition will raise prices rather than lower them. Even an economic dilettante like Treasurer Wayne Swan should understand that anything that reduces the flexibility of the fuel market will only make petrol dearer.

And then there are the gaping inconsistencies in the government’s claims about the benefits that Fuelwatch will supposedly provide. First you have the Prime Minister, who asserted that the scheme would bring about a reduction of 1.9 cents per litre in the “relevant weekly average price margin.” Then Labor’s petrol Tzar, Pat Walker, who walked off the job after only four months, claimed that the national implementation of the scheme would lower prices by 5 cents per litre. And finally, you have the Treasurer himself, who is peddling the Fuelwatch fish story that motorists will save $10 per tank, which works out to a whopping 20 cents per litre. So which is it? 1.9 cents per litre? 5 cents per litre? Or 20 cents per litre? This government is the political equivalent of the gang that couldn’t shoot straight. They can’t even get the lines straight on their Fuelwatch sales pitch.

But I must note that all is not entirely lost where the Rudd Government’s economic comprehension...
is concerned. There is at least one member of the Labor ministry who understood that Fuelwatch is a triumph of style over substance. There is one member of Kevin Rudd’s front bench who understood that the Fuelwatch scheme would harm Australian consumers rather than help them. And Labor Minister for Resources, Energy and Tourism Martin Ferguson was not reticent about his concerns.

In a confidential letter published last May by The Australian, Ferguson warned his colleagues that Fuelwatch would fail working families and hurt the small business sector. But the publication of Martin Ferguson’s letter was merely the first Fuelwatch related leak.

Pretty soon Kevin Rudd’s Fuelwatch agenda began to look like the hull of the Titanic after that meeting with the iceberg. Channel Nine’s Laurie Oakes came into possession of internal cabinet documents that cast serious doubt on Fuelwatch. Now, I don’t wish to digress from the topic of this debate into what these leaks say about the modus operandus of the Rudd government. But there must be something seriously wrong for such serious breaches of confidentiality to occur so early in a young government’s tenure.

Yet beyond the question of how these documents reached the public domain, it is far more germane to see precisely what they say about Labor’s Fuelwatch initiative. Kevin Rudd’s own department, the Department of Prime Minister and Cabinet, said: “econometric modelling undertaken by the ACCC is somewhat inconclusive with respect to the overall pump price, but indicates that a small overall price increase cannot be ruled out”. And the Department of Resources, Energy and Tourism expressed concern that “the scheme will reduce competition and market flexibility, increase compliance costs and has more potential to increase prices.” No wonder that Department’s own Minister, Martin Ferguson, had second thoughts about the wisdom of Kevin Rudd’s Fuelwatch media stunt.

The Prime Minister claims that Fuelwatch is modelled on a similar government scheme in Western Australia, which Kevin Rudd claims was a raging success. But local fuel market analysts tell a different story.

“‘It was the introduction into Perth of Woolworths and particularly Coles which actually triggered the price war that occurred in Perth,’” said West Australian analyst Alan Cadd. And so we see that it was competition, rather than the heavy hand of government mandates, that caused petrol prices in Perth to drop by 2.5 cents per litre.

Labor’s Fuelwatch media stunt is an insult to the intelligence of the Australian people. It is a gratuitous boondoggle that has already cost the Australian taxpayer thousands, perhaps even millions of dollars. The Fuelwatch media stunt is entirely unnecessary because the private sector has already moved to provide free information on fuel prices to anyone with a computer.

MotorMouth Pty Ltd. is a company that was established in July 2000 in response to the demand by Australian motorists for information on the fluctuating prices of unleaded petrol. It was initially set up to cover the major routes within a 15-kilometre radius of the Brisbane CBD. Ralph Waldo Emerson once quipped that if you build a better mousetrap, the world will beat a path to your door. And the quality of the service provided by the MotorMouth website caused many thousands of Australian consumers to travel the pathways of the internet in search of a better deal.

The MotorMouth is entirely independent from the oil companies. And its website declares that its core objective is the provision of information to consumers to facilitate informed decision making on petrol purchases. Increased demand for MotorMouth’s petrol price monitoring service soon triggered its expansion to the Gold and Sunshine Coasts, Sydney, Melbourne, Adelaide, Hobart and Perth.

MotorMouth is simply a voluntary conduit for consumer information. It has no power to fix prices and impose fines like Kevin Rudd’s Fuelwatch media stunt. And thus the private sector MotorMouth serves to nurture competition while Labor’s government Internet white elephant serves to neuter it.

So it turns out that Kevin Rudd’s great innovation to provide salvation for Australian motorists isn’t so innovative after all. It turns out the private sector beat the Prime Minister to the punch by years. It turns out that MotorMouth trumped Kevin Rudd’s bigmouth by a large margin.
There is a saying that fools rush in where angels fear to tread. And the Rudd Government is rushing, with great fanfare, through a gaping door left wide open long ago by MotorMouth Pty Ltd.

But this is a classic pattern with this Rudd Labor government. This is a government values form over function; chicanery over honesty; and the appearance of action over the reality of action. And it has no hesitation about claiming credit for the hard work done by others. This whole scheme is a hoax, a put up job, a gigantic humbug that richly deserves to be described as Kevin Rudd’s Fuelwatch media stunt.

With this government I am reminded of that scene in the Wizard of Oz where Dorothy and her companions discover that things in the Emerald City aren’t as they first appear. “Pay no attention to the man behind the curtain,” says the Wizard while he is exposed as a fraud.

But you can rest assured that we in the Coalition will pay close attention to what goes on behind the curtains of this government. That is what we were sent here to do by the Australian people who elected us.

Senator BUSHBY (Tasmania) (11.10 am)—The incorporated speech read as follows—

I rise today to contribute to the second reading debate on the National Fuelwatch (Empowering Consumers) Bill 2008.

Can I start by saying emphatically that I support fully the spread of better information on petrol prices.

However, I will not support anti-competitive price fixing in the petrol market and hence cannot support this bill.

Almost 12 months ago, the Rudd Labor Government was elected on the promise that it was listening to Australia’s working families and that Labor had heard they were suffering under the dual yoke of rising grocery prices and increasing petrol prices and that, enough was enough.

It went to the people saying it had a plan to fix the cost of living pressures that grocery and petrol price increases were introducing.

Mind you, it didn’t say what the plan was for either—because, I suspect, it didn’t have one—but it did say that it had a plan.

And many Australians, who were finding the increase in the price of petrol and groceries difficult to manage, liked the sound of someone who said they had a plan.

They didn’t want to know the details, or the realities of how prices of both are delivered, or the effects on petrol prices of international factors, or even the lack of competition in both the wholesale petroleum markets in Australia and the retail grocery market and how that affects retail prices.

All they wanted to hear was that someone could bring the prices down—and that is what the then Labor Opposition told Australians—regardless of Labor’s ability, inability or otherwise to actually implement this promise.

Why are petrol prices so important to Australians? Because many Australians have limited or fixed incomes that are stretched already. Combine that with the importance of the mobility that having their own car provides and increases in petrol costs suddenly start to seriously impact upon their lifestyle.

Of course, there are worse things that can happen to Australian families than having to use their car a little less, or even a lot less. But it is important to understand that the personal mobility provided to Australians by being able to afford to drive their car is significant to most. And the impact on lifestyle by reducing that mobility is not something they want to accept.

As such, and make no mistake about this, the drift in votes to Labor at the last election—a drift that delivered them government—was in a large part contributed to by people who heard Labor say they would bring the price of petrol down and that they expect them to do so.

So where are we at today?

We have before us a Bill that is the Rudd Labor Government’s total commitment to addressing petrol pricing—a bill to take a scheme in place in Western Australia and turn it into a national scheme—a scheme that at best in Western Australia has been spectacularly ineffective at reducing prices and at worst, has introduced anti-competitive pressures and largely removed the
ability of WA motorists to access their petrol at the bottom end of the price cycle.

Prime Minister Rudd was quoted earlier this year as saying ‘we have done as much as we physically can to provide additional help to the family budget recognising that the cost of everything is still going through the roof cost of food, cost of petrol, cost of rents, cost of childcare.’

At the same time, he went on to say ‘when it comes to things you do not have direct control over, obviously in terms of the global price of oil, then what you can do is simply act in the other areas to make sure that there are some more dollars to draw upon in terms of the family budget’.

At the time, this statement by the Prime Minister attracted a lot of negative press and the justified ire of many Australians

It is not that he is so wrong. The fact is that a lot of what was driving up petrol prices earlier this year were outside the sphere of influence of the Australian Government

What annoyed so many Australians was the fact that this was no different prior to the 2007 election, when he was travelling around the country quite happily telling people that there was a lot that could be done, the then Coalition government wasn’t doing any of it and that a Labor Government would

Yet here we are today with a bill before us that will achieve little, which in fact will most likely reduce competition and increase prices and the overall fuel bill for Australians and, a Prime Minister who says the government has ‘done as much as we physically can’.

I am sure that there are Australians all over the country who expected a little more of Mr Rudd when he told them he felt their pain on petrol costs, who heard him say that he had a plan and who thought the plan would be something more than a half baked copy of a system that had delivered little or no price benefit in Western Australia

I am sure they expected real, tangible lower petrol prices to result from the plan

So given the Prime Minister’s own admission that he considers there is nothing else that can be done, this is it. The pinnacle of the Rudd Government’s plan to reduce petrol prices for struggling Australian ‘working families’ and the sole answer to those problems

I will look in more detail at the proposed scheme in a few minutes, but initially I would like to take a bit of a look at what factors actually influence petrol prices in Australia

This issue has been the subject of countless inquiries by state and federal government bodies as well as private consumer and motorist organisations

The main factors influencing petrol prices at the bowser are well understood and generally not in dispute.

At an international level, they are, the international price for refined petrol and the Australian/US dollar exchange rate.

State government policies and subsidies also can affect petrol pricing, for example, policies relating to fuel quality and petrol retailing arrangements and Australian Government policies and grants (eg as they might index excise and impose fuel standards and set the regulatory environment in which petrol is wholesaled and retailed)—and excise and GST all impact significantly on the price paid in Australia for a litre of petrol.

Of these factors, the Australian government is only able to influence in a meaningful manner, its own policies and the level of excise and GST.

Many of the inquiries into petrol pricing I have already referred to, examine these issues and particularly the first of them—that is the policies implemented at an Australian government level affecting the regulatory environment in which petrol is sold and the level of true competition at both a wholesale and retail level

the government has argued that the Fuelwatch scheme, the subject of the bill before this chamber today, is designed to address the issue of competition in the petrol markets and that the new regulatory environment it creates will promote additional competition.

Sadly, the evidence taken at the Senate inquiry into this matter demonstrated unequivocally that this will not be the case.

Even the Government’s rhetoric surrounding the benefits of the Fuelwatch scheme changed dramatically following its announcement, as the evi-
idence piled up proving that it would not deliver lower fuel bills to working Australian families.

When they announced the scheme, it was all about ensuring motorists would not pay anymore than they had to for petrol.

For example, the Prime Minister was quoted as saying ‘What we want to do is ensure motorists are not paying one cent more than they have to as the bowser what we want to do is ensure that motorists are able to buy the cheapest petrol at the cheapest prices at the cheapest petrol stations at the cheapest times’.

And on 16 April, Assistant Treasurer, Chris Bowen said on the ABC that Fuelwatch would lower fuel prices by 2cp1.

Within a week, in the face of the barrage of criticism and evidence thrown up in horror at the prospect of a national Fuelwatch scheme, the rhetoric of the Minister responsible, Chris Bowen, had dramatically changed.

No longer was he, or the government claiming the main reason for the scheme was price. On the contrary ‘the much more important reason for doing this is to give consumers more information’.

Ah, I see now, when Labor went on the attack about petrol prices before the election, when they aggressively accused the Coalition government of being asleep on the job with petrol and that they would put a ‘cop on the beat’—they weren’t talking about petrol prices —and the difficulties Australia’s ‘working families’ were having with rising petrol costs—no they were promising to give motorists more information!

And I am sure that the many Australians who voted for them because they ‘had a plan’ did so because they thought that plan would ‘give them more information’.

Unfortunately for the many Australians facing real and worrying cost of living pressures as petrol prices remain high and grocery prices and rents keep rising, more information is not what they want or need.

Australians were hoodwinked by Labor prior to the last election —the government promised something they knew they couldn’t, or possibly more accurately, wouldn’t deliver.

The Prime Minister’s statements that there is little that can be done by the Australian government to affect international oil prices is correct.

But he knew that before last year’s election.

Yet Labor deliberately worked towards creating the impression that they would tackle petrol prices head on and make a meaningful difference.

It was a con of a grand scale conducted on the Australian public and the Labor Party should stand condemned.

But as mentioned, there are measures the government can take that can either directly reduce petrol prices, or genuinely lead to pressures that will keep it lower than it would otherwise have been.

A cut in excise is the obvious, easy direct route in lowering petrol prices —such as the 5 cents a litre cut in excise tax as promised by the Coalition.

This would deliver a real cut in petrol prices— and I don’t for one minute accept the intellectually dishonest argument posed by many on the other side of this place, that 5 cents is nothing and would be swallowed up by small changes in the international price of oil, or a fall in the Australian dollar.

This trivialises the challenges faced by Australians in meeting their cost of living challenges.

The fact is that a 5 cent cut in the excise is the one petrol price measure that can’t be taken away by international factors.

No matter what the international price of oil, no matter what the exchange rate, if you take 5 cents off the excise, petrol will always be 5 cents a litre cheaper than it would have been.

This is fact and presents a 5 cent a litre saving every time Australian motorists fill up, for so long as the excise remains at the new rate - for ever— whether petrol is $1 a litre, $1.50 a litre, or $2 a litre.

Sure it is a costly measure in terms of the Government’s budget, but we are in Australia in a fortunate position of having had a substantial surplus—despite the current woes, we can arguably, as a government, afford the measure. But even more so, given the current economic crisis and the almost certain slowing of the Australian economy, taking a few billion out of the hands of
the government and giving it back to the people is the economically responsible thing to do.

We have been saying this for some months and the government itself finally acknowledged this with its $10.4bn plan to stimulate the economy for most of this year, the government has been strenuously arguing that we need to maintain a high budget surplus ... and their approach to this was to take the money off the people so they can’t spend it, thereby cooling an overheating economy.

Indeed, any of our efforts to stop them taking money from taxpayers lead to an accusation that we were economic vandals.

But the reality is that Malcolm Turnbull, as the then Shadow Treasurer, has been warning the government about the potential effects on the growth of the Australian economy of rising petrol prices and the international financial crisis, since February this year he has consistently called for the government to hold back a little on its zeal for cooling the economy, because these two factors were going to have a major cooling effect and that it would be prudent to take a more cautious approach.

Well, he was right, and this has been acknowledged by the Government as the likely impact of the international financial woes on the Australian economy finally sank in.

It is important to understand that the objective of their $10.4bn package is the very opposite of the objective upon which their entire 2008 Budget strategy was based. It is a complete reversal of policy.

The budget was intended to cool economic growth, this package is intended to stimulate economic growth.

We have told them all year to take it easy on their efforts to slow economic growth in Australia, because there are bigger things at play and, now, finally, they have acknowledged that — but because they had been trying to achieve the exact opposite of what is now openly acknowledged as being required, the government’s efforts to stimulate the economy have to be far more significant than they would if the government hadn’t been trying to contract the economy.

It also highlights how hollow the accusations levelled against us for holding up some of the budget measures are.

If we had let them sail straight through, they would have been in effect out there cooling the economy, slowing economic growth and making it even harder to stimulate the economy as is openly agreed by all, now needed.

Similarly, the economy would need less of a heart starter package, if two of the Coalition policies had been accepted by the Government.

As has been noted by various commentators in the context of our policy to increase pensions, widespread economic stimulation is best achieved by returning taxpayers funds back to them to spend in the economy. The same principle applies to Australians and a cut in the excise tax.

Cutting excise tax will deliver both cheaper petrol prices and help to domestically stimulate an economy facing many factors trying to slow it down—a win win situation — but one the government has yet to adopt— despite its acknowledgement yesterday of the need to backflip on its policy of trying to slow economic growth.

Hopefully they will see the benefit of cutting petrol excise tax soon. Because implementing Fuelwatch certainly isn’t going to deliver economic stimulation, or cheaper petrol.

Rather, it is in fact likely to increase prices through a minimisation of competition and removal of deep discounting during price cycles.

The proposed Fuelwatch scheme is based on the existing scheme that has been operating in WA for some 7 to 8 years.

There are varying claims about the success or otherwise of this scheme, the truth of which is clouded to a significant extent by the variable nature of other relevant factors in the price of petrol in WA and the other states that make it hard to do direct comparisons.

Nonetheless, various learned persons and organisations have looked at the success or otherwise of the scheme using both sophisticated econometric modelling taking into account a wide variety of factors as well as simple straightforward comparisons of outcomes not affected by the variables.
The first major examination of the scheme was conducted by the ACCC in 2002. Its findings were—to put it simply—damning of the WA Fuelwatch scheme.

In considering the outcomes of the WA scheme, the ACCC states it had regard to the objectives of the arrangements put in place by the WA government and what they sought to achieve.

These included:

• Greater competition;
• A fairer and more transparent petroleum market;
• Greater price transparency;
• A reduction in the volatility of metro prices; and
• A reduction in the differential between city and country prices.

The data collected by the ACCC in 2002 found that Perth prices increased relative to 3 benchmarks, namely: Sydney and Melbourne prices, the Commission’s import parity indicator and Western Australian maximum wholesale prices.

The ACCC acknowledged that a significant part of the price increase could have been due to higher fuel standards introduced at the same time as WA Fuelwatch, but it also concluded that some of it is likely to be due to other factors, specifically mentioning the 24 hour rule.

With respect to the greater transparency objective, the ACCC concluded that the publishing of petrol prices on the Fuelwatch website did increase price transparency, but also found it introduced unwanted distortions into the market.

In terms of the reduction of volatility objective, the ACCC found that, contrary to wide held views, petrol prices were already relatively stable within a day—with Perth prior to the Fuelwatch scheme only experiencing an average of 1.18 changes per day, and that the change therefore had a minimal effect on volatility.

And finally, the ACCC also found that the city country price differential blew out, totally in the face of the objective of reducing this differential.

The ACCC concluded that on those findings, it was hard to see how the WA Fuelwatch scheme had been successful, stating that it appeared a number of the Western Australian fuel pricing regulations may have been introduced quickly, without full consideration of their implications or the necessary administrative details for their successful implementation.

Sounds eerily similar to the fast-track approach taken by the Rudd Labor Government in the face of dramatically rising fuel cost earlier this year.

In their panic given the public clamour for them to live up to their promise, they announced the scheme and as petrol prices continued to rise and as the Coalition started to gain the public’s acceptance as the party capable of doing more in this regard, they rushed through legislation to implement their scheme, forcing a number of treasury officials to work 36 hours straight to meet their unreasonable and ill-considered deadline.

The result was again, legislation that was introduced too quickly, and without full consideration of its implications or the necessary administrative details for its successful implementation.

Since then, there have been a number of objective outside examinations of the WA Fuelwatch scheme and the weight of evidence has clearly demonstrated that it failed to deliver lower prices and may actually lead to limiting the opportunities for motorists to minimise their fuel bills.

Of course, the most comprehensive consideration of the effectiveness of the WA Fuelwatch scheme was undertaken as part of the recent Senate Standing Committee examination of the potential impact of the bill before us today.

The overwhelming evidence presented to that inquiry was that there are a number of significant risks to petrol pricing as a result of this bill, that there are a number of very likely scenarios that will lead to higher petrol prices for most if not all Australians and that there is very little evidence, if any, to suggest that motorists will be any better off as a result.

Of course, the majority report—ie the Labor Government Senators—recommended the bills be passed.

However, as noted in the minority report, any objective consideration of the evidence would, at minimum, have to have raised alarm bells that the scheme might actually raise petrol prices as a result of a lowering of competition and that the
best that could be hoped for was that it would not harm motorists.

Given the multi-million dollar spend involved—not a great return on investment!!.

Of course, the ACCC in its most recent report to the government, considered and written after the election of the Rudd Labor Government, takes a completely different tune to its past comments and findings.

The ACCC’s methodology on its previous examinations of the WA Fuelwatch scheme were always made public and understandable by peers looking to review those results.

But with this most recent consideration, the modelling upon which they base their findings has been kept secret.

The reason why this is the case has been speculated on ad infinitum and I could put forward some obvious theories myself today—but I will decline to do so.

Suffice it to say, the ACCC prior to the election of a government looking to nationalise the WA Fuelwatch system, had publicly panned that system as failing to deliver the benefits to consumers it was intended to deliver.

After the change of government, it has a different view, but has refused to release—or is not allowed to release—the modelling upon which it says it has based this flip flop.

As the ACCC’s modelling has not been publicly released and can’t be objectively peer reviewed, the unfortunate reality is that the weighting given to their findings must be lower than if it could be objectively tested.

In its 2007 report, the ACCC pointed to a reduction in price of 1.9c per litre in WA, but also stated clearly that a lot more needed to be done before the scheme was rolled out nationally.

The view of independent economists on this report suggested, even though the methodology was not released, that it was clear there were issues with it, including:

- The ACCC failed to take account of the entry into the WA market of Coles.
- The ACCC analysis looks only at prices and not the volume sold at a particular price—for example, a service station with a price of $1.80 but selling no petrol is given the same weight as one with a price of $1.50 and selling high volumes, and.
- The ACCC refused to release its methodology so other economists can fully test its analysis and results.

The ACCC has also been quite inconsistent in its comments about the potential benefits from a national Fuelwatch scheme.

As mentioned, in its 2007 report, it talked about 1.9cpl savings in WA as a justification for taking the scheme nationally.

But in May this year, ACCC Chairman told the ABC that Fuelwatch was ‘not about saving motorists money’.

Again, I find such statements incredible.

Remember, the Rudd Labor Government was elected partly on its promise to tackle petrol prices and after announcing the twin measures of Fuelwatch and a dedicated ACCC ‘petrol commissioner’ who has no additional powers, the Prime Minister said there was nothing more that could be done.

And here we have the senior public servant responsible for implementing Fuelwatch and the boss of the petrol commissioner, saying that the government’s measures to tackle fuel prices aren’t intended to deliver lower prices.

Millions of Australians who believed the Prime Minister had a plan to reduce petrol prices must be bitterly disappointed.

So given that the ACCC advice, so heavily relied upon by the government in justifying its petrol price plan, appears to be unconvincing and based on methodology that has not been released for peer review, maybe there was other advice received by the government that clearly outlined the potential benefits to Australians from implementing such a scheme?

- The reality is of course, that all other departmental evidence the government received was completely contrary to that the ACCC says it provided the government.
In fact, four key relevant departments, including the Prime Minister’s own department and Treasury, advised the government that the scheme should not be adopted and warned of potential negative consequences and that the scheme would push petrol prices up.

Even the Minister responsible, Energy Minister Martin Ferguson argued against the adoption of such a scheme as he believed it would be counterproductive to the interests of Australian motorists—especially those in locales with a high proportion of Labor’s ‘working families’, like Western Sydney.

This from the Minister who is advised by the most expert department in Australia on energy policy.

He said that Fuelwatch would put petrol prices up, will decrease competition and will hurt working families … but did the Prime Minister listen to this evidence based advice?

No, he did not.

And then there is the Department of Treasury’s regulatory impact statement, or RIS.

This document points out:

- 72 per cent of consumers in cities other than Perth always or usually try to purchase unleaded petrol when it is cheapest, whilst 59 per cent of Perth consumers always or usually try to buy petrol at its cheapest—suggesting where Fuelwatch is operating, more motorists are forced to buy petrol at a higher price.

- the RIS also said it is possible that the introduction may have anti-competitive effects.

- as the RIS notes, Fuel Watch in WA has ‘harmed the competitive position of independents as it allows large operators to adopt a strategy of rolling price leaders. Operators with small networks are less able to employ this pricing strategy and are therefore placed at a competitive disadvantage in the market’.

- and, ‘the provision of this taxpayers funded service creates greater opportunities for price co-ordination amongst retailers, especially in more concentrated markets:’.

- The RIS also stated that the benefits of a national scheme are likely to be very limited in regional and rural areas—where petrol is already higher than metro areas.

Prior to last year’s election, the Prime Minister said he was going to govern on the basis of evidence and the basis of getting the best advice.

Yet here he and his government are, making decisions that fly in the face of the best advice provided to it—all so it can create the dishonest impression it is delivering on its promise to address rising petrol prices.

This is not a government developing evidence based policy, but one that looks for evidence to back its policies.

The stated objective of the National Fuelwatch (Empowering Consumers) Bill is to “provide intra-day price stability and decrease search costs for consumers.”.

It is clearly not intended to deliver cheaper petrol. Only the Coalition’s promise of a 5cp1 cut in excise tax will do that.

There are many issues and problems with the proposed scheme that I don’t have time to examine in detail today, but I am sure others will, although I will try to mention a few, such as constitutional questions about the scheme’s implementation.

The government plans to use its corporations power to implement the scheme—but it remains unclear how this will work for unincorporated family business owned petrol retailers.

As mentioned, there is no evidence that a national Fuelwatch scheme will lower petrol prices nor that the WA scheme lowered prices there.

Monitoring over many years shows that the average price in Perth is consistently higher than in other mainland capitals.

Also, the weekly price cycle present in Perth prior to Fuelwatch and still present in Brisbane, Sydney, Melbourne and Adelaide, stretched out to a two week cycle upon the introduction of Fuelwatch.

This means that Perth motorists who have to fill up weekly—(and around 76% of Australian motorists do) — and who are looking to find the best
price, miss out every second week as the discounting phase only happens once a fortnight.

The fact is that it will not save motorists any money—despite the Government’s clear weasel words designed to create the perception that the bill will relieve petrol price pressures.

Both Minister Chris Bowen and the Prime Minister initially said it would save around 2c a litre, the now defunct petrol commissioner Patrick Walker said it would save 5c a litre, the ACCC originally said it saved almost 2c a litre in WA, but now none of them say it will save money.

The purpose of the bill now is to ‘provide motorists with more information, not savings’.

Again, I say that if this is the government’s implementation of its plan to reduce the price of petrol, by ‘giving more information’, Australians should be very disappointed.

The fact is the scheme proposed in this bill is bad for competition and will drive independent retailers out of business, leaving only the big petrol companies and major supermarket chains in the petrol retailing business.

Evidence from motorist organisations—almost all of them—is that the scheme proposed in this bill will be detrimental to motorists and would create higher average fuel prices and remove much of the opportunity for canny motorists to buy their petrol at the heavily discounted end of the petrol cycle.

It will deliberately iron out the discounting cycle, stopping completely heavy discounting in that cycle, reduce competitive pressures in the market and reduce the opportunities for families to fill up at the bottom of that cycle.

The scheme is nothing more than an expensive con so that the government can say it has done all it can, but it will deliver nothing.

It will cost motorists, not benefit them and accordingly, the bill should be rejected.

Senator FIELDING (Victoria—Leader of the Family First Party) (11.10 am)—Does Fuelwatch work? Who knows? Does Fuelwatch cut the cost of petrol? No-one will guarantee it. Will Fuelwatch save families money? Again, no-one is sure. Will Fuelwatch increase petrol prices? No-one can say. Did the Senate Standing Committee on Economics inquiry prove Fuelwatch was a winner? No. Are there still concerns about Fuelwatch? You bet. Fuelwatch was sold by the Rudd government with much fanfare as the scheme to help Australians struggling to cope with soaring fuel prices. It is no secret families need help with skyrocketing costs of petrol, but we are still unsure if Fuelwatch is the answer. Families in outer suburbs and regional areas have been hardest hit by soaring petrol prices. Lower income families and first home buyers tend to live in the outer suburbs where housing is cheaper, but because of poor public transport they depend on their cars and suffer from punishing petrol prices.

Family First understands how difficult it is for families to juggle soaring grocery prices, interest rates and high petrol prices. They deserve a fairer go from petrol companies and the government. That is why Family First has been campaigning for the past three years for a 10c a litre cut in petrol tax to help families. That is why Family First has campaigned to make sure we have a competitive petrol market. Family First believes the government can give Australians a fairer go with petrol and they can do this by providing real competition for petrol. It was very much a shame that when the Labor Party had the numbers with the Oilcode and the sites act a year or two ago they decided to throw it out and have no restrictions on who can own and operate petrol-retailing stations. What a shame. They knew they had the Family First vote. They knew they had Senator Joyce’s vote. They refused to make sure there was going to be real competition at the retail level. What a shame.

When it came to predatory pricing the Rudd government went softer and weaker, not harder. Family First still believes they should go further with predatory pricing to
make sure that pricing is not used to stomp out competition and to see independents disappear. We also believe that the ACCC should have greater powers when it comes to breaking up the cosy club that exists between the petrol retailers and the oil giants. We also believe that we need greater competition at the terminals and the storage facilities. These are things that the Rudd government can actually do to give Australians and their families, who are struggling to make ends meet and struggling to cope with petrol prices, a fairer go, and to bring real competition to see downward pressure on petrol prices.

Family First started off as an enthusiastic supporter of Fuelwatch because we thought it would offer some relief to families. But after the events of the past six months that support is a lot more cautious. Last December the Australian Competition and Consumer Commission published its Petrol prices and Australian consumers report. It followed the 45th or 46th petrol inquiry to have been held over the last 20 years. This report found that motorists in Western Australia had saved 1.9c a litre on average due to the scheme there. On the basis of that report, which started under the then Howard government, Family First supported Fuelwatch as a scheme and a way to offer families some relief from skyrocketing petrol prices. The reported average saving per litre of 1.9c indicated that families could expect to save $300 million a year at the petrol pump.

Fuelwatch sounded like it would really make a difference to struggling families. But by the time the Senate established an inquiry into Fuelwatch, on 17 June, the government was starting to change its mind about the scheme, and Family First had begun to reassess its support. The Senate inquiry presented an opportunity to again examine and consider the merits of Fuelwatch. Family First’s doubts grew as the government’s rhetoric on the Fuelwatch scheme continued to change. The government had been fully behind the Fuelwatch scheme, announcing cabinet approval for the scheme on 15 April and with the Prime Minister speaking about Fuelwatch at a press conference on 29 May. But it seems that after that date the government stopped mentioning the claimed 1.9c a litre difference in price. This significant change in rhetoric was confirmed when the ACCC fronted Senate estimates on 5 June this year and downplayed the price difference. The ACCC said that it was not the price difference that was the important part of Fuelwatch but the improved ability of families to compare petrol prices. The change of emphasis by the government was stark.

Family First participated in the Senate inquiry and found a number of issues of concern arose including the question of whether independent petrol retailers are disadvantaged by Fuelwatch, why the federal government has not released its economic modelling to academics outside the federal government for peer review, whether reports of the Western Australian scheme take into account the impact of the introduction of supermarket petrol retailing and whether reducing price fluctuations actually disadvantages families that go to the trouble of filling up at the bottom of the price cycle. Family First is prepared to consider the Fuelwatch scheme because it may well still help families cut their petrol bills—but no-one knows. But the government’s tap dancing on Fuelwatch and its shifting of the boundaries have failed to give Family First confidence that the scheme will do what it set out to do: save people money at the petrol pump. Given that no-one is prepared to guarantee Fuelwatch will cut the price of petrol and given the concerns raised, it would make sense to trial the scheme for a year in a market where there is some support for the scheme. Family First would support a Fuelwatch scheme if it were
preceded by an open and transparent one-year trial so we could be sure that it would provide benefits to families and would not disadvantage small businesses before it was rolled out across Australia. Family First is proposing that both each state Premier and each state peak motoring body would have to endorse Fuelwatch before it would be adopted as a one-year trial in their state.

So what does this mean? This would probably mean Fuelwatch being adopted in New South Wales, where the local motoring body, the NRMA, is supportive. This would give the Australian Competition and Consumer Commission a chance to produce a detailed report after the first year of operation, when we can then properly evaluate the outcomes of the trial. If the outcomes of the trial are good, the Fuelwatch scheme can be rolled out to the rest of the country. Some argue that there has already been a trial in Western Australia. But the scheme in Western Australia was made for the people of WA and not as a test site. The effect of the WA scheme has come under question throughout the inquiry, so it is worth doing a purpose-built trial.

The government has backed away from this scheme, saying that Fuelwatch is not about cutting the average petrol price and saying instead that the real benefit of the scheme is to help motorists compare prices between petrol stations. That backflip concerns Family First and should concern the Senate, because what we heard from experts at the Senate inquiry into the Fuelwatch scheme was that it may, instead, push prices up and squeeze out independent petrol retailers. Let’s be frank: if Fuelwatch is not going to cut the average petrol price, what is the point?

Senator FARRELL (South Australia) (11.21 am)—I seek leave to incorporate second reading speeches on the National Fuelwatch (Empowering Consumers) Bill 2008 and related bill by Senators Sterle, Farrell, Pratt, Arbib, Furner and Carol Brown.

Leave granted.

Senator STERLE (Western Australia) (11.21 am)—The incorporated speech read as follows—

I rise to speak in support of the National Fuelwatch (Empowering Consumers) Bill 2008. This Bill has flushed out the Opposition and exposed them for what they are really about and what they really stand for.

Here we have a bill that is simply about ensuring consumers get a fair deal in the market place. It’s about ensuring that the cards are not unfairly stacked against Australian motorists because of the way the retail market for petrol operates in this country.

In particular, this bill aims at redressing the significant imbalance of market power that, in recent years, has become heavily weighted to the benefit of the oil companies and the major retail petrol chains and to the detriment of Australian motorists.

If there was ever any doubt that the major oil companies have been having a feast on consumers you just have to look at the gigantic profits that the world’s major oil companies have been making in the last few years. It is estimated that the five major oil companies made a total profit world wide of $123 billion in 2007. This figure is predicted to increase significantly in 2008.

While the increasing cost of petrol has been really hurting Australian families, the oil companies have never had it so good.

This is not a time to be batting on the side of the transport industry. It’s a time to be standing shoulder to shoulder with Australian families and motorists.

But what do we get from the Opposition—nothing less than a full frontal attack on the right of consumers to have the best available information on retail petrol prices in their area - in other words to have access to a fair and transparent retail petrol market.
Any fair minded person would acknowledge that for too long the Australian market for petrol has been characterised by a lack of price transparency between sellers and consumers at the retail level. This was a major finding of the Australian Competition and Consumer Commission (ACCC) 2007 inquiry into the price of unleaded petrol. As well, the ACCC found that current arrangements allow sellers to react more quickly than consumers to movements in retail fuel prices.

In other words the current arrangements have a significant anti competitive aspect that acts to the detriment of consumers.

It is important to note that, in this regard, as the Assistant Treasurer notes on 21 September 2008, the ACCC has commented that the current situation is “the closest thing to collusion in the petrol market that you can get while still being legal”.

This is not something that a Labor Government is willing to accept on behalf of the Australian community.

The objectives of this bill are to:

- empower consumers to make informed decisions and purchase fuel at the lowest possible price;
- increase reliability and certainty of fuel price information available to consumers;
- reduce consumer search costs;
- address consumer anxiety by eliminating intraday fuel price volatility;
- address the existing information imbalance between petrol retailers and consumers; and
- promote competition in the retail fuel market.

Motorists are fed up to the back teeth with being pawns of the fuel producers and the retail petrol chains and are demanding transparency in the retail petrol market. This Bill will provide this.

Motorists are sick of the games played by the individual major petrol retailers where, if they don’t live in WA, the price of petrol can fluctuate during the day at their local petrol station for no apparent good reason.

What we appear to have is a deliberate game of petrol price confusion orchestrated hour by hour, day by day, week by week, by the major petrol retailers.

This is not just a strategy for individual petrol sellers to increase revenue through increased market share, it is a pricing strategy that has a much broader aim, namely to confuse the punters and to substantially take the edge off effective price competition in the retail petrol market.

Before the introduction of WA’s Fuelwatch scheme, motorists in WA had to put up with intraday petrol price fluctuations at individual petrol outlets.

This is still the situation in the eastern states where the petrol prices you see on the way to work in the morning can be substantially different when you drive home in the afternoon with the intention to fill the tank at the cheapest price you saw in the morning. Fuel delivered at one price and sold at another while still in the tank? How does that work?

Who wins in this situation? It’s a sure bet it isn’t the motorist.

From recent work done by the ACCC it has become evident that the marketing of petrol in Australia by the oil companies and the retail petrol chains is under pinned by a highly sophisticated system of petrol retail price monitoring and marketing techniques.

We know, for example, that the major petrol retailer’s use a sophisticated retail petrol price monitoring service provided by a company called Informed Sources. The company is able to provide its Australian clients with petrol price information from more than 3500 retail petrol outlets every fifteen minutes across the major capital cities.

A service like this wouldn’t come cheap so it must be worth the money. How can it be claimed that this level of retail petrol price monitoring by the major petrol retailers benefits consumers while at the same time the major retailers infer that a national Fuelwatch scheme for consumers would somehow be bad for consumers?

WA has had a highly regarded and successful Fuelwatch scheme in place for 8 years.

The scheme protects WA motorists from being ambushed by petrol price changes, which in other
states can occur at any petrol station at any time of the day or night. There is ample evidence that the WA scheme has consistently provided lower petrol prices compared with petrol prices in other state capitals.

Nonetheless we have this farcical situation where we have West Australian Liberal Party federal MPs and Senators openly panning the WA Fuelwatch scheme in direct opposition to the policy of the newly elected State Liberal Government. The new State Liberal Government has promised to retain the scheme which was an initiative of a State Liberal Government in 2001.

WA Liberal Senators and MPs are so far out of touch with reality it’s not funny. It’s a disgrace. They have shown no regard for the interests of the multi-national oil companies and the major petrol retail chains.

You can be sure I for one will be making sure that WA voters know what sort people they have representing them in the Australian Senate from the Liberal Party.

With the WA scheme WA motorists on any day are able to find out where the cheapest petrol is in their area. They know that the price won’t change during the day at the whim of the retailer.

In WA, the fuel prices for every petrol station are all available the night before on all TV channels. This promotes consumer choice and allows West Australians to know and choose the cheapest fuel. In other words they do not have to play an hourly game of lottery with the oil companies and the petrol retailers on how much they are going to be slugged when they need to fill up their vehicle’s fuel tank.

It not insignificant that the Royal Automobile Club of Western Australia, which has been advising and supporting WA motorists since 1905, and which has more than 600,000 members, has given its strong support to the WA Fuelwatch scheme on the basis that it benefits consumers and helps to keep fuel prices competitive.

In a media statement on the 28th of May this year, Mr David Moir, the RACWA Executive Manager for Member Advocacy, had this to say;

“Fuelwatch has been in place in Western Australia for seven years, and RAC’s support is based on analysing its impact in that time”.

David Moir went on to say:

“The RAC completely supports WA’s Fuelwatch and the benefits it passes on to consumers.”

Six days later in the Other Place the WA Liberal Party Member for Stirling in a speech on this Bill had this to say about the WA Fuelwatch scheme, and I quote;

“I will leave aside the fact that those opposite keep quoting the RAC in Western Australia in support of it, even though the RAC in Western Australia is actually opposed to this scheme”

How’s that for gall on the part of the Liberal Party.

How can you trust anything the Liberal Party has to say on this matter when it is willing to blatantly verbal a non partisan, non profit organisation that has been fearlessly representing the interests of motorists in WA for over 100 years?

You have to ask yourself why the Liberal Party is lining up with the position and interests of the major oil companies and retail chains against the interest of consumers.

You would be forgiven for thinking that is something very suspicious about the direction that the Opposition is trying to take the debate on this bill. Again there has been a lot said by the Opposition about the price of petrol in WA compared with other States that don’t have a consumer information scheme like WA’s Fuelwatch.

The peak motoring body in Australia, The Australian Automobile Association, publishes on its website monthly average petrol prices going back to 1998. These petrol price monitoring statistics are collected by FUELtrac, a well established and reputable independent organisation.

The petrol price monitoring data provided to the Australian Automobile Association by FUELtrac show that for the past five years up to June this year, the aggregate monthly average price per litre for unleaded petrol in Perth was below the aggregate monthly average price in Sydney, Melbourne, Adelaide, Canberra and also Brisbane when the Queensland government subsidy is factored into the Brisbane petrol price.
I ask again in the face of this independent petrol price monitoring data, why is the Liberal Party so opposed to the WA Fuelwatch scheme and to the introduction of a similar national scheme? Why are they lining up with the oil companies in this matter?

The Liberal Party deserted Australian working men and women with their disastrous industrial relations legislation and now as an encore they are turning their back on Australian consumers and Australian families that rely on their motor vehicle for essential transport every day of the year to get to work and to get their children to school as well as sport and recreation activities.

The Federal Liberal Party continues to demonstrate it has learnt nothing from the last Federal Election.

When the oil company’s poor cold water on providing motorists with transparent and easily accessible retail petrol price information you know for sure that, unlike the RAC of Western Australia, the oil companies aren’t concerned about the interests of individual motorists.

This is clearly illustrated by evidence given at the public hearings of the ACCC’s 2007 inquiry into the price of unleaded petrol. At the public hearing in Melbourne on 5th September 2007, Brett Davidson, the Retail Pricing Manager for BP Australia implied that BP didn’t like WA’s Fuelwatch 24 hour price regulation. BP thought it was a bad thing because it put BP in an uncertain position.

When pressed by counsel for the ACCC about this, the BP representative acknowledged that the 24 hour price regulation resulted in a little more guessing by BP and a little less guessing by the consumer.

Also the ACCC found that the refinery-marketers considered the WA Fuelwatch scheme as problematic because it prevented intra-day price movements.

It’s apparent that companies selling petrol into the retail market would much prefer open slather with the retail price on an hourly basis if they can.

Hence from the evidence collected by the ACCC Petrol Price Inquiry, it is difficult not to come to the conclusion that competition has two different meanings when it comes petrol retailing.

For the refiner-marketers it is all about maximising profit in the market by skilful manipulation of retail petrol prices on, if necessary, an hourly basis and on an outlet by outlet basis, in order to nullify competitive forces in the market and to put the consumer on the back foot as far finding the cheapest petrol price.

For the consumer, the expectation is that competition means he or she will be paying the fairest price that a truly competitive market can deliver. It is quite amazing that the Federal Liberal Party refuses to recognise these simple facts and is not willing to stand up for consumers.

The stance by the major oil companies and the national petrol retailers, which apparently has the backing of the Federal Liberal Party, needs to be exposed for what it is, an unqualified case of commercial, if not ethical, double standards.

What right do the suppliers and retailers of petrol have to deny consumers the same level of access to retail price information that petrol suppliers and retailers themselves already have.

This bill is about assisting Australian families and motorists to get a fair go in regard to the petrol retail market—nothing more nothing less. It deserves the support of all Senators.

I strongly commend the bill to the Senate.

Senator FARRELL (South Australia) (11.21 am)—The incorporated speech read as follows—

Fuelwatch will revolutionise the way in which Australian motorists go about purchasing fuel for their vehicles.

It’s an ingenious scheme originally introduced by the West Australian Liberal Government in 2001 to provide consumers with the information they need to get the best deal at the petrol pump.

I find it ironic that the Liberal party is now so very keen to abandon its association with one of the few truly successful schemes it had introduced while in Government.

If only the Liberal party could be as critical of their experiments that actually failed, such as the Workchoices fiasco and the Iraq war misadventure, as they are with the Fuelwatch scheme then they might one day finally hit the target. As it is,
they are spraying their shots very well wide of it at the moment.

Under Fuelwatch, specified petrol retailers will need to notify the Australian Competition and Consumer Commission of their price for fuel for the next day by 2pm each day.

These retailers will be required to sell fuel at their notified price by 6am the next day and maintain that price for a 24 hour period.

Failure to notify the Australian Competition and Consumer Commission of their notified price or to change the price of fuel once it has been set will incur a civil penalty.

The Australian Competition and Consumer Commission will then publish the results, usually in time for the evening television news as is the case in Western Australia, and this will allow consumers the opportunity to determine where to buy the cheapest fuel in their area.

They will also be published on the internet.

Fuelwatch gets rid the guesswork for motorists looking to fill up the tank. It's the best way for motorists to get the best-priced fuel. Like many people, I reckon that car-sickness is something that a motorist gets when he or she has to fill up the petrol tank. Fuelwatch may not be the perfect cure-all for this malady, but it will certainly go a long way towards easing the pain of prices for fuel.

As I have mentioned before, the Fuelwatch scheme is already well-established in Western Australia. It successfully provides consumers with a website, email and phone updates, and television stations display the retailers with the cheapest fuel in the area in a similar way the location of speed cameras for the next day.

After two years of operation the West Australian Government expanded Fuelwatch to include an additional 24 towns and five local government districts on top of the Metropolitan and regional areas already covered. This has been greatly appreciated by the Western Australian electorate.

The WA Fuelwatch website proudly boasts that today it covers all petrol retailers in the metropolitan area and approximately 80% of rural areas.

West Australians have had the opportunity to assess the impact of Fuelwatch and have clearly decided that it is a good scheme for motorists and that it provides real value to consumers.

If the scheme is as bad as the Liberals say it is then why has it not brought doom and gloom upon West Australia?

Why has the new Liberal Premier, Colin Barnett, not moved to shut Fuelwatch down within the first few weeks of being elected?

The answer is because the Fuelwatch scheme actually works! And you can bet your bippy that there would be an outcry amongst West Australian motorists if there were any move to take it away. Mr. Barnett knows Fuelwatch is a winner. Why don't his Federal counterparts?

What we have is the farcical situation where the Federal Liberal party and State Liberal parties are at odds with one another as to whether the Fuelwatch is good or bad.

But rather than discuss the contradictions of the Liberal party I'll return to the reasons why Fuelwatch will provide Australia motorists with a better deal at the petrol pump.

Motorists are fed up to the back teeth with being forced to pay high prices. About the only thing they can be assured of is that the skyrocketing profits of oil companies always appear to rise faster than the cost of the fuel they put in their cars.

However, the main strength of Fuelwatch is that it will empower consumers to make informed decisions about where to purchase fuel at the lowest possible price. Consumers will have a choice based on facts.

It does this by levelling the playing field between petrol retailers and consumers by providing both parties the same information on the retail price of petrol.

The Senate Economics Committee report on Fuelwatch made the observation that under the current system there are significant information asymmetries between petrol retailers and consumers that benefits the former at the expense of the latter.
Petrol is a household staple. We can’t do without it. Petrol is essential for millions of Australians to go about their normal lives.

However, unlike any other household staples, petrol prices are extremely volatile. Imagine the confusion and consumer anxiety if the price of bread, milk, eggs, vegetables and meat jumped around as much as the price of petrol currently does.

Petrol retailers are able to exploit the current confusion and lack of information that consumers have — so they can raise and lower prices at a moment’s notice. Motorists see on the TV news services each night, and read in the newspapers each morning, about the plummeting price of oil per barrel. Yet rarely do they see corresponding falls at their local service station.

Petrol retailers pay substantial fees to companies like Informed Sources to provide them with up-to-date pricing information, and this puts them one step ahead of the poor old consumer.

Fuelwatch eliminates this advantage! Fuelwatch puts consumers and retailers alike on an equal footing.

This scheme will also benefit retailers because they will no longer need to pay hefty fees to obtain up-to-date pricing information — and they will be able to spend less managerial time trying to respond to many different prices during the day.

Instead, petrol retailers will need only make one decision — how much they will charge for tomorrow’s fuel — and then they can go on to focus on other duties.

Under the present system, the only way consumers have to compare fuel prices is to drive around noting down the price as they go along.

Even then if they realise that the cheapest petrol was at the first station they passed down the road then by the time they’ve gone back the price may have changed anyway.

Fuelwatch therefore substantially reduces the search costs for consumers. Rather than driving around inefficiently to determine the fuel prices — and wasting precious fuel in the process — they can just look up the best deal in their area and immediately know where to go.

While the Fuelwatch scheme will improve the information available to consumers letting them find the best deals in their area, the scheme also has the advantage of reducing the wild intra-day price fluctuations that frustrate so many motorists.

At a recent street corner meeting I attended with the South Australian Attorney General, Michael Atkinson, I met a number of people concerned about the price of fuel.

One of the most frustrating things about the price of fuel one gentleman told me, was how he would drive past petrol stations on the way to work but when he tried to fill up on his return trip the price had jumped by 10 cents a litre. This is outrageous, and there’s no way this could happen under Fuelwatch during a single 24-hour period.

Prices will be locked in for 24 hours.

Michel Atkinson, incidentally, believes a bicycle is the most efficient machine ever created, for he rides everywhere — and obviously understands that by converting calories into petrol, a bicycle gets the equivalent of about two thousand kilometres per litre!

Under Fuelwatch, motorists will even have the opportunity to go home, watch the evening news, and work out whether they should fill the car that evening or wait until the next day.

With the extra information that consumers will have under Fuelwatch, there will ultimately be more competition in the market.

More competition in the market means a better deal for consumers and will help make the Australian economy more efficient.

On any day of the fuel cycle, whether on the more expensive days or the cheaper days, motorists will be able to determine the best price via the internet, the newspapers, or television news services.

The National Fuelwatch scheme is estimated to cost $20.9 million over four years from 2008-09 to the end of the 2011-12 financial year.

It is expected to have annual running costs of $4.6 million.

But one of the very good things about this service is that it is not only going to be of great help to motorists, but is going to save petrol retailers significant amounts of money also.
It costs the retailers next to nothing to participate in the scheme, except the costs of a local phone call to the Australian Competition and Consumer Commission to let them know the nominated price for the next day.

This is in stark contrast to the present system whereby petrol retailers have only two options to find out the price of their competitors petrol. They can either pay substantial fees to companies like Informed Sources, who pay their staff to drive around recording petrol prices in capital cities, or they can drive around their local neighbourhoods themselves to determine the prices of fuel.

Eliminating the need for both options will free up significant resources for petrol retailers. They will be able to focus on other more important aspects of their business, including service.

There have been some concerns raised about the role of independent petrol retailers under the Fuelwatch Scheme.

In particular there have been concerns about the potential for predatory prices and anti-competitive behaviour that may —and I stress may — be exacerbated under Fuelwatch.

As the majority report noted, large petrol retailers could adopt a ‘rolling price leaders’ strategy, whereby large retailers have different outlets having the cheapest fuel for different areas at different times.

That particular chain would then consistently make the top 10 list of cheapest sites and then unfairly create the impression that that particular retailer had the cheapest fuel.

This would put smaller operators at a disadvantage because they would be less able to employ such a strategy.

However under Fuelwatch such a strategy could be less effective.

Consumers will be able to check which outlets of the large petrol chain is offering the cheapest fuel and not go to the more expensive ones.

So the large retailers would no longer be able to rely on information asymmetry about which outlet was offering the cheaper fuel and would also be unable to quickly raise the price of fuel if they start making a loss.

So if such a strategy was taken by the supermarket chains it could prove very costly indeed.

This is one reason why the Standing Committee on Economics majority report recommended that

“The Government undertake close liaison with independent fuel retailers to monitor the operation of Fuelwatch. The impact on the competitiveness and market share of independent fuel retailers should be an important part of the one-year review of Fuelwatch which the Government has already promised.”

The majority report notes the strong difficulties facing independent retailers - such as competition from the large supermarket chains that have entered the market in the past few years and the economies of scale that these larger fuel retailers currently enjoy.

It is not the intention of this bill to make doing business more difficult for independent retailers. It is to make life easier for them—and for the motorists who buy their fuel.

In summary, I would say this:

The vast majority of Australians, apart from those very lucky ones in Western Australia who benefit through Fuelwatch, are sick and tired of playing what has become Australia’s latest and most expensive game—“Find the cheapest fuel”.

They want direction. They want help. They want to save money—irrespective of what the holier-than-thou Liberals may think.

They are tired of scouring their local neighbourhood checking prices. Tired of driving around in circles examining prices and then making their decision —only to discover that the cheapest service station has hiked the price and it’s now 3 or 4 cents per litre higher than it was when they first saw it 30 or more minutes earlier.

A national Fuelwatch will provide them with the guidance they need.

The Liberals, with their backward thinking, would have us go back to the horse and buggy days. Labor, with its progressive thinking, believes Fuelwatch is currently the best way forward.

I commend the Bill to the Senate, and believe that—through Fuelwatch, pedestrians will no longer include those people who thought they had
a couple of gallons left in the tank, but who—sadly didn’t—because they failed to have sufficient money to fill their car.

Senator PRATT (Western Australia) (11.21 am)—The incorporated speech read as follows—

I rise to speak on behalf of the National Fuelwatch (Empowering Consumers) Bill 2008 and related bill.

The Rudd Government is determined to do everything it responsibly can to put downward pressure on petrol prices and ease cost of living pressures on working families.

There are about 15 million vehicles on our roads and 90% of homes with at least one car in the garage—so petrol is an inescapable cost for many, many Australians.

In these difficult economic times, motorists are very keen to find the cheapest petrol in their area.

On any given day there’s roughly a 20 cent difference the cheapest and most expensive petrol in Australia’s capital cities.

A difference of 20 cents per litre is worth $12 on a 60-litre tank of petrol.

In the context of a tight family budgets, that is a very significant difference.

However, as thing stands, motorists have no sure way of finding the cheapest petrol in their area.

They are left scratching their heads on where to find the cheapest fuel and when price hikes are to occur.

If Senators support this Bill that will change.

No longer will a motorist drive past a petrol station in the morning only to return in the afternoon to find a ten cent per litre jump in the price of petrol.

Motorists will be able to find out, with certainty, where petrol is cheapest in their area and when petrol is going to rise the next day, and they will have up to 15 hours to buy before the rise and thus save money.

Fuelwatch will ensure that motorists will be able to make an informed decision about where to buy the cheapest petrol, at the cheapest petrol stations, at the cheapest times.

In addition to the introduction of this legislation, the Rudd Government has also undertaken two other significant initiatives aimed at ensuring that working families do not have to pay a cent more than they have to for petrol.

Firstly, the Minister has provided the Australian Competition and Consumer Commission (ACCC) with tough new powers to conduct formal monitoring of petrol prices, costs and profits, and to report its findings to the Government every year for the next three years.

This will help improve retail price transparency and understanding of retail price movements.

Secondly, in March 2008, the Government established the role of Petrol Commissioner to the ACCC.

The Petrol Commissioner’s responsibilities include the oversight of the ACCC’s formal monitoring of unleaded petrol prices in Australia as well as providing an annual report on its findings.

The Petrol Commissioner is able to scrutinise documents and other information from any participant in the petrol supply chain whenever it is deemed necessary to ensure pricing is consistent with international benchmarks.

The Petrol Commissioner is also responsible for advising the Government on whether any further powers for the ACCC in this area are necessary or desirable.

The Petrol Commissioner will also oversee the introduction of the National Fuelwatch Scheme envisaged under this legislation.

The Rudd Government is convinced that there is a need to promote competition and transparency in the retail petrol market.

The fact is that the ACCC has found that an imbalance in fuel pricing information between petrol retailers and consumers exists at the retail level.

Current arrangements allow sellers to react more quickly than consumers to movements in retail fuel prices.

The capacity of consumers to take advantage of the most competitive, lowest prices in their local area is limited by intraday fuel price movements (sometimes as often as three or four times per day) and the amount of effort and search costs motorists are willing to incur.
In the current market large petrol retailers purchase information on competitors' pricing every fifteen minutes.

This means that many of those selling fuel have access to detailed information that tells them in virtual real time what their competitors are charging.

With volatile petrol pricing, retailers can use this information to maximise profits.

They can, in effect, swap prices on a secret website that consumers have no access to.

Consumers, on the other hand, rely on a range of media and websites—not always accurate or up to date—or the existence of the usual fuel cycle to buy on 'magic' Tuesday for the cheapest petrol.

Sellers know that motorists generally don't know if they are getting the best price or not, which reduces the incentive to offer the lowest possible price.

The Fuelwatch scheme, incorporating the 24 hour rule addresses this issue.

For this reason, the Senate Economics Committee, of which I am a member, believes the 24 hour rule is an integral part of the Fuelwatch scheme.

It is this rule that allows consumers to plan and to have certainty that they will get the cheapest price.

It is this rule that allows consumers to vote with their wallets — rewarding those who offer good prices and putting pressure on those who do not.

It defies common sense to argue, as the Opposition has done, that there is no need to freeze petrol stations' prices for 24 hours to get the benefits of Fuelwatch.

To argue that pricing information on the internet alone is enough.

Information without a price freeze in no information at all—because that information can change the second after a consumer looks it up.

In short, the current information imbalance results in consumer detriment due to the negative effects on competition and consumers.

And the primary aim of Fuelwatch is to address this imbalance between petrol retailers and consumers.

Contrary to the rhetoric of those opposite, the objective of the government in introducing this legislation is not, and never has been, to guarantee lower petrol prices.

Phillip Coorey noted in the Sydney Morning Herald on the 16th of April, the day after the National Fuelwatch scheme was first announced by the Rudd Government, that the Government had made clear that it was not introducing the scheme in order to guarantee reduced fuel prices.

And the Rudd Labor Government’s position on that point has not changed since Labor acknowledges that the price of petrol in Australia is largely determined by international factors.

Rather, the Government’s objective, from the beginning, has been to put consumers on the level playing field with retailers.

Our objective is to empower consumers to make informed decisions and purchase fuel at the lowest possible price by:

• increasing the reliability and certainty of fuel price information available to consumers; and

• reducing consumer search costs.

Nevertheless, it is a fundamental principle of market economics that competition drives down prices and that an information imbalance between buyers and sellers is detrimental competition.

It follows that, if you believe in market economics, reducing the information imbalance between consumers should increase competition and thereby help to keep prices as low as possible.

As Malcolm Maiden commented in the Age on the 2nd of August, that’s why players in most modern markets accept that regulation to improve the availability of price information is both necessary and inevitable.

To quote Maiden:

• The suggestion that the Government is somehow oppressing supermarket groups or petrol retailers by publishing price information about items as fundamentally important to household budgets as food and petrol is laughable.
Any market worth its salt allows price discovery.

It is why the Australian share market, for example, has moved from a system of periodic disclosure to one of continuous disclosure, why those wishing to buy and sell are able to access market depth information that show what shares are being offered and at what price, and why insider trading is banned around the world.

In short, Malcolm Maiden’s argument is that if the fullest practicable price disclosure is good enough for the share market, why is not good enough for the retail petrol market?

That is a very good argument

And unless Senators opposite can tell us why petrol consumers are less entitled to price disclosure than those who invest in shares, they should support this bill.

There is an old saying that the proof of the pudding is in the eating and seems to me that that saying is particularly apt in this case.

The fact is that, in my home State, petrol consumers have been eating Fuelwatch for almost a decade and they find it very much to their taste.

Surveys conducted by the Western Australian Government and those conducted by the Royal Automobile Club of Western Australia demonstrate that many, many petrol consumers use Fuelwatch and that they generally appreciate the benefits of the service.

The opinion of the RAC in WA on the question of Fuelwatch, as expressed in its submission to the Senate Standing Committee on Economics, is of particular note.

The RAC is independent of both the Western Australian Government and the Rudd Labor Government and represents over 680,000 motorists in WA.

Its view of Fuelwatch, however, accords very closely to that of the both the Rudd Labor Government and the Western Australian Government.

The RAC believes, that the major benefit of Fuelwatch is, and I quote form their submission:

That consumers can ‘take advantage of the lowest prices as:

1. They can easily find the location of the lowest price
2. They know that the price will still apply when they get to the site concerned

The RAC is convinced that sufficient consumers take advantage of service as to keep a downward pressure on prices and that the existence of Fuelwatch enables consumers to buy fuel at a favourable price on any day of the fuel cycle.

The Submission of the Department of Consumer and Employment protection in Western Australia points out that data drawn from the Fuelwatch database in Western Australia provides the most comprehensive picture of retail fuel prices available in any retail petrol market place in Australia.

And on the basis of this data, the Department has concluded that Fuelwatch puts downward competitive pressure on fuel prices by enabling motorists to make informed decisions about fuel purchases.

Not only does the RAC in WA recognise the benefits of Fuelwatch and the validity of the data provided by the Western Australian Fuelwatch scheme, so, do both sides of politics in WA.

The scheme was introduced by the Liberal in WA and retained through two terms of Labor Government for one reason only — because it works.

The recent change of Government in Western Australia, provided the Liberals in my home state with a ready made opportunity to review the effectiveness of Fuelwatch and to dispense with it if there was evidence that the system was not working.

Well the new Minister for Consumer Protection in Western Australia is Troy Buswell.

Mr Buswell, prior to the Western Australian election was a self professed sceptic in relation to Fuelwatch.

And, not surprisingly given his scepticism, since the election he has sought advice from his department about the effectiveness of Fuelwatch.

However, on the third of last month, the Western Australian reported a quote ‘Backflip by Buswell’ based on the advice he has received from his department.
Mr Buswell was quoted as saying that the advice he had received, ‘proved that Fuelwatch was working effectively’.

Furthermore, again contrary to his previous position, he said that ending the 24 hour rule would ‘undermine the integrity of the system.’

Fuelwatch is here to stay in WA because it works and in these difficult economic times I hope and trust that the Senate will see fit to ensure that the hard pressed working families in rest of country can also enjoy its benefits.

**Senator ARBIB** (New South Wales) (11.21 am)— The incorporated speech read as follows—

I rise today to support the National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008.

As the titles states, this Bill is designed to empower consumers.

It is important to consider this aim in context, because the Rudd Government has kept this motivation at the forefront of our efforts … That is to empower Australian motorists.

Despite the recent and long awaited fall in global oil prices, over the last few years petrol prices have skyrocketed in Australia and this rise has placed massive pressure on household budgets.

A large part of household weekly expenditure is paid at the pump. Children need to get to school or sport; parents need to get to work and all need to get home again.

… Australians are now acutely aware of the cost of petrol when deciding where they need to travel … be it the local shopping centre or a trip to town.

The price of petrol is so intertwined with the daily lives of Australians that few are completely immune, it is difficult to think of life without the weekly trip to the pump.

This need however fuels another reaction at the petrol bowser from consumers. What Australians can’t stand … what they resent more than anything… is being taken advantage of … and, unfortunately, for all they face this reality weekly.

Australians still and will always believe in the fair go. They feel that everyone should have an equal chance to deal with things as they find them … but what we see in the petrol market is one group of Australians with that chance and another group… a much bigger group … without the same opportunity.

No one is suggesting that if a petrol retailer’s costs go up they cannot raise the price of fuel. Similarly, if the demand rises it is their choice to take the risk of raising prices and the others prerogative to follow or not. This is the essence of market driven competition…

But there is another aspect of competition it’s the ability of those at the pump to make their choices effectively and in their own best interest. Unfortunately this choice has up until now, been extremely limited.

It is this diminished opportunity that the bill before us today addresses.

**Current situation - market inadequacy**

Currently, many petrol retailers in Australia subscribe to a service provided by the company “Informed Sources”. This company provides a mechanism where by subscribers can access information about petrol prices… around the country… accurate to 15 minutes.

Such information allows petrol retailers to stay on top of price shifts by competitors and react to them. Understandably this information is invaluable to them…. …and they pay for it accordingly.

If a retailer raises their price they can know within a quarter of an hour whether their competitors are following. If they don’t, they can drop the price back and not risk losing market share… so far so good for consumers.

However, the reciprocal situation also applies. If a retailer sees within 15 minutes that one of their competitors has raised their price, they can do so as well. In this way as the information is passed so too does the price increase.

This leads to less competition… less transparency… and little or no benefit for consumers.

Without the same immediate information the consumer’s choice is considerably weakened. The consumer cannot be expected to travel between
service stations to compare prices… even if they did it may have change by the time they return.
What this situation amounts to is a disparity of information between retailers and consumers on a daily… in fact quarter hour basis…
This is a market inadequacy.
In any case where a market does not have full information or where such information is available only to a portion of those taking part … vulnerability to manipulation becomes a serious concern, the market will tend towards lower competition, and consumers will ultimately suffer.
If petrol retailers were meeting face to face… or even calling one another… and discussing where they would set their prices this would be collusion and illegal.
That a third party is involved in the form of a website is the only thing that currently saves petrol retailers from this dire conclusion.
The competition watchdog, the ACCC, calls this industry practice ‘as close to collusion as you can get’ warning bells should be ringing for all of us.
This is a straight forward proposition. Retailers currently have a clear, comprehensive and up-to-date view of the market and consumers do not. Retailers have the ability to play their part prudently and consumers cannot.
For competition to flourish both of these groups must have full and reliable information.
Fuelwatch:
The Rudd Government has a plan and is committed to ending these inequalities, that’s why we have already established the position of Petrol Commissioner with effective monitoring powers.
But Fuelwatch goes even further…
Fuelwatch will help end the discrepancies that exist in the market and the scheme achieves this goal in the simplest and most efficient way… by giving consumers the information they need to make informed choices.
The legislation places an obligation on petrol stations to publish petrol price information on the Fuelwatch website… giving consumers the information they need well ahead of the time they need by 4pm, the day before the prices will be seen at the pump.
The information is readily available to the public as well as the retailers. For the first time in this industry there will be a level playing field for consumers to flex their purchasing power properly.
People want to buy petrol where it is cheapest. The chaos created by consumers in Wester Sydney last month… when 99c fuel was on offer speaks volumes about the desire that exists in the community to make choices about where and when they buy their petrol.
If possible the majority will hunt out the cheapest price for fuel. They will plan ahead… structure their travel times and routes around the purchase of fuel.
The Fuelwatch website will help with this too, allowing consumers access to maps which will allow a quick and easy formulation of a travel plan… that includes a trip past the cheapest pump.
The need for reliability is of central importance to this debate- consumers require full and reliable information on petrol prices. If the reliability of information is not fit for purpose then that information is diminished.
There has been extensive discussion in the other place about the commitment rules which underpin the Fuelwatch scheme.
There is no need to throw our hands up in the air in alarm. It is much ado about nothing…
In a situation where retailers are informed about changes in price by competitors within 15 minutes of the change there is frequent and large intra-day volatility of prices.
… And inevitably leads to frustration and anxiety for consumers who have planned their day around a certain price at a certain location … only to find the price has change dramatically on very short notice.
As I said previously, there is nothing more enraging to consumers than the feeling that they are not being given a fair go… not being given an opportunity to exercise their purchasing power.
Fuelwatch will give consumers a fair go. It allows certainty of petrol price information. It is no good to report prices to consumers at 4pm the day before with no more than a guarantee that those
prices will be available at exactly 6am the next morning.

Similarly, a continuous update system like that of “Informed Sources” does not advantage consumers who have to plan ahead. Unlike petrol retailers consumers cannot adjust quickly to a change in price and therefore would draw no benefit from simply having greater knowledge of the volatility.

The fact is that a reporting system without the committal rules would be of little benefit to consumers while providing retailers with a similar anti-competitive arrangement that they now enjoy under “Informed Sources”.

These provisions are a logical good policy response to a serious imbalance in the petrol market.

Good policy also means assessing, where possible, how the policy has operated in the past.

**Western Australian Fuelwatch:**

The Fuelwatch model is not untested. It has been effectively operating in Western Australia since 2001.

The ACCC examined Fuelwatch WA as a benchmark for recommending a broader national application.

The first thing to note about the Western Australian example is that 83% of motorists surveyed were attracted to the idea of no intra-day fluctuation.

In other areas there has been clear support for the scheme overall. The NRMA a motorist advocacy group has lent their voice to Fuelwatch stating that NRMA research has shown that motorists using services such as Fuel Watch can save approximately $200 per year on their fuel costs.

I also note that during the recent Western Australian election, not one Liberal or National party member was opposed to the scheme.

So it appears to me that Western Australian motorists are happy with Fuelwatch… which is important… it is important because it proves the policy works-, therefore giving consumers the peace of mind and confidence that the playing field is level… like it should be.

There has also been some discussion and debate especially from those on the other side of the Chamber about whether a Fuelwatch scheme will lower prices.

It is important to reinforce that the purpose of the scheme is to level the playing field through dissemination of reliable information designed to encourage competition.

That being said, the Western Australian example once again provides important hints as to Fuelwatch’s effectiveness in this area.

The ACCC found that on average petrol prices in Western Australia were 1.9 cents lower following the introduction of Fuelwatch.

Listening to the Assistant Treasurer explain how Fuelwatch will benefit motorists, he makes a sound case.

The pricing spread—that is, the difference between the lowest and highest petrol price—can be around 20 cents a litre in the same areas of a city on the same day. For instance …

- In Perth this September, the average difference between the highest and the lowest price for unleaded petrol was 18.1 cents per litre.
- Perth motorists, on a 60 litre tank, who used Fuelwatch, could therefore have saved on average up to $10.80.
- In Sydney, where there was an average pricing spread of 19.7 cents a litre—if we had a Fuelwatch scheme, motorists could have saved up to $11.40 for a 60-litre tank.

For the Liberals and the member for Wentworth who we know is out of touch this saving is no big deal. But to motorists in city areas an average saving of around $10 or $11 a tank is worth shopping around for.

**Liberals and the Big End of Town:**

So what then is the opposition trying to achieve with their bid to block this bill? And more importantly what is their solution to the problem.

Time and time again in this Chamber we have seen the Liberals and Nationals side with multinational corporations and the ultra-rich over working families and those doing it tough.

We saw it in the Luxury Car debate where the Liberals tried to block the revenue measure in
favour of Porsche drivers who would save around $22,000 when purchasing a vehicle.
Not bad if you can fork out the capital for a car like that, but not particularly helpful if you are buying an average family vehicle.
They teamed up with the mixed drinks industry on the Government’s Alcopops measures and to this day still oppose the policy in an attempt to try and help the large distillers.
And true to form we saw them siding with large multinationals on the condensate tax exemption.
The Liberals were content, it seems, to let a company boasting massive profits continue to benefit… from a tax concession designed in 1977… to help the regions in the North West Shelf project get established.
If the Liberals vote against the bill before us they will be voting for market inadequacy, a power imbalance and no relief for consumers. We all will know whose side they are on.
And what is their great plan to get more competition into the petrol market? Who would know?
The Member for Wentworth has been Opposition Leader for almost two months and has not announced one single policy or plan.
On the issue of petrol all we have is confusion … One minute the Member for Wentworth is like his predecessor supporting a cut in petrol excise, and then the next as recently as this weekend says he will discard it. The member for Wentworth has no ideas and no solutions on petrol, all he has is rhetoric and bloody minded opposition.
The Rudd Government refuses to go down that path and will stand up for motorists.

**Conclusion:**
Fuelwatch has proved successful in Western Australia. There is no “Informed Sources” type arrangement in WA because none is needed. The information for retailers is there… the information for consumers is there… and the market operates effectively with increased competition and benefit for consumers.
This bill is designed to broaden that benefit to the rest of the country.
All of us want an even chance to act in our own interest. It is reasonable to expect that information so necessary to consumer choice be readily available.
Fuelwatch is a clear and efficient way of disseminating pricing information. It is working in Western Australia. It will work on the national stage.
For these reasons I add my support to this bill and urge members opposite and around this chamber to accept the severity of the problem, acknowledge the fairness of the solution, and act decisively to support consumers in these tough times.

**Senator FURNER (Queensland) (11.21 am)**—The incorporated speech read as follows—

Our position when it comes to assisting the public is clear. Under Fuelwatch:
The Government firmly believes there is a need for greater competition and transparency in the petrol market.
Motorists should not be left wondering where to find the cheapest fuel and when price hikes are to occur.
The National Fuelwatch Scheme will help motorists buy the cheapest petrol, at the cheapest times.
Under the National Fuelwatch Scheme, petrol stations in metropolitan and major regional centres will be required to:
- Notify the ACCC of their next day’s prices by 2pm the day before;
- Maintain this advised price for a 24 hour period; and
- Apply the scheme to unleaded petrol, premium unleaded petrol, LPG, diesel, 98 RON and biodiesel blends.
The petrol price information collected from these petrol stations will be made available to consumers through:
- An email and SMS alert service informing subscribed consumers details of the cheapest fuel in their area;
- A national toll free number where motorists can locate the cheapest petrol in the area they are looking to purchase fuel: and
- A National Fuelwatch website with station by station, day by day and suburb by suburb petrol price information.
On any given day there is roughly a 20 cent difference between the cheapest and most expensive petrol in Australia’s capital cities. Fuelwatch can help motorists find the cheapest petrol in their area. A variation of 20 cents per litre is worth $12 on a 60-litre tank of petrol.

The Government requires the support of the Opposition and the Independents to get Fuelwatch through the senate. If Fuelwatch is supported in the Senate, the scheme will be up and running by the 15th December this year.

Public hearings were held in Karratha, Perth, Brisbane, Rockhampton, Adelaide, Sydney, Melbourne and Canberra.

The most compelling evidence which has come from the State which has tried and tested a scheme such as Fuelwatch is naturally Western Australia.

It is interesting to note the Liberal WA Government introduced Fuelwatch, inconsistent to the opposing position of the Federal Liberal Opposition.

On the evidence the Economics Committee heard as follows:

Ms Driscoll, Commissioner for Consumer Protection, Department of Consumer and Employment Protection, Western Australia.

Fuelwatch in WA is really about transparency. It has never claimed to be an answer to the worldwide shortage in fuel that we are experiencing at present. It is really about letting consumers know about prices in the next 24 hours, and, if they choose, enabling them to make decisions about where they will purchase their fuel.

On average at the time of the hearing consumers were saving between 13c and 14c for most types of fuel in Perth.

Interestingly data over the last six months in particular, as fuel prices have increased, the attention paid to Fuelwatch has significantly increased. People are increasingly using WA Fuelwatch as a source of information.

Information was provided suggesting that Fuelwatch has not had a detrimental impact on pricing in WA relative to the eastern seaboard over several years. In the month of June evidence suggested that the average price for petrol was 3c cheaper than in Melbourne, 4.2c cheaper than in Brisbane without the subsidy 2.4c cheaper than in Sydney and 2.6c cheaper than in Adelaide.

At the time of the hearing in Perth there was certainly some information that suggested that fuel prices in Perth are more attractive than they are elsewhere.

Even Senator Abetz at the Perth hearings appeared to support the benefits of Fuelwatch. In a question to Mr Rayner of the Department of Consumer and Employment Protection, Western Australia he stated:

Senator ABETZ—Hansard Fuelwatch Inquiry

“Mr Rayner, on The 7.30 Report on 29 May 2008 you stated that Fuelwatch saves the consumer the effort of driving around looking for the cheapest prices. I think that is right, ...”

Mr Mike MULLINS, General Manager, Gull Petroleum WA

Mr Mullins—I think consumers are best served when there is vigorous competition in the market, ...

What Fuelwatch has done is provide readily available information into fuel prices and held them constant so that that information can support purchases, and I am sure there is a segment of the market that values that.

Mr Mullins went on to say “somewhere in that mix Fuelwatch has added some value, and others are probably blissfully unaware that it even exists”.

Mr David MOIR, Executive Manager, Member Advocacy, Royal Automobile Club of Western Australia

“I guess, unlike a lot of the other people from whom you will be hearing over the course of your inquiry, it is no benefit or loss to the RAC if Fuelwatch is or is not introduced on a national basis, provided of course that we retain the existing scheme in WA.”

The RAC was there in its capacity representing their member base, of 680,000 members in Western Australia.

The biggest value that Fuelwatch does provide is as a community or consumer education tool. In other words, it encourages good competition by
feeding that element of economic theory, which is buyer information and seller information.

At the moment, without some scheme such as Fuelwatch, which provides locked in proactive information about the range of prices available on any given day, consumers are largely in the dark about what price they should be paying.

On question in relation to changing the price of fuel within the 24 hour period, Mr Moir stated:

“The other concern we have about giving retailers the opportunity to change within the 24-hour cycle is that it takes away the rigour that they have to go through at the moment in setting a price.”

They can, if they wish, set a fairly high price and then just wait and see what their nearby competitors do and then, if they choose, drop the price.

This is what happens in other states and there is nothing inherently wrong with that in a purely unregulated market, but if you are going to have a Fuelwatch system that is intended to inform consumers, you need to have some certainty that, having told them what the price is, they can actually go and buy it at that price.

Independents

On the impact of independents, In WA we heard Mr Moir from the RAC of WA state “We have not seen any evidence that Fuelwatch has been a detriment to independent retailers in Western Australia”.

WA Fuelwatch has been in place for seven to eight years. If they were struggling before Fuelwatch came in and if Fuelwatch imposed unreasonable demands or costs on independents that made it difficult for them to survive, you would imagine that in the seven to eight years that Fuelwatch has been operating a significant number would have left the industry. There was no evidence presented that made us aware of that the proportion of independents in WA is any different or the rate of decline of independents post-Fuelwatch is any different from the rate of decline of independents pre-Fuelwatch.

In fact, we understand from the Department of Consumer and Employment Protection that in fact the number of independents may have increased slightly during that time.

Ms. Driscoll, Commissioner for Consumer Protection, Department of Consumer and Employment Protection, Western Australia position was:

“Of course, one of the key criticisms and allegations about Fuelwatch has been that it impacts on the composition of the marketplace in terms of retailers. That has not been our experience in WA. The sole operators or independents have increased in proportion in WA. Previously they were in the order of two per cent of the marketplace and are now six per cent of the marketplace. Independent chains have continued to be approximately 13 per cent of the retail marketplace. I think, importantly, it is also relevant to point out that the independent chains have continued to have extremely competitive prices, often the cheapest, and as a consequence have maintained their market position while also being very competitive in that field”.

Mr Samuel from the ACCC in Melbourne hearings said on the Effect of Independents: -

“If you want that assurance let me say that the experience in Perth, as it has been elsewhere, is that the smaller independents have tended to consolidate into larger groups, be they the larger retail groups like the United’s, the Gulls, the Neumann Petroleum’s, or the larger groups supplied by wholesalers such as the Liberty group and the like.

He stated that Fuelwatch had an adverse impact? The answer to that is no.

Independents have been smart entrepreneurs in developing their businesses in a manner where they are able to use initiatives such as expansion of groceries, food items and more importantly mechanical repair work.

Mr Stephen MARSHALL, State News Director, WIN Television Rockhampton, Queensland introduced a fuel-watch segment, which was basically designed to just inform people about fuel prices during the day.

Every day in the markets of Far North Queensland—which is Cairns, Townsville, Rockhampton, the Sunshine Coast and Toowoomba—our crews, who are out all day, are basically collating prices from petrol stations in their region during the day and, of an evening.
Mr Samuel—Chairman, Australian Competition and Consumer Commission comment at the Melbourne Inquiry on Fuelwatch:

Mr. Samuel Chairman of the ACCC reported on the econometric modeling of Fuelwatch. The econometric modelling was designed to do one thing: it was designed to compare the pricing of petrol in Perth before and after the introduction of Fuelwatch with the pricing of petrol in the eastern seaboard states, including South Australia, before and after the introduction of Fuelwatch. It does just that.

The purpose of the econometric modelling was to see whether or not Fuelwatch’s introduction in Perth had done any damage to consumers. It concluded it had not. That is the purpose of the econometric modelling. It is what the data demonstrate.

To dispel the myths on the econometric view Professor Harding presented in hearings, it was the observation of Dr. King from the ACCC indication that Professor Harding violates the first law of statistical inference, or the first law of econometrics, in his second submission he picks and chooses his data. That means that his second submission has no statistical validity. Every test he does in there is, from a statistical perspective, wrong.

Furthermore, Dr. King’s observation of Professor Harding’s bias submissions was, he looked at the east coast data and he said, ‘Well, I don’t like Adelaide. Adelaide appears to verify Fuelwatch.

In terms of relative prices, the price in Adelaide—the relative petrol price in Adelaide—goes up relative to Perth around the time of Fuelwatch. I’ll throw that out.’ He then turns to Melbourne. He says, ‘Oh gosh, the relative price of petrol in Melbourne goes up compared to Perth around the time of Fuelwatch’s introduction. I will throw that out.’ He then turns to Sydney and he then says, ‘Ah, Sydney seems’, and to quote him, ‘more stable. There is a stable relationship.’ In other words, that is what he is looking for, and he then runs his tests on that.

It means that every test Professor Harding carried out from that moment had no legitimacy as a matter of statistics.

Mr Samuel went on to assert: Fuelwatch is designed to give motorists all that information, to tell them where they can save not 2c, not 2.6c, not 1.9c, but where potentially they can save the difference between $1.34 and $1.61, or at least get below that average of $1.43, rather than pay the $1.61 and then having frustration, confusion and anger at the fact that they feel they have been ripped off because they had not realised that around the corner or elsewhere down the highway there was another service station selling at potentially 25c less than the one at which they bought their fuel.

Mr. RENOUF, Director, Policy and Campaigns, Choice Magazine

Choice has long supported the idea of a Fuelwatch scheme. We called for it and we are pleased that the government has adopted it. I guess the point is to talk about why we support it.

In addition to the evidence, which suggests that there is likely to be some modest price benefit to consumers most of them, but perhaps not all—the important thing about Fuelwatch, or some similar scheme, is that it promotes transparency in the market, gives consumers certainty, and reduces the search costs that they currently face in trying to work out where to find the cheapest petrol. Those costs include not just time; they also include money in the form of petrol driving to places that they did not want to be.

There is a lot of evidence to suggest consumers do not like intraday price changes and that they want to know where they can go on their way home to get petrol at a price that they expect and anticipate.

Supporters of Fuelwatch:

NSW Liberal Leader of the Opposition Barry O’Farrell, March 30th—Media Release

“Fuel Watch will put motorists—not the oil companies—back in charge.

“It will also ease some of the wild fluctuations in weekly pricing which frustrate motorists so much. This will ease the burden on families and pensioners by helping drive down petrol prices. This is about putting the interests of motorists’ wallets ahead of oil company profits.

It will put an end the common frustration for motorists of driving past a petrol station only to find
when they return hours later the price has jumped by ten cents a litre.

The Western Australian Liberal Government
The Western Australian Government web site promotes their Fuelwatch as, providing prices for all types of fuel from most WA retailers and from 2:30pm each day we give you tomorrow’s fuel prices! This means you can always find the best price for fuel in most areas potentially saving you hundreds of dollars each year.

Fuelwatch WA Survey Results
Year 2007 and contemporary survey figures and comments from consumers in WA as conducted by the Department of Consumer and Employment Protection showed:

- In 2007 73% of those surveyed reported they used Fuelwatch, of these 65% satisfied;
- Comment, “stick with issues that affect Tasmania and those that you have some competent knowledge about”; 
- Comment, “please consider your statements more carefully into the future”; 
- Comment, “In spite of negative comments, I believe the Fuelwatch service is invaluable”; 
- Comment, “I was appalled to hear on the radio yesterday some Senator saying that the WA Fuelwatch system had not done anything to reduce petrol prices. As is the case with many of these people who think they know but do not, there is more to the apple than meets the eye. When it comes to choices the Rudd Government is transparent. We on this side of the chamber have no issue in allowing people to make choices, in particular working families who are making ends meet in tough times. Choices on whether or not they purchase their fuel on the way to work or on the way home, without having to worry of the extreme fluctuations in prices at the pump. Choices on which petrol station they can purchase the cheapest fuel at the cheapest time. When it comes to choices the sceptics on the other side of the chamber only know of one and that is Workchoices.

Do they need to be reminded that Workchoices put them out of Government. Do they need to be reminded that Workchoices was overwhelmingly rejected by the majority of Australians. Under the past Governments position the only choices they were able to offer were Workchoices. Insidious legislation from a past era which provided only one choice the “take it our leave” position. Like Workchoices the opposition is now trying to deny people the right to have choices in purchasing fuel at times and locations of their choice.

In Summary
Under Fuelwatch rather than guessing the best time and the best place to buy petrol consumers will know where and when to buy the cheapest petrol in town. Motorists will be able to map out their trip—for example, from work to home—and see the prices being charged by all of the petrol stations along that route. Motorists will also have a warning of pending price hikes and be able to plan their petrol purchases accordingly. With the Fuelwatch scheme, motorists will be able to access information on petrol prices through:

- An email and SMS alert service informing subscribed consumers details of the cheapest fuel in their area;
- A national toll free number where motorists can locate the cheapest petrol in the area they are looking to purchase fuel: and
- A National Fuelwatch website with station by station, day by day and suburb by suburb petrol price information.

Fuelwatch ensures that motorists will be able to make an informed decision about where to buy the cheapest petrol, at the cheapest petrol stations, at the cheapest times. No longer will a motorist drive past a petrol station in the morning only to return in the afternoon to find a ten cent per litre jump in the price of petrol.
The government is committed to delivering responsible economic management. Fuelwatch will only provide further stimulus to the economy to assist working families in making informed decisions where to purchase fuel at cheaper prices.

Those opposite really do need to decide. Are they going to continue to be economic vandals or are they going to get behind Labor’s economic packages, like Fuelwatch so that it can protect those who need it in these difficult times?

I thank the witnesses, in particular those who appeared before the Economics Committee Inquiry into the introduction of a National Fuelwatch Scheme and provided valuable information.

Senator CAROL BROWN (Tasmania) (11.21 am)—The incorporated speech read as follows—

I rise today to make my contribution on the National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008.

The Minister for Competition and Consumer Affairs, Mr Bowen, during his second reading contribution aptly described this bill as one aimed at assisting motorists “… in buying the cheapest petrol, at the cheapest petrol stations, at the cheapest times.”

Indeed, the primary aim of the National Fuelwatch scheme is to empower consumers, by providing them with the necessary tools to make an active choice when it comes to filling up their tank.

The Scheme is also designed to bring an end to the wild intraday fluctuations in prices that currently occur and provide intraday pricing stability. In light of unpredictable world oil prices and the global economic crisis, the power of stability and choice take on an even more valued meaning.

And as most of you would be aware the Economics Committee recently handed down its final report on the bills. The final report supported the findings of the interim report handed down earlier this year in recommending that the Senate support the passage of the National Fuelwatch Scheme.

The Committee noted that a National Fuel Watch scheme if passed would “empower” consumers and give them “…access to useful information about today’s and tomorrow’s prices—not just yesterdays.”

We have all seen over the last five years, oil prices soar and a significant increase in the cost of petrol. That is why it is so important to do everything reasonable in our power to assist motorists get the best price at the bowser.

As petrol prices have increased so has the strain on the weekly family budget. Consumers are now faced with the reality of each time they make their way to the bowser having to fork out $70 and over sometimes to fill the family vehicle with fuel.

The Rudd Labor Government understands that the rising costs of living are having a damaging effect on many Australians weekly budget. That is why the Government, on the 15 March, in response the ACCC’s report, proposed this initiative and why we are here today to debate the National Fuelwatch (Empowering Consumers) Bill 2008.

And as the title of the bill attests, the National Fuelwatch scheme will do exactly that—it will empower consumers to make informed decisions. Motorists will be given the information required to empower themselves to make smart decisions to shop at the petrol station which is offering the cheapest priced fuel.

For too long Australian consumers have been forced to sit back and be the victims at the mercy of the big petrol retailers.

The Government’s proposed National Fuelwatch scheme aims to bring this to an end by promoting greater transparency and addressing the imbalance that currently exists between consumers and big oil companies.

The scheme will empower consumers to seek out the best priced fuel in their local area, and motorists will be able to base their decision on real time information.

The National Fuelwatch scheme will arm consumers with the necessary price information to
help them make smart decisions about where to purchase their petrol from.

Evidence submitted by the ACCC during the course of the Senate Economics Committee inquiry into these bills, also suggested that the introduction of Fuelwatch may also encourage a greater degree of healthy competition between retailers as buyers become better armed to shop around for the cheapest price.

The National Roads and Motor Association in their submission to the inquiry supported the ACCC’s comments, stating that “by having to quote fixed fuel prices for a 24 hour period petrol retailers will have to make better judged and more competitive choices on fuel price?

This information available to consumers under a National Fuelwatch scheme has the potential to provide substantial savings, motorists will be in a position where they are able to knowingly access the cheapest petrol in their local area.

The Government believes that an initiative that provides some real savings to people, especially in the current global economic climate, can only be a positive thing.

These Bills will introduce a number of key requirements that would occur under a National Fuelwatch scheme.

Specified petrol retailers would be required to notify the Australian Competition and Consumer Commission (ACCC) of their next day’s fuel prices by 2:00 pm each day

Petrol retailers must then sell at their notified prices from 6:00 am the next day and maintain these notified prices for a 24 hour period.

Failure to notify or maintain the notified prices by petrol retailers is a civil penalty.

The ACCC will be responsible for implementing and administering the National Fuelwatch scheme, as well as investigating and bringing civil proceedings against those who breach the bill.

The Senate Economics Committee recommended that the data collected by Fuelwatch be made available by the ACCC to independent researchers to allow open analysis of the scheme.

The Committee also recommended that there be a designated review of the scheme after 12 months to monitor effectiveness and any impact on independent retailers.

This bill is a necessary step to help bring transparency back into the retail petrol market, the practical reality to date has been that the average motorist has little or no means of comparing the price of fuel at the various outlets in their local area- short of driving around each and every one!

We all would be aware of the impracticalities associated with the exercise of actually driving yourself around to each and every petrol station in your local area.

Not to mention the significant costs involved with undertaking such an activity, which would significantly outweigh any financial benefit the consumer may experience from finding the cheapest petrol in their local area.

The Governments National Fuelwatch scheme is based on the successful model currently operating in Western Australia.

The scheme will allow for fuel monitoring to take place via the Fuelwatch website, text messaging or an email message giving motorists information of the cheapest petrol in a particular area with a minimal amount of fuss.

Currently the lack of a means of comparison has meant that the majority of Australian motorists have, up until this point, been at the mercy of petrol retailers.

In fact up until this point, apart from motorists living in Western Australia, and those with access to ad hoc WA style fuel motoring systems, Australian motorists have had no practical means of comparison when it comes to fuel prices and little or no choice about how much they pay at the bowser.

The Federal Government’s proposed Fuelwatch Scheme aims to bring this blind uncertainty to an end.

If passed the Fuelwatch scheme will equip Motorists with the reliable price information they need to make decisions when it comes to how much they pay at the bowser - something all in this place should support.

The proposed Fuelwatch scheme is a direct result of a report received by the Government in December 2007 from the Australian Competition


It also importantly recommended that the current imbalance of information between buyers and sellers in the fuel market should be addressed. Specifically it found that this imbalance between retailers and consumers occurs at a retail level.

The report also found that the capability of consumers to take advantage of the lowest and most competitively priced fuel in their local area is currently limited by fluctuations in the price of petrol; with the movement in price sometimes taking place three to four times a day.

Meaning the amount of effort and search costs consumers are likely to incur significantly inhibits them from taking advantage of the lowest petrol prices available in their local area.

However the Governments National Fuelwatch scheme will remove those barriers by providing this information to consumers via a simple click of the mouse.

As outlined in the Explanatory Memorandum by the Assistant Treasurer Mr Chris Bowen the introduction of a National Fuelwatch scheme, if supported by those opposite, will provide the following benefits to Australian consumers:

- It will empower consumers to make informed decisions and purchase fuel at the lowest possible price.
- It will increase reliability and certainty of fuel price information available to consumers.
- It will reduce consumer search costs.
- It will address consumer anxiety by eliminating intraday fuel price volatility.
- It will address the existing information imbalance between petrol retailers and consumers.
- It will promote competition in the retail fuel market.

The benefits to consumers from the Government’s proposed Fuelwatch are evident, by introducing a scheme which requires petrol retailers to lock in a fixed price for the sale of petrol over a 24 hour period consumers will receive the benefits.

Information will be available which details to consumers the location of the petrol station in their local area which has the cheapest fuel for the 24 hour period.

Such a scheme will see the elimination of consumers having to needlessly drive around their local area searching for the petrol station which offers the cheapest priced fuel.

This information will now be presented to motorists in a range of ways, either via a website, text message or email.

Fuelwatch will also help to create healthy competition between local petrol retailers, if one station is aware of a rival station down the street offering fuel at a cheaper price, then they are far more likely to reduce the price of their petrol in an effort to attract more customers.

A National Fuelwatch scheme will also solve the problem of intra day price movements in some instances petrol stations vary their price quite considerably during the day.

The National Fuelwatch scheme will alleviate this intraday price movement, consumers can be safe with the knowledge that the price they see advertised at the petrol station in the morning is the price that they will be able to access at night on their way home from work.

The Governments proposed Fuelwatch scheme will not allow for these intra daily price fluctuations to occur anymore.

As I mentioned earlier there is already a working example of a successful fuel price monitoring service operating in Western Australia, making it a perfect example of how a National Fuelwatch would operate.

The Western Australian Fuelwatch scheme was introduced in January 2001 in response to a parliamentary select committee report.

The WA model monitors the price of petrol, diesel and LPG within metropolitan Perth and 52 other regional areas covering around 80 per cent of retail outlets across the state.

Each day by 2pm petrol retailers are required to provide the petrol, diesel and LPG prices which
they will place in operation from 6am the next day for a period of 24 hours.

These fuel prices are readily available for consumers to access via logging onto the Fuelwatch website, they are reported on the evening television news and they are also published each day in the main morning newspaper.

Many people are also taking up the option to receive text messages or emails detailing the cheapest petrol prices in their local area.

A survey conducted by the WA Department of Consumer and Employment Protection has shown that over 90 per cent of WA motorists are aware of the states Fuelwatch scheme.

The study has also found that presently 300,000 people are accessing the Fuelwatch website per month. Over 32,000 people are receiving daily emails outlining the cheapest fuel in their region, and 60 per cent of people indicated that they actually use Fuelwatch.

These figures demonstrate how popular and widespread the use of Fuelwatch is in WA, it has provided consumers with real information so that they can make informed choices about where to buy their fuel from.

The Fuelwatch scheme has also received considerable support including from Choice’s CEO Peter Kell, who in a letter to Minister Bowen in January stated that

And I quote “Choice… would strongly support the introduction of a national scheme based on the WA Fuelwatch model by the Government”

Indeed, Tasmania’s peak motoring body, the RACT also reiterated the strong need for a petrol monitoring system in Tasmania, while giving evidence as part of the Senate Economics Committee’s formal inquiry into Fuelwatch Scheme.

The RACT General Manager told the inquiry that it “… supported the Western Australian style Fuelwatch…” and its support was based on “… the need to provide reliable price information… to Tasmanian motorists.”

The final report by the Senate Economics committee released on the 14 October into the proposed National Fuelwatch scheme, outlined many positive recommendations as to the value Australian motorists would gain from the introduction of a National Fuelwatch scheme.

The report found that and I quote

“Consumers using Fuelwatch will save themselves time and money by knowing which petrol stations have the lowest prices. Even consumers that do not use the scheme can indirectly benefit, as having better informed consumers seeking out good prices will reward retailers who lower prices for all customers”.

The report also found that retail prices of petrol in Perth have fallen in comparison to prices of eastern capital cities. No alternative factor was found as an explanation for the drop in the price of fuel in Perth.

The Economic committee report into the National Fuelwatch (Empowering Consumers) Bill 2008 recommends that the Senate fully support the introduction of a National Fuelwatch scheme.

As has just been highlighted, the Senate Economics committee report into the National Fuelwatch Bill 2008 has many benefits for the adoption of such a scheme.

The scheme will help provide far greater transparency and competition in the petrol market. Real competition between petrol retailers can only be a good thing for many Australian consumers currently suffering under the weight of the global economic crisis.

No longer will motorists be left driving around scratching their heads searching for a station offering the cheapest petrol. Because Fuelwatch will lock in fuel prices for 24 hours ensuring that intraday price fluctuations can not occur.

It is worth noting that on any given day there is roughly a 15 to 20 cent difference between the cheapest and most expensive petrol available to motorists in Australian capital cities.

A difference of 20 cents per litre when filling up a 60 litre tank of petrol equates to a saving of $12. over time this becomes a significant amount of money, the Government’s petrol monitoring scheme will help consumers make these savings.

Because Fuelwatch will provide easy to access information so consumers can make the best possible decisions about where to purchase the cheapest petrol from.
I therefore call on all senators to support the Government’s National Fuelwatch scheme.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (11.21 am)—I would like to close the debate on behalf of the government. Firstly, I thank senators who have taken part in the debate on the government’s National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008. The National Fuelwatch bill will introduce a national Fuelwatch scheme—Fuelwatch—to promote competition and transparency in the retail fuel market. The government’s policy objective in introducing a national Fuelwatch scheme is to address the existing imbalance in retail price transparency between retailers and consumers, along with reducing intraday pricing volatility. The ACCC, in its report *Petrol prices and Australian consumers*, raised concerns about the relative imbalance in pricing transparency between consumers and petrol retailers. The government considers Fuelwatch to be the only option that will address both the existing imbalance in retail fuel price transparency and consumer concerns about volatility in intraday prices.

The bill addresses the existing imbalance in retail price transparency by introducing a requirement for petrol retailers to notify the ACCC of the standard retail price for each kind of motor fuel they offer for sale the next day, and for the information to then be made public. Fuelwatch allows consumers to ascertain the cheapest fuel price in their area, but it also provides consumers some certainty about buying fuel at the cheaper price. Consumers will be able to access daily price information on the ACCC’s website, or through other mechanisms to be determined by the ACCC, such as an email or SMS text-messaging service. In terms of coverage, the bill provides that Fuelwatch will apply to all petrol retailers that offer motor fuel for sale.

It is intended that initial coverage of the scheme will apply to all metropolitan and major rural and regional areas from commencement. These areas will be prescribed in the regulations. Further, to ensure that other regional and rural areas have the opportunity to participate in Fuelwatch, the bill enables the Minister for Resources and Energy to make further declarations to select other localities to be covered in the scheme.

I want to now turn to some issues raised in the debate. Before I do, however, I want to make one fundamental point—and this is relatively unusual for any new initiative of any government—we actually do have an existing Fuelwatch scheme that has been tried and tested and has been found to have a positive impact. We actually have a working model, and it is over in Western Australia. I just want to make that point, because it is unusual in policy terms to have a working model already in existence to which we can turn to provide proof—in this case, supporting proof—of a national scheme which we intend to introduce. So, if the Senate will allow it to, Fuelwatch will deliver real outcomes for consumers. It will address information asymmetry in the petrol market and allow consumers, with certainty, to buy the cheapest fuel in their area. How, otherwise, does a consumer find out where the cheapest fuel is available? How do they do it, short of driving around suburbia and inspecting petrol stations to see where they can get the cheapest fuel, or having some sort of informal price contact system, such as ringing a neighbour who lives opposite a petrol station? Practically speaking, it is very, very difficult. Then, of course, you do need certainty, having been informed that this particular petrol station has cheaper fuel than another station, that you can purchase that fuel at the price that is advertised. This is fundamentally what Fuelwatch is doing for Australian consumers. It addresses the in-
formation asymmetry in the petrol market and allows consumers, with certainty, to buy the cheapest fuel in their area. And that has to be an improvement on the current circumstances that face consumers in this particular market. As I have said, Fuelwatch is working well in WA. There is clear evidence the scheme has reduced price margins in WA relative to those in eastern states. There is no evidence to suggest, as has the Liberal opposition, that such a scheme will increase prices.

Senator Joyce went further—and this is a very unfortunate trend that is being established by some members of the Liberal-National Party opposition—and got into personal abuse and false claims about the motivations of individuals in the bureaucracy. Senator Joyce asserted that the former petrol commissioner, Pat Walker, ran away from Fuelwatch. That is simply not true. Mr Walker is a big supporter of the scheme because he has seen how well it works in Western Australia, and he has experienced the real benefits of the scheme. Let me share with you a few quotations from consumers in Western Australia. Mr Jacob, in Darlington, WA, says:

Dear Prime Minister, As a devoted user of Fuelwatch in WA I am very pleased that you plan to ensure that motorists in all states will be able to access information about who sells which fuel type at what price. The Opposition’s policy clearly reflects the lobbying influence of the big oil companies.

Gavin, in Duncraig, WA, says:

Dear Kevin, Please forget what the Opposition is saying about Fuelwatch. It works in WA and will work nationally.

Alistair, from Lesmurdie, WA, says:

Dear Mr Rudd, I am an aged pensioner and have used Fuelwatch via my email address for several years. There is no doubt that I have saved hundred of dollars in this period. Sometimes the saving can be 10 cents. The argument put by Dr Nelson—obviously he is referring to the former opposition leader—is rubbish.

Andrew, in Winthrop, WA, says:

Dear Prime Minister, As a Western Australian, I have benefited enormously from Fuelwatch in terms of savings and so does a great number of Western Australians. I do wonder what the fuss is all about when it has helped us so much. So we have numerous people in WA who have identified it as a benefit to consumers in WA. And interestingly, the Liberal Party in WA supports Fuelwatch. The Liberal Party, now in government, is not going to abolish Fuelwatch in WA. They support it because they have recognised the benefits that Fuelwatch will confer on consumers.

With Fuelwatch we want, in essence, to make shopping for petrol no longer a guessing game. We want to remove some of the uncertainties that I referred to earlier. If we take yesterday morning in Perth, for example, the pricing spread—that is, the difference between the lowest and highest petrol price—was 21c per litre on a 60-litre tank of petrol. That would represent a saving of $12.60 on the tank if it were replicated in eastern Australia. The option is not available to motorists outside WA. Let’s be clear: the biggest supporters of Fuelwatch are the consumers themselves. The consumers are empowered. They make the decisions. That is what the purpose of Fuelwatch is. The biggest opponents of Fuelwatch are big oil, vested interests and the Liberal and National parties—at least, at a federal level.

Senator Abetz—That is just nonsense. That is false.

Senator Sherry—Senator Abetz says it is false. The opposition are opposing Fuelwatch. They are going to vote it down. Senator Abetz should get on the phone to the
new Premier in the Liberal government of Western Australia.

Senator Abetz—It is the Independents who oppose it. Big oil love it.

Senator SHERRY—Senator Abetz, get on the phone and ask the Liberal Party in WA, now in government, why they are not getting rid of Fuelwatch in WA. They support it. Yet at a federal level the Liberal Party do not support Fuelwatch. They should get on the phone and learn the lessons and the benefits of Fuelwatch in WA.

In our view, the opposition are being typically negative. They have a go at anything positive that this government will do, in a whole range of areas. When we put forward something that not only is positive for consumers but will benefit consumers, and where there is a good working example in Western Australia, the Liberal opposition, in typically negative fashion, oppose it for no good reason. So the only place that motorists will receive the benefits of Fuelwatch, if this bill is voted down, is WA, under a Liberal government. There is great irony in that.

As I understand it, in the vote that will occur in a couple of minutes on the second reading of this legislation, regrettably the measure is likely to be voted down. It is going to be a sad day for consumers in Australia. We have advanced the arguments for Fuelwatch and its positives: the consumer power, the downward pressure on fuel prices, the advantages to consumers. We have a good, longstanding working example in Western Australia, supported by both the Labor Party and the Liberals—

Senator Abetz—Which proves nothing.

Senator SHERRY—Senator Abetz says it proves nothing. As I said earlier, it is unusual in public policy terms to actually have a working example that has been proved successful at a state level in WA—

Senator Abetz—No, it hasn’t.

Senator SHERRY—Senator Abetz keeps saying, ‘No, it hasn’t.’ As I said, he should get on the phone to his own political colleagues in WA. The new government in WA, the Liberal Party— the Liberal-National Party, I should say.

Senator Williams—That’s better.

Senator SHERRY—I am not sure you know it is better, because you are fast discovering that you get treated like doormats over in WA, Senator, from what I have been reading about how the Liberal Party are treating you—but that is another issue for another day.

We have a good working example in Western Australia, and are the new Liberal-National Party government in Western Australia going to get rid of Fuelwatch? No. They have promised to retain it, because the Western Australian Liberal-National Party government have recognised, rightfully, that for many years Fuelwatch has been a good scheme on petrol pricing for consumers.

It will be interesting to watch the vote of the WA Liberal-National Party members in the Senate when we vote shortly. They come from WA and their state political colleagues are supporting and will maintain support for Fuelwatch, but they come across the Nullarbor, get rolled by the Liberal Party over here—squashed by the Liberal Party and the National Party—and will vote against what their state colleagues in WA have done and have promised to maintain. What hypocrisy! What a negative, carping approach to a positive program to assist consumers in Australia!

Senator Abetz—Why did Queensland and the Northern Territory vote against it?

Senator SHERRY—Like the continual interjections from Senator Abetz: negative, carping, having a go at anything, not analys-
ing the success of the program we are putting forward on the evidence that is available—that is, WA. As I said, if this legislation is voted down as a result of the Liberal-National Party failure to understand the issues and their failure to examine the evidence and look at the positive outcomes, it will be a sad day for Australian consumers. Shame on you, Senator Abetz!

Question put:
That these bills be now read a second time.

The Senate divided. [11.38 am]

(The Acting Deputy President—Senator G Barnett)

Ayes…………34
Noes…………34
Majority………0

AYES


NOES


PAIRS


Question negatived.

SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—GENERAL LAW REFORM) BILL 2008 Second Reading

Debate resumed from 24 September, on motion by Senator McLucas:

That this bill be now read a second time.

Senator BRANDIS (Queensland) (11.43 am)—The opposition supports the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008. This bill is part of a suite of legislation, together with, in particular, the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Bill 2008, which has been considered by the parliament and by the Senate Standing Committee on Legal and Constitutional Affairs, whose purpose in aggregate is to eliminate discrimination against Australians in domestic relationships on the basis of their sexuality.

The legislation has been a long time coming. I will not repeat now what I had to say in this chamber on 14 October 2008 in debate on the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Bill 2008, when I set out at length the history of movements on both sides of politics for reform in this area, but may I refer to that speech as the principal
exposition of the opposition’s position in relation to this matter. Might I also refer to the remarks made in the House of Representatives on the second reading of that bill on 4 June by the then Leader of the Opposition, Dr Brendan Nelson, and on the same day by the current Leader of the Opposition, Mr Malcolm Turnbull, in which they indicated their wholehearted support for that bill, to which this bill is a cognate piece of legislation. As Mr Turnbull said on 4 June in that debate:

Discriminating against people on the basis of their sexual orientation is as abhorrent as discriminating against them on the basis of their religion or their race.

That is a view that is shared by the members of the opposition.

This is a historic day because, when this legislation passes through the chamber and the related bill passes through the chamber, Australia will have brought to fulfilment a long history of legislative and policy measures to eliminate discrimination against people on unfair grounds and to instate and affirm the principle that people should be judged by their merits and by their merits alone.

As recently as the first half of the 20th century it was commonplace in this country to discriminate against people according to their religion. I am from a Catholic family and I remember my mother, who grew up during the Depression years, telling me that during the Depression years it was very common to see job advertisements in Brisbane with the subscription at the foot of the advertisement ‘No Catholics need apply,’ or, in some cases, ‘No Protestants need apply.’ Those social attitudes, discriminating against people on the basis of their religion, seem bizarre and antique to us today; yet, within the memory of people still living, that was commonplace in this country. As a result of measures taken from both sides of politics, that odious and—to use Mr Turnbull’s word—an abhorrent form of discrimination is no longer part of our society.

More recently still, it was commonplace to hear of people being discriminated against on the basis of their race—not only Aboriginal and Torres Strait Islander Australians but also migrants to Australia from non-Anglo-Celtic cultures. As a result of a series of measures initiated by the Holt government, which began the abolition of the White Australia policy and which was responsible for initiating the great 1967 referendum, and measures of the Whitlam government—in particular, the Racial Discrimination Act—and other measures taken by both sides of politics in the years since, it is accepted as abhorrent to discriminate against people on the basis of their race. And so it should be. In more recent years, during the time of the Fraser government, the subsequent Labor government and the Howard government, there have been further advances in Australian antidiscrimination laws and advances in human rights—in relation to gender, with the Sex Discrimination Act; in relation to disability, with the Disability Discrimination Act; and in relation to age.

The last area requiring attention to assert the principle that every Australian is entitled to be treated and judged on their merits and not on any other basis has been in the area of sexuality. In the recent round of Senate estimates hearings, when Human Rights Australia—formerly the Human Rights and Equal Opportunity Commission—gave evidence to the Senate Standing Committee on Legal and Constitutional Affairs, the head of Human Rights Australia, Mr Innes, observed that sexuality discrimination was, as it were, the final frontier or the final hurdle in instating a comprehensive suite of antidiscrimination laws in Australia. So, from a human rights point of view, this is a very important meas-
ure. It is, from my point of view as a Liberal—and therefore a believer in the autonomy, rights and freedom of the individual—a very important development. That is why the opposition welcomes it—not merely because it is a good public policy measure but because it springs from the depths of our liberal philosophy.

The legislation, in its original form, has been improved as a result of the hearings of the Senate Standing Committee on Legal and Constitutional Affairs. There were a number of misgivings that were entertained by senators from all sides, I think it is fair to say, in relation to some of the drafting of the measure in its original form. In particular, there are two significant issues where the government has conceded to objections raised by the opposition and which were flagged in the report of the committee in October 2008—and I refer, in particular, to the additional comments by Liberal senators from page 41 and following.

First of all, the legislation in its original iteration homogenised marital and non-marital relationships so as to eliminate, for all practical purposes, the distinction between marriages and relationships which were not marriages. We in the opposition believe—and I have said this many times in this chamber—that the unique, special and privileged status of marriage should be respected. And I am glad that the government has acknowledged that point by reinstating statutory language in government amendments, which will be dealt with in the committee stage, which make separate provision for marital relationships and non-marital relationships. Let me make the point that has been made on both sides of the debate on this measure, and that is that there is no suggestion from either the government or the opposition that the traditional nature of marriage as being a relationship between a man and a woman will be in any way affected by this bill or by any associated legislation.

The second area in which the government, in amendments that will be moved in the committee stage, has conceded to points that have been made by opposition senators in the Senate committee process and which form part of the additional comments in the report, is in relation to the treatment of children in such relationships. The opposition is now satisfied with the manner in which the definition of children in such relationships is being dealt with by the government, so that we no longer have this very clinical description of a child as a ‘product of a relationship’. Instead we have definitions of children and their entitlements within these relationships that we think are socially appropriate.

As I have mentioned the work of the Senate committee, may I pay a particular tribute to the work of the coalition senators who participated in those hearings over the winter recess and subsequently. Senator Russell Trood, Senator Guy Barnett and Senator Mary Jo Fisher are the principal opposition members of the Senate Standing Committee on Legal and Constitutional Affairs. Their recommendations, which are wise recommendations and which, as I have said, have largely been accepted by the government, have improved this legislation immeasurably. I know that all three of those senators went about their task and their work in that committee in a most conscientious and industrious fashion.

Finally, if the Senate will indulge me, I want to give due credit to those within the coalition who hold more conservative views on this matter than my own but who nevertheless, in a spirit of cooperation, sought to arrive at a common position so that the opposition is able to be united in support of this measure. There is no point in introducing law reform designed to heal wounds and to bind
society together if you do it in a divisive way—and I am not accusing the government of doing so in relation to this particular measure. That means that you have to bring people with you. It means that people who want to pioneer liberal reform need to be sensitive to and respectful of the views of more conservative people than themselves.

There are some participants in this discussion, within the coalition parties in particular, who had severe concerns about some aspects of the bills in their original form but who nevertheless, in the best parliamentary fashion, worked with colleagues to achieve a common position. I want to single three people out. I want to again mention Senator Guy Barnett, whose approach to this matter has been principled, conscientious and honourable. There are two members of the House of Representatives in particular whom I would like to mention: the member for Menzies, the Hon. Kevin Andrews, and the member for Cook, Mr Scott Morrison. They are both from a more socially conservative perspective than others in the coalition, but they nevertheless sought to work with us to arrive at a position that we would all feel reasonably comfortable with. That has been achieved. If government senators will forgive me for saying so, it has been a great achievement for the Liberal and National parties to have achieved consensus and unity on this issue in which the more liberal and the more conservative elements of those parties have been able to accommodate one another’s agendas, concerns, aspirations and scepticism and nevertheless reach a position where the opposition will uniedly be able to support these measures in their amended form. The cause of law reform and the cause of individual rights in Australia will be very materially advanced today.

Senator HANSON-YOUNG (South Australia) (11.57 am)—I rise to speak to the final piece of legislation, the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008, in the government’s reforms that aim to remove same-sex discrimination from federal law. This is indeed a very significant day. The fact that we will finally see an end to the endless discriminatory practices of the past is something that the Australian Greens certainly welcome, but we believe that it is more than overdue. There has been discussion and public debate about the removal of same-sex discrimination in Commonwealth legislation for decades. While the Australian Greens commend the government on following through with their election promise to remove discrimination against same-sex couples from more than 100 pieces of legislation, we must not forget the tireless efforts of all of the individuals and key community groups who have campaigned for decades with little recognition until now.

To think that in 2008, we are only now beginning to see steps to remove discrimination against same-sex couples and their families is an indictment of former Liberal and Labor governments’ failure to act on what is a fundamental human right. The Australian Greens congratulate the Attorney-General on this historic and comprehensive undertaking of human rights reform. While we believe that there are key areas that have not been addressed within this legislation, in no way do we wish our recommendations to under-value the significance of the legislation that is before us today. The Greens have a strong and proud history of supporting same-sex rights in Australia. Diversity of sexuality and gender identity is part of our community, and our laws should reflect this. The Greens have a strong track record of defending the rights of lesbian, gay, bisexual, transgender and intersex people, and we believe all members of our community are entitled to equal treatment before the law and by the community.
The first stage of the Rudd government’s election promise to remove discrimination against same-sex couples from more than 100 pieces of legislation follows the 2007 Human Rights and Equal Opportunity Commission report which highlighted that at least 20,000 same-sex couples in Australia experience systemic discrimination daily. The same-sex general law reform bill seeks to amend some 68 Commonwealth laws, which involve 19 Commonwealth departments. This bill amends the definitions of ‘de facto’, ‘parent’, ‘child’ and ‘relationship’ to ensure that same-sex couples are finally treated equally before the law. The explanatory memorandum circulated by the Attorney-General states that the amendments contained within this legislation are required to eliminate discrimination against same-sex couples and their children and to ensure:

… de facto partners, children of same-sex couples, and persons whose relationship is traced through them will be considered to be members of a person’s family, and relatives for the purposes of relevant Commonwealth legislation.

As I said, this is indeed a significant day. The Australian Greens recognise that freedom of sexual orientation and gender identity are fundamental human rights. Acceptance and celebration of diversity, including sexual orientation and gender diversity, is essential for genuine social justice and equality.

I would like to commend the chair and the committee secretariat on the comprehensive nature of the Senate Standing Committee on Legal and Constitutional Affairs report. The Greens believe that the inquiry into the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill, as well as the suite of legislation in relation to removing discrimination against same-sex couples, has provided the committee with the opportunity to recommend to the government ways to strengthen and tighten legislation to ensure same-sex couples are not discriminated against in any way.

In June 2007, the Human Rights and Equal Opportunity Commission released the final report from their nationwide inquiry into discrimination against people in same-sex relationships, entitled Same-sex: same entitlements. Today we are here to ensure that the recommendations are implemented in federal law. It provided two simple recommendations that specifically called on the federal government to amend discriminatory laws identified in the inquiry to ensure that same-sex couples and opposite-sex couples enjoy the same financial and work related entitlements and to ensure that the interests of children in same-sex and opposite-sex families are equally protected in the area of financial and work related entitlements.

As I mentioned in my remarks earlier, the Australian Greens strongly support the bill before the Senate today, particularly in removing discrimination against same-sex couples on basic issues such as employment, workers compensation, tax, social security, veterans entitlements, health care, superannuation, aged care and migration. Despite the Greens’ support for this bill, I am concerned that not all the recommendations outlined within the HREOC Same-Sex: Same Entitlements inquiry have been implemented. We are particularly concerned about whether there will be possible future discrimination by not reforming acts which, although superseded by new acts, have nonetheless not been entirely repealed. I would like to question the minister when the legislation is considered in the Committee of the Whole as to how we should respond to this possible future discrimination.

While we support the bill without qualification, I will briefly outline the recommendations that the Greens believe are needed to finetune the objects of the legislation before
Legal reforms are only beneficial to the intended recipients if they are appropriately administered and implemented. While the Greens support the recommendation put forward by the legal and constitutional affairs committee report on this bill that all government departments and agencies responsible for providing Commonwealth benefits implement user-friendly initiatives and strategies to educate both clients and staff, we believe this needs to go much further and be much more effective. The New South Wales Gay and Lesbian Rights Lobby pointed out in their submission the importance of a public education campaign to outline the new rights and responsibilities arising for same-sex couples which will come from these reforms. I will quote from their submission:

In our consultation with over 1,300 lesbian, gay, bisexual and transgender people in NSW, confusion and uncertainty about legal rights were highlighted as a significant impediment to taking advantage of equal rights - even those which were granted to same-sex couples in NSW as far back as 1999.

We would like to see the government fund a cross-departmental educational campaign for individuals, service providers and businesses, collating the relevant changes to legislation in one centralised location—an equal rights hub, let us say. We would also like to see the government establish a hotline for 12 months specifically for professionals to ensure discrimination does not continue due to a lack of understanding of the changes. As I said before, legal reform will only mean something to the people it is intended for if these reforms are properly administered and implemented. The reforms before us today would ensure that federal and state laws moved towards a consistent and comprehensive recognition of same-sex partners equal to that of opposite-sex de facto partners. So it is an opportune time to educate lesbian, gay, bisexual and transgender Australians about their new, and their existing, rights under the law.

The Greens also have concerns about the negative financial impact the changes will have on individuals who are receiving the disability support pension, sole parenting payments or concession card benefits. While we recognise that the majority of the proposed reforms will benefit same-sex couples, we are concerned that some aspects, particularly those related to social security, could have unintentional negative consequences for some same-sex couples. To combat these unintended consequences, we would like to see government implement a transitional period of at least 12 months to ensure individuals currently on social security payments have sufficient time to readjust their finances.

The Australian Greens strongly support the recommendation of the Australian Coalition for Equality for the introduction of an umbrella term in the Acts Interpretation Act. This term would be ‘couple relationship’ and would include marital relationships, de facto relationships and registered relationships. In applying an umbrella term to capture all forms of relationships, the separate definitions would ensure that the relationships were identified as being different from one another, especially in keeping the distinct recognition of marriage separate, while allowing recognition of same-sex couples who chose to formalise their relationship through entering into a registered relationship. It simply makes sense to recognise the three different levels of relationships, even though these people will all be able to access the same rights under the law.

The Greens would also like to see a clause that recognises registered relationships that have been registered in a foreign country where the relationship was, at the time it was
registered, recognised as valid under local law. We do this for marriage relationships; let us also do it for registered foreign relationships.

The Australian Greens have some concerns about the approach taken when amending the Commonwealth Sex Discrimination Act. While the Greens are supportive of the amendments removing discrimination against same-sex couples on the basis of family responsibilities, we are concerned that the provisions of the Sex Discrimination Act relating to discrimination on the basis of marital status have not been amended. It seems silly to me that we would remove all discrimination and not amend the Sex Discrimination Act. The Greens believe that that the Sex Discrimination Act should be amended to provide equal protection to both same-sex and opposite-sex couples from discrimination on the basis of being in a de facto relationship and to also include another subsection identifying registered relationships. We need to ensure that our desire for and moves toward equality are consistent across federal law.

Those against same-sex unions argue that it would destroy the sanctity of the institution of marriage. In countries which have recognised same-sex unions for a reasonable period of time, heterosexual marriage still exists and the institution has not fallen into disarray. Many Western countries, such as Canada, the United Kingdom and our neighbour New Zealand, have enacted laws to provide for same-sex civil unions. Here in Australia we should be moving towards allowing same-sex couples the same rights to marry and register their relationships. Yet, while the Greens commend the government for staying true to its election promise to remove same-sex discrimination from Commonwealth law, we continue to see people of the same sex who are engaged in a loving and committed relationship, voluntarily entered into for life, denied the basic right afforded to married heterosexual couples. It is time for this parliament to have a proper debate about allowing same-sex couples to marry. The Australian Greens believe that discrimination such as that espoused by the Marriage Amendment Act 2004 must be overturned, because freedom of sexuality and gender identity are fundamental human rights and acceptance and celebration of diversity are essential for genuine social justice and equality. Today, the Greens are calling on all other parties in this chamber to allow for senators to have a conscience vote on the amendment I will move in the committee stage to amend the Marriage Act. If this is a moral issue, let people vote on their own conscience.

The Greens support the removal of discrimination in all areas of federal law. We do not want to see this bill delayed any further. While we will move some amendments we think will strengthen the intent and object of the bill, we recognise and support the public desire to have same-sex discrimination removed from law—and we need to see this discrimination removed swiftly. Today is a very important day. It should no longer be acceptable to allow legislation to continue to discriminate against a couple because of their sexuality. I commend the bill to the Senate and look forward to debating the amendments.

Senator PRATT (Western Australia) (12.11 pm)—The Rudd government, and indeed this parliament, are undertaking what I think is widespread and historic legislative reform to remove discrimination against same-sex de facto couples, people from different gender identity backgrounds and their children. The Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 is one part of this reform. This bill will make sure that same-sex couples and their children are treated the same as heterosexual couples and
their children in the same situations across a wide range of laws. These include tax, social security, health, aged care, veterans entitlements, workers compensation, immigration and other areas of Commonwealth law.

I would like to note the historic work of the Human Rights and Equal Opportunity Commission, HREOC—which is now the Australian Human Rights Commission—when they conducted a detailed inquiry into discrimination under the Commonwealth laws. I am please that the Rudd government complemented this important work by conducting a whole-of-government audit of federal legislation. Indeed, this audit confirmed HREOC’s reports and also identified additional areas in which same-sex couples and people with different gender identity backgrounds and their children experience discrimination, including in non-financial areas such as administrative and even evidence laws. It found a wide range of areas in which people are discriminated against. The amendments in this bill are necessary to redress this discrimination.

The reality of equality is that some in our community will now be assessed as a couple rather than as singles for the purposes of social security and family assistance, and some of these people may indeed experience a reduction in payments. No-one knows this better than the many lesbian and gay activists who have worked so very hard for legislation of this sort. They understand the true price of equality, but they welcome it nevertheless for the many tangible benefits that it will bring in a legal sense—but, most importantly, for its symbolic and social significance, although I have to agree with Senator Hanson-Young that it is also incumbent on the government to manage the impact of the reforms on same-sex couples who may have benefits reduced under the changes, especially those who are already marginalised within our society and experience high levels of disadvantage. Many of these people have lived with discrimination within our laws for all of their lives and they have never experienced the financial benefits of being recognised as couples.

I would very much like to support the recommendation of the legal and constitutional affairs committee in this regard—namely, that the government needs to give consideration to the administrative and regulatory mechanisms that may be used to manage the impact of these reforms on such disadvantaged couples.

The bill will also end discrimination in other ways. For example, it will end the existing marital status discrimination in Commonwealth legislation that operates to the detriment of de facto couples in general.

It is not my intention today to discuss the detailed nature of the amendments to all of the individual pieces of legislation that are affected by the bill before us. And it is not my intention to enter into technical or semantic arguments in relation to the definitions of ‘couple’ and ‘child-parent relationship’. Suffice to say that I agree very much with the general approach taken to these definitional questions by the majority report of the Senate Standing Committee on Legal and Constitutional Affairs. I would very much like to commend the committee for the important work that it has done in examining these issues and also, I think, in bringing about consensus across the parliament to bring support for these important reforms.

I would like to highlight one of the committee’s recommendations—in relation to the definition of ‘child-parent relationships’. I also note that the government has already circulated amendments that give effect to that recommendation.

Today, I am going to focus my attention on what these reforms mean in practice for real people—for real people in real relation-
ships with real children, living their own lives and currently facing all of the many and varied complex issues and challenges faced by straight couples and their children, but with the added burden of discrimination based on their sexuality; for real parents whose children are lesbian or gay; for real grandparents whose children are lesbian or gay and have children of their own; for real brothers and sisters whose children are cousins to the children of lesbian and gay parents. A great many of these people have had the courage to share their stories in order to further the cause of equality. Over the past few decades they have shared their stories and publicly outed themselves to advance same-sex law reform in each of the Australian states and territories. I commend them for their courage. Most recently they have shared their stories in the context of the HREOC National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits. They have shared their stories in submissions to the inquiry and also in the media. They have stood up in public hearings and forums and given evidence as to how discrimination against same-sex couples has directly affected them and their families.

With the permission of those involved, some of these stories were published by HREOC in an appendix to their report. I think that it is these stories that most clearly illustrate more than anything else the real reasons why the bill before us is so important. They demonstrate vividly how the various forms of discrimination faced by same-sex couples interact with each other. Sometimes they compound the negative effects of each individual instance of discrimination in the lives of real people. Finally, these stories highlight how the pernicious effects of discrimination against same-sex couples spread out beyond the lives of the individual gay and lesbian people involved; how that discrimination has affected their children, their parents, their loved ones and those that deal with same-sex couple families in a professional capacity—teachers, health workers, Centrelink workers, accountants, employers and so on; and how each individual instance of discrimination flows through into the broader community where it creates unnecessary burdens and administrative complexities, restricting access to essential services, encouraging intolerance, undermining relationships and fostering homophobia. To read these stories is to know that this discrimination must end and we must end it now. On that note, today is a very historic occasion.

It is for this reason, and as a testament to all those ordinary Australians who have had the courage to reveal the details of their personal lives in order to further the cause of equality, that I am going to share just one of those stories with the Senate today. I would like to acknowledge Bryce Peterson, who shared his perspective as a parent of a lesbian daughter with the Launceston forum held by HREOC on 25 September, 2006. Bryce said:

I am here as a father of four. My eldest daughter, Sacha, lives in Melbourne with her partner Anna and they have a daughter, Mabel, who is 11 months old.

I intend this submission to be based on what I consider to be the differences between my daughter, Sacha, and her sister Lauren, who also has a male partner and they have 2 children, a son, 4, and a daughter, 19 months.

Firstly, to have a baby, my daughter Sacha, the biological mother, after much research of the options available, opted for artificial insemination. This procedure is not available to gay couples or single women that are not in a committed relationship in Victoria, unless they have a problem with fertility, so they had to go interstate. This procedure is an expensive and mentally draining exercise. Part of the procedure is to have counsel-
ling of at least two sessions to prove you are ready and suitable to have children.

How many parents, male or female, would even consider this as an option before starting a family, and what would be their reaction to such a suggestion?

Sacha was treated as a single mother throughout the pregnancy, but was totally supported by Anna the entire time. Many of the costs involved are not claimable, either due to the nature of the procedure or threshold limits.

My other daughter, Lauren, and her partner have had their two children. The fact that he is male means no explanations are required and therefore their relationship is proof enough to satisfy the system. Sacha has to constantly explain the situation, which shouldn’t be an issue.

After the birth of Mabel, Sacha and Anna, to ensure the future welfare and care of their daughter, had papers drawn up to cover a, b or c etc. This cost $1500.

Another major purpose of these papers is to show Anna is just as much a parent as Sacha but that is still not acceptable to the system. Adoption by Anna is not possible.

While these papers go a long way towards helping solve some of the problems that may or may not occur, if they are put to the test, how credible are they? If separation occurs, my daughter could be left totally supporting herself and Mabel, and if something happens to Sacha where does that leave Anna as a parent, let alone financially. Ironically even fathers who don’t pay maintenance are still recognised as parents.

One of the plus sides of the situation is that Sacha is entitled to all social security benefits as a single mother, regardless of her living circumstances. Her partner could be a millionaire but in the system this is not considered. I guess while this can be seen as a plus, I know they would swap these benefits if it meant they were both recognised and treated as parents with the same rights as male/female parents.

Anna has supported their family financially and … took annual leave after the birth.

As far as Medicare is concerned they are treated as a family for Sacha and Mabel, and a single for Anna. Therefore the combination of costs if they reach the Medicare threshold is not possible.

This also applies to tax rebates; Anna is not entitled to claim either of them as dependants, unlike my other daughter’s partner. If you choose to stay at home once your paid maternity leave has run out, surely as a couple you should be entitled to the same rebates.

Recently while visiting my daughter, Anna came home form work in pain and distressed with a bad ear infection. Before departing to go to the emergency room, I couldn’t but notice sadly that Sacha gathered together all papers that states their relationship. Yet when we got there, that was one of the first questions asked, their relationship status, to be able to tick the right category, to which my daughter replied they are a couple and it was up to them to which category they thought was applicable.

My other daughter only has to be there with her partner, no further questions are needed, and the Medicare card says it all.

Due to their relationship these papers are taken everywhere there is a remote possibility they may be needed. As we all know not all families totally support their gay children, so couples need to be able to make decisions for each other if required without fear of a legal or family ramifications.

As parents we want the best for our children and admire them for their academic/career and personal triumphs in life and don’t want to see them disadvantaged because of their sexuality.

While Sacha and Anna do come across sympathetic people in the system and with a strong network in the gay community, this all certainly helps; this doesn’t compensate the injustices brought about by the system.

As a parent and a grandparent when talking to family, friends and colleagues about these things, many of them are unaware … but agree that the inconsistencies should be righted and are pleased they don’t have to face the same problems.

What a pity people don’t see what my grandson (Lauren’s son) sees, while he may not be old enough to be able to understand the whole situation, he just sees a cousin with two mums.
Why should Mabel grow up with any less right either legal or financial than her cousins? That, in a nutshell, is the question before us today. I am very pleased with the substantive legal equality for couples irrespective of the gender, identity or sexuality of couples that this bill implements. However, personally, I hope that one day there is a majority in this parliament to remove discrimination against all couples in relation to marriage. That is something I acknowledged in my first speech to this place. Although I really do believe it is important to note just how far we have come in achieving support across the parliament for these historic reforms. All those things that affect the family that I just spoke about will be fixed by this historic law reform. Of this I am extremely proud.

Senator BIRMINGHAM (South Australia) (12.27 pm)—It is a great pleasure to speak on the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008. I have already made contributions on the associated piece of legislation relating to superannuation, in which I canvassed a number of my general views about this issue and particularly about the pride I have as a Liberal in seeing these reforms being undertaken. It is a pleasure to again, as this final historic piece of legislation passes, reflect on the broadly cross-party support that is coming through this chamber and on the very significant change that we are taking for Australians today.

Having just had the pleasure of hearing Senator Pratt's contribution, an emotional contribution at that, it demonstrates just how significant and important this change is for many people around Australia. Sometimes we as legislators can underestimate the human impact of the actions that we take in this place—the human impact of the laws that exist, the decisions that are made and the real way in which they are felt by mums and dads, young people, old people, families and communities throughout Australia.

I know that every time I step out into the community and meet with large groups of people I find that there are usually one or two people in the room who will touch you with a particular issue that is integral to their livelihood and the life that they are leading and they wish there was something that could be done about it. For this issue there are many thousands of Australians for which this is integral. It is wonderful to see that, today, something is being done to address their concerns.

As Senator Pratt put it: why should anybody live under a weight of discrimination? Why should an individual, a couple or particularly children live under the weight of any form of discrimination? All people should face equal treatment, particularly in the eyes of the law and in the legislation that emanates from this parliament.

In terms of discrimination there are many and enough challenges at a societal level that can occur throughout one's life. I said in my maiden speech to this place that I am not silly enough to inherently believe at surface value that all people are born equal in terms of opportunities that are there for them. Sadly, that is not the case. We wish it were, but it is not. It is up to the state, families and society to support that ability of providing equality and that aspiration of equality of opportunity to so many people in our society. I am very pleased that the steps the parliament is taking through same-sex law reform will provide greater elements of equality and opportunity for people.

I put on the record that I wish these reforms had been undertaken some time ago. It would have been preferable. However, there have been—and I noted this in my previous contributions—many Liberal champions of these reforms. Senator Brandis has been
amongst them and our leader of today, Malcolm Turnbull, has certainly been a strong advocate for change in this area. It is extremely pleasing to see the strong level of support from the Liberal Party to work cooperatively with the government and the cross-benches in obtaining these reforms through the committee processes and the analysis of the detail. There has been cooperation from those who find this reform more difficult than others but they have been willing to work constructively on the detail of the legislation to ensure that we end up with fair and equitable change for all Australians.

A significant step forward was taken in May last year, when the Human Rights and Equal Opportunity Commission released its report *Same-sex: same entitlements.* It was a landmark report that is now being followed appropriately by landmark legislation. The report highlighted the vast range of Commonwealth legislation where discrimination continued to exist against same-sex couples in a vast array of areas, and indeed flowed through to their children as well. It relates to both rights and responsibilities. It relates to financial issues, as well as treatment more generally in the eyes of the law. All of those issues, however, are very important for those who are in such same-sex relationships— their families, their loved ones, their friends—whether it relates to the right of people to take carers leave to look after a loved one, the way that they are treated in relation to Medicare payments and the support that can exist for a couple as opposed to an individual. Just as some of these entitlements will change for the benefit of same-sex couples, some of the responsibilities in terms of their social security arrangements et cetera will also change. That is as it should be. Equality is not a one-way street of benefits; it is a two-way street of rights and responsibilities. Those responsibilities have been, I believe, warmly embraced by many in same-sex communities who want to ensure that their communities represent the same type of good standing and vision for Australia that so many others do.

Today in supporting this legislation, I particularly wish to focus on children and families. They are two things that have been spoken about at great length over many years and decades in debates on these issues. Senator Pratt highlighted, quite emotionally, the issue of children of same-sex relationships—children who live with parents, or step-parents, in a same-sex relationship and the reality that they face of not always being treated in an equitable manner.

We must accept that some children in those relationships will face difficult times, that prejudice still exists in society. It is not for the state to extend that prejudice further. It is important that, where possible, the state minimises those prejudices and actually delivers for those children the type of safe and secure environment that every child deserves to grow up in, whether their parents are in a heterosexual relationship or a same-sex relationship. We need to honestly and genuinely reflect the type of equality that those children deserve across all such families. That is not to take anything away from the importance of marriage as a fundamental institution in our society or from the importance of all parents being involved in the upbringing of a child. We on this side of the chamber certainly hold those as core beliefs. We believe that children have the paramount right to a relationship with their parents. But the child does not choose the type of lifestyle that their parents choose to live; the child does not get to choose what type of relationship their parents are in. A child finds itself in those circumstances. Children must have that level of equality afforded to them at all levels, and their loving parents in the overwhelming majority of instances, regardless
of their sexual preference, must equally be treated with that same level of equality.

I also wish to briefly reflect on families, because so often we get caught up in these debates in talking about the people who are directly affected by the legislation: those who are in a same-sex relationship. But, for all of them, there are many other loving families involved. Senator Pratt reflected that, in some instances, of course, parents may not accept a child who is gay. But, in many instances, parents come to that acceptance and love that child, just as they should and just as much as any other children. Yet, sadly, those parents still find that there is a level of institutionalised discrimination. So families who have come to accept and love their children in a gay relationship equally, as they should, find that the state still entrenches a level of discrimination against those children. This legislation today will right that wrong as well. It will ensure that those parents, those loved ones and those families who have embraced their children for whatever decisions they have made, will not then find that their families are, in some way, shape or form, discriminated against. So this legislation is as much today for the mums and dads and brothers and sisters and other loved ones of people in same-sex relationships as it is for those who are in those relationships.

I know that some have argued that we should have extended this legislation to encompass those in interdependent relationships—that it needs broadening in some way. There are mixed views on that and there are mixed views as to how that can be constructed. I know that there will be those who are disappointed that this legislation has not gone further in addressing those points. I simply make one key point in response to that: that sustaining one form of discrimination—if, indeed, it is that—is no reason to continue other forms of discrimination.

Those who believe that we should tackle issues where interdependent families, those in interdependent relationships, may be treated differently and who believe that there is reform to be had there should continue to pursue those reforms. But that is no reason to hold up the reforms that we debate today, because these reforms do stand alone and are a monumental and historic step forward in terms of Australia’s treatment of all people in an equal way.

In closing, can I again reassert, as I did in my earlier contribution, the pride that I have as a Liberal that we stand here on Liberal principles of fair and equal treatment for all before the law, fair and equal treatment of all in terms of their rights and responsibilities, and that this legislation is a marked step forward in delivering, for all Australians in relationships, the type of equality that they deserve.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.39 pm)—I want to begin by congratulating the four speakers who contributed before me today to this debate on the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008. It is a very great indication of the way Australians want to eliminate discrimination wherever it may raise its head—on this occasion, on the basis of sexuality. It is indeed a major historic change that is being ushered through this chamber today. For as long as there have been laws written in this land, there has been discrimination against people on the basis of their sexuality. In fact, it increased during the 20th century in some aspects and led to a counterproductive effect right across society. Where you do have discrimination, you have harm and hurt—you have people’s lives changed forever and people’s opportunities truncated or taken away from them forever, and that affects
everybody who comes in contact with those people.

I have lived long enough as a gay member of the Australian community to have seen enormous changes: from the period when it was a crime, at least for male homosexuals, to have a loving relationship, which was punishable by many years in jail, to this historic day, where discrimination on the basis of sexuality is being removed from the statute books by the parliament. I congratulate all parties who are contributing and who have worked so hard towards this. I want to mention my former colleague, Senator Nettle, and, indeed, former Democrat senator Sid Spindler, who brought comprehensive legislation into this parliament in the mid-nineties, and now here we are, more than a decade later, where the result of that legislation is, finally, about to pass into law.

I note that Senator Obama, President-elect of the United States, expressed his wish that everybody should be treated equally—including gay and straight members of the American community—in the opening paragraph of his speech on victory night. It shows that there is a global move—in a world where, in countries like Iran, people can still be murdered officially for their sexuality—to end this repugnant discrimination which is still so repressive of so many people who share this planet with us. But here, today, we can celebrate this move.

I want, however, to add emphasis to Senator Hanson-Young’s call for a free vote on the amendment the Greens will move to make this completely the end of discrimination—and that means to remove the prohibition on marriage for same-sex couples. This was legislated in 1994; it is time that was removed. And the discrimination will continue until that is removed. What is it that should prohibit people who love each other from being able to demonstrate that love through a wedding ceremony, if they wish to—a marriage ceremony in front of their friends, their loved ones and the community—on an equal basis with every other loving relationship? It is not until that discrimination is removed that we finally will be in a society that can say, ‘We promote, equally, loving relationships, and the rights of children in those loving relationships to feel they are equal in every way with other members of the community.’ There is a job there yet to be done.

I have written to both the leader of the government, the Prime Minister, and the leader of the opposition today, calling for a free vote on the amendment which would remove this discrimination against same-sex couples when it comes to marriage. I hope that the Prime Minister and the Leader of the Opposition will allow such a free vote. It is a matter of morality and ethics. Indeed, the whole of this legislation is about that. It is time we moved on to end that form of discrimination in this great country of Australia, which has led the world on so many innovations for the betterment of society in the past and which is taking part in that movement today. Let us not make it 95 per cent; let us make it 100 per cent.

Debate interrupted.

COMMITTEES

Community Affairs Committee

Meeting

Senator FARRELL (South Australia) (12.45 pm)—by leave—At the request of the Chair of the Senate Standing Committee on Community Affairs, Senator Moore, I move:

That the Community Affairs Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today.

Question agreed to.
MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Order! It being 12.45 pm, I call on matters of public interest.

Australian Square Kilometre Array Pathfinder Project

Senator MARK BISHOP (Western Australia) (12.45 pm)—I rise in this matters of public interest debate to pass some comments on a project much favoured by the current Australian government: the Australian Square Kilometre Array Pathfinder project. Mr Acting Deputy President, you might be interested to know that we have an Australian Astronomy Decadal Plan 2006-15. The plan proposes a strategic vision for research and expertise in optical and radio facilities. But what does this mean, and what exactly is astronomy? Having asked the questions, let me proceed to try and give a response.

I will begin with a bit of background information to help those who are listening. Astronomy is a science that allows us to penetrate the mysteries of our universe. It allows us to piece together how the universe began. Astronomers use both light and radio waves to look into regions in outer space and deep space. Radio and light emissions from objects such as stars and galaxies tell us about their size, shape and composition. It is radio telescopes that measure the intensity of radio waves. These telescopes are not new to Australia. In fact, in 1939 CSIRO established a Division of Radiophysics.

Perhaps the most famous Australian radio telescope is the one located at Parkes, which was the subject of a humorous Australian feature film, The Dish. The Parkes telescope fired the imagination of a generation of scientists and engineers when it received television signals that allowed 600 million people to watch Neil Armstrong’s first steps on the moon in July 1969. That telescope was commissioned in 1961 and is still the largest radio telescope in the Southern Hemisphere.

Australia’s position in the Southern Hemisphere provides an ideal location for this type of research, both basic and very advanced. As we all know, our relatively low population base is mainly confined to coastal regions. Large areas of our interior do not have the infrastructure and communications systems necessary to sustain modern communities and modern cities. It means, though, that we have a vast expanse of radio quiet environments essential for measuring radio waves by these telescopes.

This brings me to the Square Kilometre Array, or SKA, Pathfinder project. It is the next-generation radio telescope and it will be 50 times more sensitive than any in operation anywhere in the world. It will comprise a number of dishes that will be formed in clusters. The clusters will be spread over an area of 3,000 kilometres in Australia, with a total reach of 5,000 kilometres, including New Zealand. These clusters will be linked to one huge telescope.

Imagining the possibilities of the telescope is much more difficult. We already know that our galaxy, the Milky Way, is 100,000 light years in diameter, with a circumference of somewhere around 300,000 light years. This new telescope will give us much more information on when and how this particular galaxy, and indeed all galaxies within reach of the telescope, were formed. The scope and range of the ambition is truly groundbreaking and breathtaking.

In 2006, Australia and Southern Africa were short-listed to host the SKA Pathfinder. I am very pleased that, should Australia’s bid be successful, my home state of Western Australia will be the site of the main telescope. Western Australia has provided an ideal location for the project which is relatively free from radio interference. The pro-
posed site is approximately 300 kilometres inland from the north-western city of Geraldton, in the shire of Murchison. It is an unusual part of Australia in that it is a shire with no township at all. While it is approximately 50,000 square kilometres in size, the shire has only 29 stations, with a total population of around 160 people. The main income is from cattle, meat, sheep and fine wool. Not surprisingly, it is a very, very quiet place, and that ongoing quiet makes it an ideal location for the SKA project.

The SKA project is still in its research and development phase. However, the government is well aware of the significance of the project to our standing as a world leader in radio astronomy. It will enhance Australia’s engineering, technology and scientific capabilities. For this reason, the Minister for Innovation, Industry, Science and Research—who I see is in the chamber—recently launched a register of opportunities available to industry for the Australian Square Kilometre Array Pathfinder, or ASKAP, project.

The ASKAP will be a collection of up to 36 dishes, each with a diameter of 12 metres. It will be the fastest survey radio telescope in the world. It will strengthen Australia’s bid for the SKA project by demonstrating prototype technologies, by demonstrating the success of remote radio astronomy operations in Australia, by demonstrating the radio-quietness of the region and, most importantly, by demonstrating the government’s commitment to our site bid for the SKA project.

The ASKAP will assist in training the next generation of scientists and engineers who will be absolutely fundamental to the SKA Pathfinder. The project will be a major engineering feat and will include high-performance computing. It will have a life span of more than 50 years. It also represents a commitment of $100 million to Australia’s bid for the SKA project.

The ASKAP is truly a nation-building project that will be constructed by the CSIRO on a site at Boolardy Station in the Shire of Murchison. The site has been provided by the Western Australian government. I am advised that construction is due to commence next year. When completed, it will be available to scientists from around the world. It will be home to researchers, technicians and postgraduate students. It will strengthen our international collaborations in engineering and scientific research by providing world-leading radio telescope technology.

Our curiosity about the evolution of our galaxy, as well as the origins of the universe, has seen the development of next-generation telescopes. The SKA Pathfinder project is one of the largest scientific projects ever undertaken. It brings together scientists from 50 institutions located in 19 different countries. It is an international collaboration between countries from Europe, Asia, Africa, North America, South America, Australia and New Zealand. The cost is estimated to be around $2 billion and will be borne by each of the member countries. This is a wonderful and exciting time for those interested in space and science. It will inspire innovation not only in the field of radio astronomy but also in allied sciences and engineering.

The ASKAP and SKA Pathfinder projects provide Western Australia and, more broadly, Australia with the opportunity to be at the cutting edge of that research. Space and its possibilities have been a fascination for generations of children, long before we took our first tentative steps outside the earth’s atmosphere. And I have no doubt that that fascination will continue well into the future. The establishment of the ASKAP will provide inspiration to the next generation of scientists and engineers by promoting the
development of outreach and education programs. These programs will be an added incentive for students to engage in science and research. Some of that work has already started. The CSIRO have developed a radio science project in Geraldton and they are running a science education program in midwestern schools. The programs will encourage students to take part in further education at TAFE and university.

The SKA project may offer us the opportunity to glimpse the far reaches of the Milky Way or even the origins of the universe itself. But it will also offer us the opportunity to increase Australia’s technological progress in academic research, information and communication technologies, precision manufacturing, sensor technologies and maintenance and logistics. There will be opportunities to find new solutions to sustainable power generation.

To meet the scientific and technological challenges of the project, we will need to develop a unique and diverse workforce. That workforce will include training and employment opportunities for local Indigenous communities. I am advised that a final decision on the site of the SKA Pathfinder will be made in 2011-12. The success of our bid will be of great benefit to Australian scientists and engineers as well as Australian business and industry and the local community.

Having made those formal remarks, I should just put on the record a very sensible contribution to the debate which came across my desk this morning. It was a speech by the Minister for Innovation, Industry, Science and Research, Senator Carr that was delivered yesterday to the Australian Square Kilometre Array Industry Consortium. In that speech to a group of industry professionals, the minister was clearly highly enthusiastic about the benefits of the project. He highlighted a whole range of industry opportunities and invited significant individual participation in the project. He said in his speech that he had spent over 12 months highlighting the benefits and opportunities of the project and that it was truly a once-in-a-lifetime opportunity. He concentrated on a forthcoming international preparatory study. The gist of the speech, which I have reviewed this morning, was that this project, if it comes to fruition, is going to have an enormous range of benefits for this country over a period of generations.

Finally, I should express my thanks to Mr Matthew L James, from the Science, Technology, Environment and Resources Section of the Parliamentary Library, who provided my office with some very detailed background technical information on this project.

Gene Patents

Senator HEFFERNAN (New South Wales) (12.58 pm)—I rise to thank the Senate for its generosity in agreeing to an inquiry into the impact of gene patents on the provision of health care in Australia. I rise also to promote public debate and thought on this issue and to explore a few of the possibly unintended consequences of this, and to acknowledge the work done by several authors, including Rohan Hardcastle, Luigi Palombi and others.

I realise that the world is concerned with the financial meltdown at the present time. I have often said that, in public life, if you have got an inquiring mind, the more you know the worse you feel. I feel really bad about what I am about to talk about. The world financial crisis was probably caused by the extension to 40 times their capital base of some of the merchant banks in America such as Lehman Brothers, whereas in Australia they have been confined to an extension of less than 10 times their credit base. The global financial instruments mar-
ket has fallen into a heap and it is going to have serious consequences. This time next year we will really be starting to feel it. But the world moves on. The carbon market will become a river of gold for all the same people who play pass the parcel with financial instruments—and so will the gene patenting market.

In March 2000, when the genome was mapped, President Clinton and Prime Minister Blair argued that raw data of this nature should be free. Patents are placing controls on this raw data. The fiction argued by proponents of gene patents is that once they remove the gene from its natural environment—that is, the human body—they have an invention. Of course this is a complete nonsense. Most people are alarmed when you talk to them about it. The joint press release that came out of the White House in March 2000 said:

In the last decade of the twentieth century, scientists from around the world initiated one of the most significant scientific projects of all time: to determine the DNA sequence of the entire human genome, the human genetic blueprint. Progressing ahead of schedule, human genome research is rapidly advancing our understanding of the causes of human disease and will serve as the foundation for development of a new generation of effective treatments, preventions, and cures.

To realize the full promise of this research, raw fundamental data on the human genome, including the human DNA sequence and its variations, should be made freely available to scientists everywhere. Unencumbered access to this information will promote discoveries that will reduce the burden of disease, improve health around the world, and enhance the quality of life for all humankind. Intellectual property protection for gene-based inventions will also play an important role in stimulating the development of important new health care products.

In 2003 a company called Myriad Genetics took out four patents in America. So there is no confusion about what those patents are—and there is at present lobbying around this building that I have got this wrong, but I have not got it wrong—there are three Australian BRCA1 patents, 686004, 691331 and 691958, and one BRCA2 patent, 773601, that have been granted by IP Australia. The owners of these patents vary, but Myriad Genetics USA is a part owner of all patents. All four patents expire. The BRCA1 patents expire in 2015, BRCA2 in 2016. Two BRCA1 and BRCA2 patents define the primary invention to be an isolated nucleic acid—that is, DNA that has been removed from the human body. The BRCA1 patent 691331 defines the primary invention to be any method of detecting in a human being the DNA or a biological derivative of the human gene that codes for the mutant protein BRCA1.

In October 2002, Genetic Technologies Ltd, an Australian company, became the exclusive licensee of all four patents. The Patents Act 1990 provides in section 18(1) that IP Australia is permitted to grant a 20-year patent monopoly for an invention that is novel, involves an inventive step or is industrially applicable. No Australian court has ruled on whether an isolated biological material that is identical or substantially identical to a naturally-occurring substance or material such as a human gene is a proper subject of letters patent in Australia. I am pleased that the Senate inquiry, which has broad-ranging terms of reference, will be able to investigate this matter. Genetic Technologies’s job—I have spoken to their gentleman this morning—is to get a quid for their shareholders and, the more patents they can accumulate, the more their share are going to be worth.

I will give you the tone of what is done around Australia to a whole body of research in a whole lot of public laboratories with great people in them. This is a typical application of the financial instrument from Gene Technologies:
I am writing to notify you that Genetic Technologies Limited (Genetic Technologies) is seeking to enforce its intellectual property rights with regard to offering diagnostic testing of the BRCA1 and BRCA2 genes for suspected cases of hereditary breast and ovarian cancer syndrome in Australia and New Zealand. In the interests of avoiding costly and time consuming litigation, Genetic Technologies proposes a commercial solution whereby Genetic Technologies will perform all of Peter MacCallum Cancer Institute’s future BRCA1 and BRCA2 testing requirements as settlement of all Peter MacCallum Cancer Institute’s past and prospective infringement of our exclusive patent rights.

What an insult to the public health system! Where are we going? They continue:

Gene Technologies has invested millions of dollars to both procure and be in a position to exploit these exclusive rights.

They conclude with a threat:

However, in the event the Peter MacCallum Institute is not prepared to provide the requested undertaking by the given date in this particular letter, of 14 July 2008—

which has been deferred—

… Genetic Technologies will then immediately proceed with legal action without further notice. Our lawyers have prepared a detailed statement of claim and are ready to file an application with the Federal Court if necessary.

That created great alarm across Australia. I am so pleased and privileged to stand in a parliament that has agreed to look at this. This is as big a question for the human race as coming to terms with some of the disgusting things that have appeared in our history in the past, such as the status of slaves in the Roman Empire, who for hundreds of years were determined to be chattel in the household. They had the same status as the chair or the table, and it took hundreds of years to fix. We look back now and say, ‘How could we have done that?’ I am wondering whether we are going to look back in years to come and say, ‘How can we have allowed this to happen?’

With their permission, I want to briefly read parts of a letter. I have a heap of other material, which I will run out of time for but no doubt will use at the inquiry. This is from two sisters who have written to me. They are seen by Professor Judith Kirk, the director of the Familial Cancer Service at Westmead Hospital in Sydney. They are beside themselves. They say:

My sister and I, as above, are writing to you to express our deep concern and dismay at the prospect of Genetic Technologies Ltd having the sole control of testing for familial breast cancer genes, in particular BRCA1 and BRCA2.

By the way, one of these genes is now discovered to be crossing over into the precursor for prostate cancer. The letter goes on:

This affects us and our families personally. Our brief histories are as follows.

One of the sisters—I will not name them—now aged 62:

… was diagnosed with breast cancer at the age of 33 and received treatment in 1979—total mastectomy. There was no lymphatic involvement. Further treatment was considered unnecessary.

Sister 2, now aged 66:

… was first diagnosed with breast cancer at the age of 52 in 1994. This was treated with a surgical lumpectomy and, as there was lymph node involvement, chemotherapy and radiotherapy. Following the treatment there was adjuvant therapy for seven years until a second primary cancer in the other breast was diagnosed and treated with surgery. As a result of these three cancers, together with family history going back generations, we qualified for familial genetic testing under Associate Professor Judy Kirk at Westmead Hospital in July 2002. From the very first telephone contact to the present time, we have been treated with the utmost respect, care and compassion by all the staff of the unit. Associate Professor Kirk clearly explained that we were in fact risk patients for further cancers, both breast and
ovarian, and therefore blood samples were obtained for testing—
for the first sister—

... as her cancer had presented at a younger age. There was no cost for this service. We were happy to wait until 2003 for our results on this basis, having been offered faster and expensive alternatives. Unfortunately the results were inconclusive, although the team at Westmead strongly believe that we do carry the faulty gene. On that basis we were counselled that surgical removal of our ovaries should be undertaken to reduce but not eliminate our ovarian cancer risk. We both understand the possibility of further breast cancer in the future. Professor Kirk advised us that the blood sample would be kept on file and continued testing would occur as technology improved. It is her understanding that this will not occur in a private laboratory.

The letter goes on:

Senator Heffernan, the diagnosis and subsequent urgent treatment for breast cancer is a major life-changing event. Then to discover that this insidious disease may in fact be passed on to our precious family members is an emotional burden. The support of the caring environment at the Westmead familial cancer centre has sustained us over six years and given us hope that a conclusive result will eventuate in the fullness of time. Should this genetic material be transferred to a profit-making business, possibly tested once or twice and then discarded with the costs incurred, our peace of mind would be destroyed along with the blood samples. We thank you for your being instrumental in being presenting this issue to the Senate. The importance of personal counselling information cannot be underestimated.

That is typical of the response from thousands of people who are now aware that what we are doing is turning years and years of public research into a financial instrument for financial gain.

I will just give a little history. There are current clinical services and testing in public laboratories on these particular genes. The bigger question for the Senate committee is: should we, under the Patents Act, be allowing patents to be taken on naturally occurring body parts? Current clinical services and testings have been in place since 1994. In 2003, GT made a statement to the Australian Stock Exchange that, although GT would be offering testing, the IP rights from Myriad would not be enforced, as a donation to the people of Australia—and New Zealand, I might say. Public labs and infrastructure have been further developed since then on this basis, using a cooperative team of expert Australian senior scientists in NATA-accredited public laboratories in most states.

GT now demands that all these labs now cease testing. Samples sent to a private lab are lost to the public good for the future and become the property of the private lab. Samples held in public laboratories can be used to test new genes not patented that may be identified in research or to apply new, improved technology for gene mutation tests. What happens when all these samples disappear out of the system? At Westmead Hospital they have samples from the early 1990s which they can go back to and test when new technology comes along, to get some understanding.

As Bill Clinton and Prime Minister Blair said, this ought to be public property. Einstein made discoveries for the betterment of mankind and did not take patents out on them. This is something everyone in Australia needs to become alert to. Australia, with the patent complexity under what is proposed, will do the testing here in Australia due to Genetic Technologies having a variable litigation prospect with the American company. Genetic Technologies discovered Myriad in America was breaching one of their patents so there was a settlement. But everywhere else in the world—places like Japan—when a test is taken from a distressed family, under the patent the test has to be sent to America to be tested. It will occur in Australia, if we allow this to go on, that gov-
ernments will have to make decisions on who gets the test and on the break-up of the public health dollar. We are going down a very dangerous path. I am very grateful for this time to talk about it. (Time expired)

Workplace Relations

Senator SIEWERT (Western Australia) (1.13 pm)—I would like today to address the issues of what workers are saying they need from Forward with Fairness and the change to the industrial relations laws. I want to tell the stories of workers themselves who are currently finding life very difficult under Work Choices and wondering what their working lives will be like under Forward with Fairness. These stories will illustrate the potential gaps in the Forward with Fairness policy. I say 'potential' because as yet we have not seen the legislation, but, on the basis of the Forward with Fairness implementation plan and the minister’s public statements so far, I feel a great deal of concern that in fact the proposed changes will not be meeting the needs of many Australian workers.

A few weeks ago I met with a group of migrant women workers from Sydney. They were members of the Asian Women at Work group and they came to Canberra to let us politicians know what their working lives are like, how Work Choices has made their lives much more difficult and what they need the new changes in Forward with Fairness to deliver for them to provide them with better working lives.

Asian Women at Work have in fact produced a booklet entitled Cries from the Workplace: 20 women, 20 stories. In the introduction to the booklet the Asian Women at Work Action Group states:

We are Asian women workers. We are skilled and dedicated. We work very hard but we are never treated as we deserve. Our hard working efforts are not recognised. We are bullied and hassased. Often we are not paid even the minimum wage, or our other entitlement. We want our stories to be part of the discussions and debates on a new industrial relations system in Australia. We do not want to be forgotten.

I want to read some of these stories and tell these stories to the Senate and reflect on how they can assist us in evaluating the government’s proposed Forward with Fairness legislation when we come to that debate. The names used in these stories are not the real names of the women. This is Mary’s story:

There are 40 to 50 people in the wholesale meat factory where I work. I am a salesperson in the retail room. We have a lot of bad experiences with our Manager and supervisor. They don’t know how to manage and organise the work in the workplace very well. Their treatment of their workers is extremely erratic. They often abuse and swear at people without any reason.

I am very unhappy with the work environment but I have a good relationship with my workmates. I don’t receive any of my entitlement from work—no overtime pay, no sick pay, no holiday pay. I do receive award wages for this industry at an hourly rate.

There are a lot of heavy items we have to carry, move and work on. Some items are over 30 kgs. It is beyond my work duties and my capability to carry that much weight. My arms, hands and back are very sore.

Nothing has changed in our workplace since Work Choices was put into practice in March 2006. But our manager often threatens people by using the word “sacking” to push workers to work harder. We always wish that the Manager and Supervisors would change their working attitude.

The overwhelming feeling from my workplace is: my physical strength is consumed all the time, we have huge pressure on us from the workload, and my mind and body are constantly stressed and tight at work as I don’t know when the supervisor will pick on me in front of many clients without any reason.

Mary says:

We have to wear gloves to do our work but the company does not even provide us with gloves. They want us to buy the gloves ourselves. We
normally have to buy one pair a week, as they are normally damaged after a week. It is costing us lots of money.

My pay and conditions are very low. I only get $11 an hour even though I start working at 3am in the morning. They are not paying the correct amount of tax for me. I don’t get sick pay or sick leave and I don’t get 4 weeks annual leave. I do get 9% superannuation. We don’t get overtime penalty rates when we do overtime.

I wish we could receive lawful wages and conditions and the boss could treat us with respect and dignity. I also wish they wouldn’t take advantage of those overseas students and illegal migrants anymore. We only get 30 minutes for lunch and no tea breaks and rest breaks. We should have tea breaks and rest time. We are not machines, we can’t work like robots.

Lisa worked in a sewing factory:

I worked from 7am to 7pm with an extra two hours a day for travel. I had no time for my son because of this. I quit my job and friends told me that I could bring clothing from the factory home to sew so I could still work without leaving my son alone.

From then on I became an outworker. I rented a garage with two rooms, one room for sewing and the other for my son and I to sleep on. That room was for cooking and everything else. Every day I found the jobs more difficult to complete and the low wages and long hours put a great deal of pressure on me. The maximum pay was $4 an hour with no bonuses, sick leave or holidays. I worked most of the day to survive so I had no idea of the society around me.

The Textile, Clothing and Footwear Union and the Australian Services Union are also deeply concerned about the impact of the proposed industrial relations legislative changes on women workers. They have produced a booklet entitled Untold Damage: Why women need new IR laws. The stories in this booklet cover women working in the textile industry, in call centres and at airports as check-in staff and in valet parking companies. There are stories of women workers being made to meet union representatives in the toilet area, of women being held to ransom by employers refusing to negotiate with the union for a collective agreement, and of women threatened with dismissal for insisting on their rights.

What do these stories tell us? First they tell us that what must underpin our consideration of our workplace laws is the inherent right of employees to be treated with dignity. If our framework of laws and the enforcement of those laws do not respect the dignity of work then they cannot be considered fair. These stories also highlight what workers need from Forward with Fairness. They need decent and strong minimum standards that are actually enforced. Many of the women in these stories are on award wages and conditions. The award modernisation process, as it is unfolding, is looking like reducing important conditions for many award workers.

I raised these concerns, which I believe are very real concerns, about the award modernisation process at the time the Forward with Fairness transitional bill was debated in this place. Unfortunately, my fears have been realised—the safety net is being reduced as compared to pre-Work Choices and, importantly, the ability of the safety net to effectively respond to changing community standards is threatened. Of particular concern is the proposal to require awards and agreements to contain provisions allowing for individual agreements to be entered into. These individual agreements have the potential to undermine the safety net and disadvantage workers, particularly women, who hold a large number of the jobs that are most vulnerable to the circumstances I am talking about. Workers also need comprehensive unfair dismissal protection to be urgently reinstated. The stories in these booklets demonstrate how the threat of dismissal can be a powerful means of employers bullying and harassing workers, leading to exploitation. The Greens believe the government’s
proposals do not go far enough in providing appropriate protection.

The genuine rights of unions to enter workplaces to talk to workers must also be restored. It is an unacceptable breach of workers’ right to freedom of association to allow employers to dictate where union meetings can take place. To make women meet in a toilet area is embarrassing, unacceptable and humiliating and is a direct attack on their dignity. Unions have a vital role to play in ensuring that workers are not exploited, that they are receiving their legal entitlements and in representing workers in bargaining, but also in the resolution of other workplace disputes. I expect an ALP government to acknowledge and support the role of unions in our democratic society.

Underpinning a fair industrial relations system must be an effective dispute resolution process. Under Work Choices, we are witnessing workers being bullied by employers refusing to bargain with unions. Whether it is the women I have been talking about who are represented in the booklets, whether it is Telstra workers or workers in the mining industry, employers should not have the ability to refuse to reach agreement with a union without any last resort to arbitration. There also needs to be effective dispute resolution for other workplace disputes.

Giving up on arbitration is not moving us forward. In fact, the government’s apparent intention to remove arbitration tells us that rather than abolishing Work Choices it is keeping the fundamental changes Work Choices made. As we keep saying, ‘Work Choices Lite.’

In moving forward, we need to listen to the stories of women like May, Lisa, and Mary. As the Asian Women at Work say in the introduction to *Cries from the Workplace*: We didn’t believe exploitation could happen in Australia. We never expected this to be a part of our ‘new life’ here until we experienced it ourselves. We feel like third class citizens. For a long time we have felt like we are not important and we are ignored.

I hope this place and the new legislation do not ignore the voices of these women and other women and other workers throughout Australia in the upcoming debate on workplace laws.

**Bankruptcy Laws**

**Senator CAMERON** (New South Wales) (1.23 pm)—I rise today on a matter of public interest concerning the failure of the Leader of the Opposition, Mr Turnbull, to remotely comprehend the damage that would flow to Australia from the introduction of US style bankruptcy laws in this country. In yet another dismal attempt to attract a bit of attention, Mr Turnbull last week announced that a future coalition government would introduce American style bankruptcy laws that allow companies to continue trading while insolvent. These are known as chapter 11 laws. According to a report in the *Australian* on 8 November, Mr Turnbull thinks that insolvent companies should be allowed to keep trading to:

- protect jobs—
- and to—
- stop the needless destruction of value—

in insolvent companies. Mr Turnbull says that there are many cases where companies have been unnecessarily put into receivership. Interestingly, Mr Turnbull cited the case of media company John Fairfax, which was placed into receivership in 1991. Mr Turnbull apparently told the *Australian*:

Its defaults were actually only technical.

Mr Turnbull knows a lot about the collapse of Fairfax and the events that followed. I suspect that not all of it is merely technical. But he obviously knows nothing about the American insolvency laws and what bad news they are for shareholders, creditors and
workers. According to a story by Michelle Grattan and David Rood in the *Age* on 25 August 2008, Mr Conrad Black, the disgraced former proprietor of Fairfax, wrote to *Four Corners* from his jail cell in the United States where he is serving time for fraud with what you could only describe as a character reference for Mr Turnbull. Mr Black said of Mr Turnbull:

Fifteen years ago there would have been some question about his judgement. That may no longer be the case.

Clearly, an American prison cell is no place from which to form accurate assessments about Mr Turnbull’s judgement.

The question of whether an insolvency regime based on chapter 11 of the United States bankruptcy code should be introduced to Australia has been debated from time to time in recent years. On each occasion the idea has been rejected by people who know a lot more about the subject than Mr Turnbull. The principal features of chapter 11 of the United States bankruptcy code are as follows. Companies may petition the US bankruptcy court at any time of their own volition. There is no requirement that the debtor company be in financial distress. Immediately upon the filing of a petition, there is an immediate stay on the ability of all creditors to recover funds from the debtor company. The debtor company is given 120 days to produce to the court a plan of reorganisation, which both allows the company to continue to trade and addresses the claims of creditors to recover funds from the debtor company. The debtor company is given 120 days to produce to the court a plan of reorganisation, which both allows the company to continue to trade and addresses the claims of creditors. If no plan is presented, creditors have a further 60 days to present an alternative plan to the court. During this period, the management team that drove the company into bankruptcy remains in control unless creditors can show fraud or some other cause that would persuade the court to appoint a trustee. The court retains a very substantial role at every step of the process.

Chapter 11 of the US bankruptcy code has been the subject of considerable criticism over many years. Most debtor companies filing for chapter 11 bankruptcy fail to be rehabilitated. Only about 6½ per cent of debtor companies under chapter 11 achieve long-term rehabilitation. Leaving management in control was described in an article in the *Australian Financial Review* on 9 December 2003 as:

… akin to leaving the fox in charge of the hen house.

The people responsible for causing the company to petition for bankruptcy relief are the very same people who claim to be able to manage the company back to financial health. The management who caused the company to get into financial distress retain the power and authority to undertake high-risk strategies in vain and futile attempts to keep the company trading. These managers have nothing to lose by speculative investment of the company’s remaining resources. Under chapter 11 bankruptcy, the principal beneficiaries are not the debtor company’s creditors; it is the management that brought the company to its knees that benefits. Chapter 11 bankruptcy is wide open to abuse. Companies often seek to the protection of a bankruptcy petition to avoid contractual obligations.

In a famous abuse of chapter 11, Continental Airlines filed for bankruptcy for the sole purpose of avoiding its obligations under its labour contracts with its employees. Other companies have filed for chapter 11 bankruptcy for the purpose of avoiding tort and civil liability and awards of punitive damages for negligence and malfeasance. The role of the US Bankruptcy Court is a major contributor to the blow-out in bankruptcy costs and this extends the time spent by debt accompanying bankruptcy prior to the eventual winding up.
I want to come back to the analogy that chapter 11 laws are akin to putting the fox in charge of the henhouse. Is Mr Turnbull seriously arguing that Ray Williams should still be running a restructured HIH, that Rodney Adler should be in charge of a restructured FAI, that Alan Bond should be running Bond Corporation, that the late Christopher Skase should have been allowed to continue to run Quintex, or that Jodee Rich should have been given an opportunity to keep One.Tel afloat despite his incompetence? This is simply Malcolm Turnbull demonstrating that he has not thought through this proposal. It demonstrates that arrogance, bluster and self-importance cannot hide an incapacity to understand the implications of a policy that will significantly disadvantage not only the Australian economy but working families. This policy proposal by Malcolm Turnbull demonstrates that he has no idea what is required for good corporate governance in this country.

Mr Turnbull is not the first person to consider introducing US-style insolvency laws to Australia, though he is one of the very few to think it is a good thing. Following the collapse of Ansett and HIH, there were musings among some self-interested people about an American-style bankruptcy law for Australia. In an article in the *Australian Financial Review* on 3 June 2003, the administrators of Ansett, Mark Korda and Mark Mentha, concluded that American-style bankruptcy would not have saved Ansett and was not the answer for Australia. In their article, Mr Korda and Mr Mentha noted that Qantas had complained that the chapter 11 protection afforded to some of its American competitors put Qantas at an unfair competitive disadvantage. Qantas claimed at the time that this disadvantage was part justification for staff cuts and other cost cutting designed to maintain its competitive position. Korda and Mentha noted that a chapter 11 bankruptcy filing by Ansett and the resulting dilution of priority for Ansett employees would have relegated $650 million in employee entitlements to unrecoverable status. That is what Malcolm Turnbull is proposing for Australia.

Mr Korda and Mr Mentha said:

> Community expectations to give entitlements priority are evidence of the Australian public’s aversion to this US-style solution.

Mr Korda and Mr Mentha concluded in their article:

> It is evident from the US aviation experience that a Chapter 11 solution is not always enduring. In any event, it is the equity holders, employees and unsecured creditors who fund the Chapter 11 process and who bear significant risk after reorganisation.

Mr Korda and Mr Mentha then ask the question: is that equitable? Well, I say it is not. But Mr Korda and Mr Mentha are not the only ones who disagree with Mr Turnbull. In November 2006, the former Parliamentary Secretary to the Treasurer, the member for Aston, Mr Pearce, released the draft Corporations Amendment (Insolvency) Bill 2007 for public comment. Mr. Pearce said this:

> Australia’s insolvency regime has long been regarded as world-best, with jurisdictions such as the United Kingdom and New Zealand adopting the voluntary administration procedure that has been developed in Australia. The Bill will make a number of minor adjustments to develop this procedure further…

> … … …

> These measures demonstrate the Government’s commitment to ensure that employee entitlements are appropriately protected.

But now Mr Turnbull, in one of his characteristic ‘look at me, look at me’ moments, has unilaterally changed coalition policy through an article in the *Australian* newspaper. Not only does Mr Turnbull’s policy change fly in the face of the considered position of those very few sensible people who remain in the coalition; it is completely at
odds with the advice provided by the government’s advisory body on these matters, the Corporations and Markets Advisory Committee. In a brief paper entitled ‘Should Australia Adopt an Insolvency Regime Based on the US Chapter 11 Bankruptcy Code?’, the advisory committee made these blunt assessments of the value of the American code to Australia:

In the post-HIH environment where corporate governance has become a watchword of heightened importance, adopting a debtor in possession regime such as Chapter 11 would be inconsistent with attempts to promote greater corporate governance.

... ... ...

Adopting a Chapter 11 type regime would fly in the face of the well accepted need to minimise the role of the courts.

... ... ...

Chapter 11 has repeatedly been shown to produce too few rehabilitated companies in the long term, to be very expensive and take an inordinate amount of time to administer.

... ... ...

In the circumstances Part 5.3A of the Corporations Act is working well and there seems little merit in Australia adopting an insolvency regime based on Chapter 11 of the United States Bankruptcy Code.

If changes are to be made to the Corporations Act in Australia, the focus of the changes should be on increased corporate governance and the protection of the most vulnerable creditors—employees. Mr Turnbull’s support of chapter 11 bankruptcy laws actually demonstrates that the Liberal Party have not abandoned Work Choices. Work Choices was about putting ordinary Australians at a severe disadvantage in the workplace. Mr Turnbull’s proposition on chapter 11 brings the Liberal Party right back to that very same point. Chapter 11 bankruptcy laws would seriously disadvantage Australian workers. They already disadvantage American workers. Australian workers would also stand to lose the right to collectively bargain, as Australian bankruptcy courts could arbitrate on chapter 11 restructuring. Workers’ collective agreements could be terminated, annual leave reduced, annual leave loading and long service leave taken away. Penalty rates and allowances could be reduced or removed as part of chapter 11 restructuring.

The deficiencies in chapter 11 are clear: workers sacrifice their jobs, pay, benefits and conditions, while failed executives are protected and continue to access generous compensation entitlements and rewards. As recently as June 2008, the AFL-CIO made submissions to the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary of the US congress. Those submissions went to the lack of equity in chapter 11 bankruptcy laws. The conclusion of the AFL-CIO is that there are serious deficiencies in chapter 11 laws. Workers and retirees are bearing a grossly disproportionate burden of an employer’s bankruptcy. Workers are suffering because more can be taken away, much more easily, and with wholly inadequate remedies for the workers. American workers are facing deep cuts in wages, benefits, pensions and health benefits as a result of chapter 11 actions. I call on Mr Turnbull to admit his mistake and indicate that in the interests of workers and in the interest of good corporate governance he will not pursue chapter 11 type bankruptcy laws within Australia.

Remembrance Day

Senator BOYCE (Queensland) (1.38 pm)—I rise today, the day after the 90th anniversary of Armistice Day, and I ask the same question that many would have asked on the day after the first Armistice Day: what do we do now? What can we do to continue to make meaningful the many sacrifices
since then—in World War II, Korea, Malaya, Vietnam and Timor Leste—and the sacrifices still being made in Iraq and Afghanistan? On November 11 we pause to remember, but what do we do on the day after?

Recently I visited the South-East Queensland country town of Kalbar, near Beaudesert. It is a small town of about 600 people, but it is getting bigger as Brisbane expands ever outwards. It has a very nice coffee shop and a public hall where, in a small room at the front, the Kalbar RSL has its headquarters. I was there to present a number of flags to the members of the Kalbar RSL for use on their flagpole and for veterans' funerals. Bearing in mind the nature of the occasion, there were, of course, formal speeches and official photographs at their beautifully and peacefully located war memorial, overlooking the valley. On Anzac Day up to half the town's population gathers there, and yesterday there was a similarly well-attended ceremony that was at once peculiarly intimate and local but, as well, national and global in its significance.

My hosts when I visited—Bob Pearson, Ced Gilloway, Geoff Burnell, Barry Unsworth, James Host, Greg Smith and Brian Prickett—gave me a very warm welcome. Of course, this area around Boonah is renowned for producing fine soldiers, particularly for the mounted infantry units. In fact, Boonah's troop was the 2/14 Light Horse Regiment, formed in 1930 through the amalgamation of two other regiments, the 2nd Moreton Light Horse and the 14th West Moreton Light Horse. Queensland Trooper David Pearce is the 2/14 regiment's most recent casualty and I would like to acknowledge now his sacrifice in Afghanistan.

There was also another member of the Kalbar RSL there on the day of my visit—World War II veteran Emslie ‘Butch’ Regeling. Butch did not let his walking frame handicap him for a minute. He actively and energetically participated in all parts of the visit, hauling himself up and down the stairs of the Kalbar RSL headquarters and waving away assistance to get over a soft spot in the grass with his walking frame. The next day, Butch passed away, and I know that the many people who attended his funeral miss him greatly. Sadly, this was the first 'opportunity' for the Kalbar RSL to use the funeral flag that I had presented on my visit.

Butch was born in 1924 and, like many young men in country Queensland, he enlisted in the Army during World War II, seeing it as a great adventure. Butch was a proud member of the Light Horse and was one of the seven troopers who rode out from Darwin all the way to Townsville to check for infiltrators after the Japanese bombings in 1941. It sounds like a boy's own adventure today, but the seemingly real possibility then of meeting with Japanese invaders and the need to travel covertly meant that it certainly was not, at the time, a boy's own adventure.

Unfortunately, Butch is the fourth member of the Kalbar RSL who has passed away this year. We no longer, as a nation, have any World War I veterans, and our World War II and Vietnam veterans are beginning to pass on in increasing numbers as well. With their deaths our opportunity as a nation to honour them and their families in their lifetimes is rapidly diminishing.

In the First World War—the war to end all wars—Kalbar lost 14 of her young men overseas. For such a tiny community that was a very heavy price to pay and most families in the town were personally affected. We promised our returned soldiers and sailors and airmen that we would look after them and that we would honour the sacrifices they made. We made that promise to their sons, their daughters and all their families, not just in Kalbar but in every community throughout Australia. Today is the day after Remem-
brance Day. Yet, tomorrow, the government will introduce the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008. It sounds extremely innocuous, but this bill—section 2 of the bill in particular—is a mean-spirited little attempt to strip the partner service pension from the separated partners of veterans. All up, it is estimated that this section of the bill will directly impact on 580 spouses and partners of veterans.

This is allegedly going to save the government $40 million over four years. The projected savings are in fact questionable, given that many of the costs will be simply shifted to unemployment and other programs. This is a mean little bill. It pushes the separated spouses or partners of veterans under age pensionable age off the partner service pension and onto Centrelink programs such as Newstart. I will talk a little about a woman who wrote to me about her situation. She wrote:

My husband and I have been married for 38 years. I met him just after his return from Vietnam and we married 5 months later. To say that our marriage has been traumatic is an understatement and I have lost count of how many times we have separated and then been reunited again. I even went as far as divorcing him at one stage, only to end up back in the relationship and married again.

It is only in the last 15 or so years that I have begun to learn about the effects of war on otherwise presumably ‘normal’ young men.

Living with a traumatised returned serviceman is like walking on eggshells. You never knew when there was going to be another outburst of anger or to what extent that anger would be expressed. My husband prided himself on the fact that he would never hit a woman but he hit many things around me instead … I would often keep my children in another room until he had left for work, because it was easier than having him abuse them and go off the deep end and then me having to calm them down afterwards and get them off to school.

As a result of all this and the need to care for him closely I have had to give up working and even enjoying a lot of activities outside of the house because he just can’t bear to have me gone for too long … With this new bill, if it is passed, I realised that I could not support myself if my service pension was cancelled after 12 months. I have lost the capacity to work in any of the positions that I have had in the past.

There are hundreds of other stories like this, of people who will be trapped by the government’s attempt to save a few dollars. Numerous veterans, particularly of the Vietnam War, experience stress, disability and post-traumatic stress disorder as a result of their war service and so, vicariously, do their families. Unsurprisingly, as the letter shows, this leads to a much higher incidence of separation and divorce. Many submissions to the inquiry into this bill by the Senate Standing Committee on Community Affairs told further of women who were worn out from caring for their partner or who sometimes needed to leave home for their own safety and the safety of their children. The submission from the Partners of Veterans Association noted:

The fact is, that these separated wives are still legally married to the Veteran and are to be penalised because they could no longer, for any number of reasons and often, after many years of marriage, continue to cohabitate with their veteran husband due to his war caused disability.

Australian Partners of Veterans should be afforded more resources, support and assistance rather than be discarded …

The Partners of Veterans Association went on to note that they felt betrayed by this government. They said:

Prior to the Labor Government winning the 2007 Election, there was no mention in any election policy that there would be any cuts to the Veteran community. Indeed Labor’s Plan for
Veterans’ Affairs stated that they were committed to ‘the care of families of veterans in recognition that it is not just veterans themselves who make personal sacrifices to defend our country’.

Contrast that pre-election rhetoric with the reality. The partners of veterans organisation points out that this legislation would mean that:

… the whole veteran family is worse off financially despite assurances that no veteran would be worse off.

The newly elected Labor MP for Blair spoke on this bill during the second reading debate in the House of Representatives, and it is worthwhile quoting what he very insensitively had to say to veterans and their partners:

The situation is that from 1 January 2009 any spouse of a veteran who has been separated from that veteran for 12 months or more will cease to be eligible for the partner service pension. Eligibility will also cease if the veteran has entered or enters a marriage-like relationship with another person. It is a fact that people separate and move on.

The problem with this statement of course is that in this situation many spouses and partners do not move on. From all the correspondence that I have received it is evident that in fact this is not the case. People do not separate and move on. One woman separated from her husband in 1999 but is not divorced and is still caring for her husband. Another woman wrote to tell me that she had moved to a caravan in the driveway of her home. She cares deeply for her husband and undertakes the care of him as well but often she has grave concerns for her own safety. Time and time again women especially have demonstrated to me that people do not just separate and move on in this situation.

While I was at Kalbar it was suggested to me that we need to acknowledge the contribution made by the partners of those, in the main, men who served us in the Vietnam War. They suggested a badge or a certificate to acknowledge that war affects not just those who serve but those who stay behind to look after the families and homes, those who in many ways take on the duties of a single parent and then find that when their partner comes home they must take on the role of carer as well.

This is the critical issue that we need to consider on the day after Remembrance Day. We have a duty of care to all of our veterans and their families. It is not about the money as far as these veterans and their partners are concerned; it is about the principle of this nation justly owing veterans and their families. We must decisively oppose what the defence services call the ‘civilianisation of benefits’. A Centrelink payment is money given to assist those in need. A Veterans’ Affairs payment is given because we as a nation owe those veterans and their families for their service to this nation. It is a pension for service—simple and straight.

On the day after Remembrance Day we must be prepared to fight for the rights of those who fought for us. On the day after we must stand with the families of those to whom we owe a debt and remember that it is a debt; it is not some sort of welfare benefit. On the day after we should be asking: what can we do for those who have fallen—those 14 young men from Kalbar, Trooper David Pearce, Trooper Butch Regeling and the many, many others? Can I suggest that honouring their memory and honouring their families is one very valid way of remembering that service. On the day after the 90th anniversary of the armistice we must stand in parliament and declare that we will honour our debts and that the service of our veterans and their families will be properly and honourably remembered.

Sitting suspended from 1.52 pm to 2.00 pm
QUESTIONS WITHOUT NOTICE
Automotive Industry

Senator BUSHBY (2.00 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. I refer to the minister’s answer yesterday where he claimed that the government had letters from Australia’s car manufacturers regarding future investment in Australia. Can the minister confirm that these letters are only from the regional headquarters, not the US headquarters, of these companies and, further, that they do not in fact contain any guarantees about future investment in new models in Australia?

Senator CARR—I thank the senator for his grossly misinformed question.

Senator Faulkner—Why thank him, then?

Senator CARR—Because, Senator Faulkner, it always assists me to be able to explain the facts of these matters.

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

Senator CARR—What I indicated yesterday was that the Australian government has had confirmation of the investment plans that the Australian subsidiaries of the international companies have made in terms of their original contributions to us and that those confirmations were of course endorsed by the head offices of the international firms—and I stand by that position.

Senator Abetz—How do you know that?

Senator CARR—Because we talk to people. We actually—

The PRESIDENT—Senator Carr, ignore the interjections and just address your comments to the chair. Those on my left interjecting should cease.

Senator CARR—We have an opposition here that are prepared to say anything—no matter how destructive, no matter how puerile, no matter how much it conflicts with what they said five minutes ago. We had Senator Abetz yesterday waving around the government’s car plan and bemoaning the fact that it does not have enough pages. That was the position yesterday. I agree that it is a great read, but I would put to Senator Abetz and all the other Liberal senators a simple proposition: if you get to the end of our car plan and you still want more, I suggest you go back and read it again, because you might understand it the second time around.

There is certainly a lot more meat in the plan that we outlined this week when compared to the previous government’s efforts. They ran things out in their 1997 car package which filled one single page. In 1998, it stretched to three pages. And, apparently, exhausted by that effort, they could manage two pages when they returned to the question in 2002. Of course, that was the last we heard on the auto industry from the previous government because they had a simple policy: leave the industry on automatic pilot. They took the view that, no matter how the operating environment changes, you leave the industry on automatic pilot. I would suggest to Liberal senators that they read the Bracks review and read our response—and they might actually learn something. But why should the opposition—

Honourable senators interjecting—

The PRESIDENT—There are interjections on both sides that should cease.

Senator CARR—I guess the proposition that the opposition really puts is: why worry about policy when you think you can bluff your way through anything; why worry about the facts when the truth is a second-order issue? Yesterday, Senator Abetz issued a media release which was headed ‘Industry minister disavows Treasury emissions trading scheme modelling’.

CHAMBER
Senator Abetz—How is this relevant?
Senator Carr—I would have thought—
Senator Wong interjecting—
Senator Johnston interjecting—

The President—Order! Senator Johnston and Senator Wong, I am waiting to call Senator Abetz.

Senator Abetz—Mr President, I rise on a point of order. My point of order relates to relevance. Much as I would be delighted for Senator Carr to read out my media release to the chamber, he was in fact asked a question about whether or not the correspondence contained any guarantees about future investment in new models in Australia. He has comprehensively failed to even stray anywhere close to that issue.

The President—There is no point of order. As you are clearly aware, I cannot instruct the minister how to answer a question. I draw the minister’s attention to the issue of being relevant to the question that was asked. The minister has 28 seconds to complete his answer.

Senator Carr—Thank you, Mr President. The egregious misrepresentation of the truth is what the opposition is all about. The senator who asked the question ought to not just accept any rubbish that is handed to him by Senator Abetz, because yesterday Senator Abetz quoted a half-sentence out of context about the Australian manufacturing that is expected to continue and he conveniently neglected that the Treasury referred to a decline in manufacturing as a share of the economy—(Time expired)

Senator Bushby—Mr President—
Honourable senators interjecting—

The President—Order! I draw to the attention of senators that it is not possible to call someone to ask their question whilst there is debate across the chamber that is disorderly. Senator Bushby is entitled to be heard in silence.

Senator Bushby—Mr President, I ask a supplementary question. Given the dire straits of GM Holden’s and Ford’s US parent companies, does the government have any guarantees at all that Australian taxpayers’ money will not end up in Detroit? Will the Prime Minister be meeting with the US heads of GM and Ford to seek such a guarantee when he visits the US next week?

Senator Carr—We should not really be surprised at the opposition being such strangers to the truth. The notion that this is a bailout and that the money will be going to Detroit is completely wrong. It will be staying in Australia where it will be used to create jobs, to build capacity, to stimulate innovation and to make our car industry more competitive. Senator Abetz should not be feeding this sort of destructive, distorted and misleading information out to the Australian people. The ignorance of the opposition—
Honourable senators interjecting—

The President—Order! I understand that people are a little excited about the question and the answer but it is very difficult to hear Senator Carr. That is a difficulty that I should not have to put up with. Senator Carr, you are entitled to be heard in silence.

Senator Carr—I ask this simple question: how could someone as intelligent as Senator Abetz get it so wrong? Is it a wilful misrepresentation or a stupid blunder? Of course, we will never know. We have seen the member for Curtin desperately ringing around trying to find someone to attack this industry. You will not find someone from South Australia doing that, will you, Senator Minchin. What are you doing, Senator Minchin, to rein in these sorts of destructive comments from your senators? (Time expired)
DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Islamic Republic of Afghanistan. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

The PRESIDENT—Further, I draw the attention of honourable senators to the presence in the President’s Gallery of a study group from the Parliament of Jordan. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Automotive Industry

Senator FEENEY (2.09 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Can the minister assure the Senate that the government’s New Car Plan for a Greener Future is designed to benefit Australian industry?

Senator CARR—I thank Senator Feeney for his question. Coming from Victoria, he understands just how important the automotive industry is. But the level of muddleheaded commentary on these issues that we have heard from the opposition and from some sections of the press is quite astonishing. I acknowledge that not all of it has come from the opposition. People are going around and predicting the worst, seizing on every item of bad news about the international economy and suggesting that we should not do anything because the situation is so bad. The government takes a very different view. We are doing everything that we can and that is responsible to make sure that this industry becomes stronger and more sustainable. The reason for that is pretty straightforward: we care about the 200,000 workers who depend upon this industry.

Of course, we are not the only government in the world that takes this view. The United States government, the German government and the European Union have all introduced or foreshadowed multibillion-dollar support packages. Our $6.2 billion New Car Plan for a Greener Future will drive innovation, which is needed to make the Australian car industry more productive and more competitive. Let me stress again that the plan is to promote automotive production in Australia by Australians. The plan has been prepared and implemented in partnership. It was founded and it remains founded on the principle of mutual obligation. There are no handouts in this package. Every dollar contributed by the Commonwealth must be matched several times over by the industry. It is all about co-investment. Let me put it to you very bluntly: if the industry does not put in its share, it does not get anything back from the taxpayer. It is not possible to say it any clearer than that.

Although I cannot say which of the several hundred firms that are involved in this industry will directly make the investments, particularly the component manufacturers, what I can say is that 45 per cent of the $2.5 billion component of the Automotive Transformation Scheme is actually earmarked for the component sector. The vast majority of them are small and medium sized firms. Collectively, they employ a majority of the 65,000 workers directly employed in the industry. They are the backbone of the industry, and this is very much a plan for them. They will be able to compete for assistance through the $1.3 billion green car innovation plan, as will Australian researchers—not just the 3,000 scientists and technicians already working in the industry but researchers in institutions around Australia. All of the R&D
supported by this fund must be performed in Australia and aimed at commercial development here.

There are elements of the plan specifically designed for the component sector, which goes to the $116 million structural adjustment program, including a $20 million supply chain development program and a $6.3 million market access program. This is a plan that will make Australian business stronger. It is a plan to create high-skilled, high-wage jobs. It is a plan to ensure that Australia remains one of the world’s great car-making countries, and it is a pity the opposition does not come to the party.

**Economy**

Senator FIFIELD (2.14 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. Will the minister confirm that talks between Australia’s banks, the government and car dealers aimed at fixing the credit crisis in that sector caused by the government’s bungled unlimited deposit guarantee have broken down?

Opposition senators interjecting—

Senator CONROY—I would not want to not give you the full benefit. I thank Senator Fifield for that question. I am very pleased to see they have finally given you a bowl, Senator Fifield. As senators are well aware, we are experiencing the most significant upheavals in global financial markets since the Great Depression. That is why this government has taken a number of steps to address the impact of the global financial crisis.

Senator Ferguson—You’ve got the wrong folder!

Senator CONROY—Senator Ferguson, if you would only even listen to your own questions!

The PRESIDENT—Senator Conroy, address your comments to the chair.
market is estimated at around $6 billion to $8 billion, covering 1,500 dealers on 4,500 sites. About 30 per cent of the wholesale market is covered by GE and GMAC, with GE being about twice the size of GMAC. GE and GMAC collectively finance about $2 billion in this market. Forward credit, which has about $500 million of funding, is currently coming under pressure due to difficulties in accessing funding. On 24 October 2008, General Motors’ finance arm, GMAC, announced that it was closing its Australian and New Zealand companies and withdrawing from—

Senator Fifield—Mr President, I raise a point of order on relevance. I have been quite patient hoping that the minister would get there, but I think there are probably about 30 seconds left to go and he has not as yet addressed the specific question as to whether talks have broken down.

Senator Chris Evans—On the point of order, Mr President, Senator Fifield is quite wrong in that accusation. The minister, Senator Conroy, is exactly on the issue which he was asked about—the negotiations and the events surrounding that industry—and I urge you to rule that there is no point of order.

The President—On the point of order, there is no point of order. As you know, I cannot direct a minister as to how to answer a question. I draw the minister’s attention to the question and advise the chamber that the minister has seven seconds in which to respond.

Senator Conroy—Thank you, Mr President. As I was saying, on 26 October 2008, GE Money announced that it was withdrawing. (Time expired)

Senator Fifield—Mr President, I ask a supplementary question. I hope the question as to whether the talks have broken down or not might be addressed, but my question is: will the minister confirm that, as a result of its bungled unlimited deposit guarantee, the government is itself considering underwriting the car finance market?

Senator Conroy—As I was saying, and in response to Senator Fifield’s supplementary question, St George Bank and Esanda Finance have indicated that they are considering potentially extending their market share in the Australian car finance market following the withdrawal of GE and GMAC Australia. It is possible that $1 billion to $1.5 billion of the $2 billion shortfall could be picked up by Esanda and St George, although there is no commitment at this stage. There is a concern that regional areas may suffer disproportionately, as banks are expected to focus their lending on larger dealerships in urban areas. Treasury is continuing discussions with APRA about the possible conversion of finance companies, including automotive, into ADIs eligible for guarantee arrangements. Total new motor vehicle sales fell—(Time expired)

Traveston Crossing Dam

Senator Bob Brown (2.21 pm)—My question goes, with some notice, to the Minister representing the Minister for the Environment, Heritage and the Arts. It regards the Traveston Dam. I ask: is it true that earthworks are underway at the dam site to remove 200,000 cubic metres of overburden and 20,000 cubic metres of rock preparatory to building the dam, and have eviction notices been given to at least half-a-dozen local farmers effective by the end of this month? I ask the minister: is it not a clear breach of the spirit, if not the letter, of the law for the project to have got underway, as it obviously has done, before the minister for the environment completed an assessment?

Senator Wong—Senator Brown, I did make some inquiries, given you indicated that you had some concerns about these issues. A similar question was asked at esti-
mates by Senator Macdonald in relation to various activities being asserted. Can I just step back for a moment and remind the Senate what Minister Garrett’s role is in relation to the proposed dam. Mr Garrett is the minister making a determination under the EPBC Act. That assessment and approval process is not a political process; it is a process predicated on a rigorous and comprehensive scientific assessment of this project, as with any other project. I am advised that the Queensland government has yet to finalise the assessment report for Traveston Crossing Dam and has not yet approved the dam under state legislation. I emphasise again that Minister Garrett’s responsibilities for decision making under the EPBC Act will only commence once that assessment report has been submitted to him, and the timing of that is at the discretion of the Queensland Coordinator-General.

In relation to the specific issues raised, Senator Brown, it may be that further information may be available, given the additional detail you have provided us with today. Can I indicate to you that my advice is that the Department of the Environment, Water, Heritage and the Arts, which is responsible for the administration of this legislation, has not given any explicit or implied authorisation that would allow the construction of the Traveston Crossing Dam to commence prior to a final decision to approve or not approve under the EPBC Act in terms of the process I have outlined.

I am advised that the department is also not aware of any notification or advice having been given to local residents by any other party that they should expect construction to commence prior to the required approvals having been obtained. It is the case that commencement of construction prior to the conclusion of an assessment process would constitute a breach of section 74AA of the EPBC Act, and such a breach would be investigated by the department as appropriate.

I am advised that the proponent has notified the department that they will be undertaking a range of investigative geotechnical works necessary to inform design elements of the proposal. The advice I have received is that the department’s view is that these investigations do not constitute the taking of an action that has been referred for assessment under the EPBC Act. That action is the construction and operation of the Traveston Crossing Dam. It is also the case that the proponent has notified the department of their intention to conduct other geotechnical investigations in the vicinity relating to the upgrade of community facilities. Similarly, my advice is that this is not considered to be part of the referred action.

Senator BOB BROWN—Mr President, I ask a supplementary question. Did the minister, as distinct from the department, make the decisions on the so-called preparatory work, which as she indicated is essential to the dam proceeding and therefore should be seen as part of the construction? Secondly, if it is true that people have been given until the end of the month to vacate their land, without the minister’s knowledge, is this a breach of either an arrangement with the Queensland government or the legislation to which she refers? Finally, is it possible for the Queensland government to build a dam and do everything except put the plug in before the minister takes action?

Senator WONG—The answer in relation to the last question is no. I have clearly indicated the advice the government has about the nature of the action which is to be determined under the EPBC Act. The second point I would make is that Senator Brown made an assertion about my answer which I do not regard as an accurate reading of the answer I gave. I made it clear that com-
mencement of construction prior to the conclusion could constitute a breach, but there was a distinction in the advice given to me—

Senator Bob Brown interjecting—

Senator WONG—I appreciate that Senator Brown has strong views about this, but there was a distinction in terms of the advice given to me as between that and investigative geotechnical works necessary to inform design elements of the proposal. If Senator Brown considers that there has been a breach—and I referred to the section that would enable such investigation—he is welcome to provide further details to enable an assessment as to whether such an investigation should occur.

Emissions Trading Scheme

Senator JOHNSTON (2.27 pm)—My question is to the Minister for Climate Change and Water, Senator Wong. I refer the minister to Alcoa’s announcement yesterday that they are halting their planned $3 billion expansion of the Wagerup refinery south of Perth because of, amongst other things, uncertainty associated with the introduction of an Australian emissions trading scheme as proposed by the minister. The AWU, the Australian Workers Union, says that 1,500 construction and 150 permanent jobs will be lost because of this decision by Alcoa. Will the minister confirm that at a government briefing yesterday a number of major Australian employers stated that they would have no choice but to move their businesses offshore under the minister’s current design of the government’s emissions trading scheme?

Senator WONG—I welcome the question on the issue of business certainty, because I would like to remind the honourable senator of what has been communicated publicly to the government about the need for certainty on these issues—a certainty that was never provided by the previous government when it came to climate change. We do know that those opposite, including the senator who asked me the question, are of the view that Australia should not take any action on climate change. That appears to be their view.

First, can I refer to the media release that Alcoa put out, which indicated that the proposed expansion of the refinery had been suspended until market conditions improved. I would also make this point: business groups have made very clear to the government that, when it comes to climate change policy, they need certainty. And, as a government that are taking an economically responsible approach to the design of the Carbon Pollution Reduction Scheme, we have heeded their calls for certainty.

I remind those opposite that the Business Council of Australia stated that if the government pulled the plug and delayed the system now the level of uncertainty would be even more difficult to deal with. So it is very clear that the Business Council of Australia has not signed up to the calls by those opposite to delay the scheme. It is yet another excuse for inaction by those opposite when it comes to climate change. Similar views have been publicly expressed by the Minerals Council of Australia, which stated publicly that a delay would just add to the uncertainty.

Our proposition is this: if those opposite are serious about ensuring that business does have the certainty it needs when it comes to climate change policy in these times, they should start to be clear, first, whether or not they are going to listen to their leader, Mr Turnbull, who, when in government, did indicate he would proceed down the path of an emissions trading scheme. Are they going to back their leader on this? Second, they should stop arguing for more delay and more uncertainty when it is clear that Australia’s business leaders have been very strong and very clear in their public statements as well.
as in their advice to government about the need for policy certainty on this front. But we know one thing is certain, and that is that those opposite are completely divided and completely unable to come to an agreed position when it comes to climate change. Our challenge to Mr Turnbull is this: people judge you not by what you say but by what you do. Mr Turnbull will need to do more than leak the fact that he unsuccessfully took the Kyoto protocol ratification to cabinet if he is to demonstrate that he can make good on his previous position that climate change is something that the government should act on, that it is a challenge that confronts the Australian community and that the responsible economic approach is to put in place a sound emissions trading scheme such as the one the government proposes in the Carbon Pollution Reduction Scheme.

Senator JOHNSTON—Mr President, I ask a supplementary question. I refer the minister to a press release today from Nyrstar, a zinc smelter, which states that its viability and that of its 3,250 workers in Hobart and Port Pirie are threatened by the minister’s proposed emissions trading scheme. Given the explicit nature of Nyrstar’s statement, how can the minister continue to deny that this ill-considered and hasty emissions trading scheme will cost thousands of Australian jobs?

Senator WONG—It is quite clear what approach the opposition wishes to take on this issue. In relation to the named business and to other businesses, the government has consulted and will continue to consult in relation to the propositions that were put out in the green paper. We will do so because we understand that it is the economically responsible approach to take. We will be very clear about the views of business as we proceed to design this scheme. But we will also be clear about the costs of inaction, because one thing we do know—and the Treasury modelling and Professor Garnaut’s review also confirmed this—is that the costs of inaction are far greater than the costs of responsible action now.

What is clear is the approach that the opposition will continue to take on this issue. They will not come forward with a coherent position and they will not come forward with any position that demonstrates a willingness to tackle the issue of climate change. *(Time expired)*

**Economy**

Senator PRATT (2.35 pm)—My question is to the Minister for Superannuation and Corporate Law, Senator Sherry. Can the minister please update the Senate on how Australia’s regulators are responding to the challenges posed by the global financial crisis?

Senator SHERRY—As Senator Conroy and I have said on many occasions in the Senate, I am sure listeners and senators would be aware of events in global financial markets. The very serious events caused by what is known as the US subprime financial crisis have been very fast moving, and the circumstances have made it very difficult for regulators and participants to make decisions in this climate.

The global financial crisis has now seen 30 banks worldwide—it was 27 a fortnight ago—collapse, or be bailed out, or be nationalised or be forced to merge. That has of course had a significant impact not just in those countries, particularly Europe and the US, but worldwide. It has also had a significant impact on confidence, on the share market and on economies across the world. As the Australian government have said before, and I will say it again, we are well placed to weather the storm but we are not immune from these events.

The crisis is causing a severe downturn in global economies, and all the countries in what is known as the G7, the seven largest
economies in the world, have experienced negative growth at some point this year. The government have acted to protect our financial system and our economy from the worst effects of this crisis. We have been upfront and honest about the job that requires doing. Economic growth in Australia is expected to slow to 1.5 per cent in 2008-09, according to the Reserve Bank, or two per cent, according to Treasury. This is slower but still solid growth given the international circumstances we face. As I said earlier, all of the G7 countries have had at least one quarter of negative growth, but Australia has not had those circumstances. So growth still remains solid and it compares favourably with other advanced economies.

We have a strong and well-regulated financial system. Four of the world’s strongest banks are right here in Australia. As I mentioned earlier, 30 banks have failed worldwide, but no banks have failed in Australia, which is, in part, due to the decisive action this government has taken in providing a bank guarantee. It is at this point that our world-class regulators, who are the guardians of our financial system, have worked very effectively with the government to protect Australia’s financial markets and the economy from the worst effects of this crisis. Our Australian regulators are world class and deserve support for their prompt and very strong efforts in the current climate—the Australian Prudential Regulatory Authority, the Australian Securities and Investments Commission, the Reserve Bank of Australia and Treasury.

It is very unfortunate, I think, in this very, very serious climate, that what we have seen from the Liberal-National Party opposition is blatantly partisan with personal attacks on the integrity of officers in these various organisations. Such attacks at this time do not inspire confidence in our financial system, and I think they reflect poorly on the Liberal opposition. Whilst we are not immune, we have an independent assessment that both the Australian government and the Australian regulators are doing a very good job. It would be fair to say that our banks and financial system are weathering this global storm well as a result. As has been said before, the events in the US illustrate just what can happen when there is poor regulation or oversight of financial markets, institutions and practices, particularly lending practices. For years in Australia the last remaining areas of financial services, approximately 20 per cent of Australia’s financial services—(Time expired)

Senator PRATT—Mr President, I ask a supplementary question. Could the minister update the Senate on further measures the government is undertaking to protect investors during this crisis?

Senator SHERRY—As I was saying, in Australia about 20 per cent of the financial services market is still regulated by the states and territories. This includes areas such as nonbanks, margin lending, mortgage brokers, trustee companies and a range of consumer credit. The Labor government together with the state governments—and, I might say, the new Western Australian Liberal-National Party government—have all agreed that it is time to transfer regulation of these various areas from the states and territories to the Commonwealth with a single standard national regulation of all financial services in Australia. Whilst this is an important issue in terms of improving consumer protection and improving efficiency in our financial services market, it is also taken against the backdrop of the disasters that have occurred in the US, which, in part, were down to ineffective regulation of and consumer protection in the distribution of mortgage products in that country. (Time expired)
Emissions Trading Scheme

Senator BIRMINGHAM (2.40 pm)—My question is to the Minister for Climate Change and Water, Senator Wong. Will the minister please explain why it is that the Treasury modelling for the proposed Carbon Pollution Reduction Scheme fails to model any scenario where the major emitters do not join a world carbon pollution reduction pact? Further, is it the case that the minister perhaps has the crystal ball, referred to so derisively by Mr Swan last week, which can predict the outcomes of the Copenhagen summit?

Senator WONG—I am very pleased to answer this question because, of course, the government did release the largest economic-modelling exercise that has been undertaken in Australia’s history, which confirmed yet again that it is in Australia’s economic interests to act on climate change. It is the case that, if you look at these economic-modelling results, Australia maintains strong economic growth as well as achieving its emission reduction targets in all of the four scenarios modelled. The price that is paid is that we grow one-tenth of one per cent per year slower as a result of putting a price on emissions, whilst gross national product continues to rise. It is very clear that from 2010 to 2050 Australia’s real GNP per capita will continue to grow under the scenarios at a rate of 1.1 per cent.

What I find interesting is that Senator Birmingham, who I understood lined up with Mr Hunt in terms of the anti-sceptic, prospecptic position of the other side, is still running the line that Senator Minchin and others run: ‘Let’s poke here; let’s criticise here.’ The fact is this: the government modelled a range of scenarios, two of which were Professor Garnaut’s scenarios and two of which were scenarios that the government put into place to gain a good understanding of the range of options that are available to government in designing this policy. I want to emphasise to those opposite—and Senator Birmingham, who I think was very supportive of the former Treasurer, might like to know this—that this is modelling undertaken by the same department and the same team that undertook the modelling for the Inter-generational report that Mr Costello used to trumpet so much. Mr Costello, perhaps in his memoirs or in one of his other speeches, made clear it was one of his great contributions to the debate.

The fact is that we have always said that climate change is a global problem which requires a global solution. I have often said it is not a question of whether we need a global agreement; it is a question of how we get a global agreement. So, of course, what the government modelled is exactly what the government are working towards with a range of different assumptions, because we understand that this is a global problem. We need to be part of the solution here in Australia. That is what this government is determined to do.

What is interesting is the varying positions of those on the other side. We have Senator Minchin, who does not believe that climate change is real, backed by Senator Bernardi—and he knows I am about to go to him as he is nodding his head—

Senator Bernardi interjecting—

Senator WONG—I will take that nod because it shows again that even your opposition frontbench is so divided on this issue that you are unable to back your leader. Your leader, when minister for the environment, said, ‘We will have the most comprehensive emissions trading scheme in the world.’ That was Malcolm Turnbull’s position when in government, and now in opposition he has a range of individuals on his frontbench who we know are part of the reason why this na-
tion was never able to be part of a global solution on climate change. They are part of the reason why this nation, prior to the election of the Rudd government, was never able to be part of the global solution on climate change. (Time expired)

Senator BIRMINGHAM—Mr President, I ask a supplementary question. I note that the minister has failed to acknowledge that any of the four modelled scenarios considered a scenario where major emitters did not sign up to a world pact on carbon pollution reduction. Will the minister confirm that the Treasury modelling for the CPRS assumes that the following countries act in concert with Australia from 2010: the United States, which currently has no emissions trading scheme and is grappling with a $1 trillion budget deficit; Canada, where Prime Minister Harper recently won an election campaign against a carbon tax; and New Zealand, where Prime Minister-elect Key has vowed to wind back Labor’s ill-considered and rushed ETS, to name just a few examples?

Senator WONG—Can I say that perhaps the senator should check his facts more carefully. What the senator should be aware of is this. First, in relation to emissions trading schemes, one has been in place in Europe for a number of years, as the senator would be aware.

Opposition senators interjecting—

Senator WONG—The proposition is that other countries are not active. He should also be aware that a regional trading scheme is in place in the United States, with some 27-plus states in North America engaged in that. He should be aware that an emissions trading scheme has been implemented in New Zealand, and I caution him to consider whether his question accurately reflected the position of the newly elected New Zealand Prime Minister. Japan is currently trialling a scheme, and a range of other countries are considering other mitigation mechanisms.

(Time expired)

Mr Harry Nicolaides

Senator XENOPHON (2.47 pm)—My question is to the Special Minister of State, representing the Minister for Foreign Affairs. I refer to the arrest and incarceration in Thailand of the Australian citizen, journalist and author Harry Nicolaides, who was arrested in Bangkok while travelling to Australia to visit his family on Sunday, 31 August 2008. Mr Nicolaides faces charges of lese-majesty, or offences against the crown, for comments made in his fictional novel *Verisimilitude*. Mr Nicolaides is a respected contributor to the Melbourne based Greek language newspaper *Neos Kosmos*.

According to his Australian lawyer, Mark Dean SC, Mr Nicolaides is effectively a political prisoner. He faces terrible conditions in his Thai jail, where he shares a cell with up to 50 prisoners many of whom suffer from communicable diseases, including tuberculosis. He has witnessed fellow prisoners dying in his cell from their illnesses. Mr Nicolaides’s family and counsel advise me that his mental and physical condition is rapidly deteriorating. Will the minister provide details as to what steps the Australian government has undertaken to ensure Mr Nicolaides’s immediate return to Australia?

Senator FAULKNER—I thank Senator Xenophon for the question. I am advised that Mr Nicolaides was arrested in Bangkok on 31 August this year and Charged under section 112 of the Thai penal code, which states that whoever defames, insults or threatens the king, the queen, the heir apparent or the regent shall be punished with imprisonment of three to 15 years. Obviously the government sympathises with Mr Nicolaides’s family in their distress over this detention and I can assure Senator Xenophon that Mr Smith,
the Minister for Foreign Affairs, is taking a very close interest in Mr Nicolaides’s case. Mr Smith has spoken to the Australian Ambassador in Bangkok several times to keep informed of developments. Our ambassador has made representations to senior Thai authorities about the case and he has written a letter of support to the Foreign Ministry, and the Foreign Ministry has taken up the matter.

We are providing a high level of consular support to Mr Nicolaides through frequent visits to him in prison. Australian consular staff in Bangkok are visiting him at least weekly, compared to monthly visits for long-term Australian prisoners in Thailand. Consular staff of the Department of Foreign Affairs and Trade in Canberra are in close communication with Mr Nicolaides’s family in Melbourne and are providing regular updates on developments and on Mr Nicolaides’s health and welfare. I can say that consular staff are also conveying frequent requests for assistance from Mr Nicolaides’s family to consular staff in Bangkok for appropriate action.

While undertaking these activities to support Mr Nicolaides, I think it is important to remember the situation he faces in relation to this alleged offence under the Thai penal code. Of course, Mr Nicolaides is subject to the Thai judicial process. The government cannot interfere in that process, just as we would not welcome an attempt by a foreign government to interfere in our own judicial processes. I understand that Mr Nicolaides is currently remanded in custody but is being denied bail. According to the Thai police, his case was passed to the public prosecutor on 13 October 2008. I also understand that the public prosecutor has 84 days from Mr Nicolaides’s original arrest on 31 August to bring the case to court. I can say that consular staff of the Department of Foreign Affairs assisted Mr Nicolaides to procure the services of a Thai lawyer. It is the lawyer’s role to advise him on legal issues.

Finally, I might mention the DFAT travel advice, which warns Australians generally that they are subject to local laws and penalties when they are overseas. The department’s travel advice for Thailand actually provides a specific warning to Australians about the penalties that apply under Thai law for insulting the Thai monarchy. I hope that is of assistance to Senator Xenophon.

Mr David Epstein

Senator RONALDSON (2.52 pm)—My question is to the Special Minister of State, Senator Faulkner. Paragraph 7.2 of your government’s so-called Lobbying Code of Conduct quite clearly states:

Persons … employed in the Offices of Ministers or Parliamentary Secretaries … shall not, for a period of 12 months after they cease their employment, engage in lobbying activities relating to any matter that they had official dealings with in their last 12 months of employment.

Given that paragraph 7.2 is a stand-alone section and not subject to the exclusions in paragraph 3, do you acknowledge that the appointment of the Prime Minister’s former chief of staff as executive general manager for government and corporate affairs with a major Australia company is a clear breach of the code?

Senator FAULKNER—I do note that the opposition have been busy making inaccurate claims about the Lobbying Code of Conduct and allegations about Mr David Epstein. As usual, they have got this matter completely wrong, and I welcome the opportunity in fact to set out the facts for the Senate. The Lobbying Code of Conduct is now and always has been a code which deals with third-party lobbyists—professional lobbyists who deal with the government on behalf of different clients. I can say in relation to Mr Epstein’s job that it is an in-house position.
These positions have never been covered by the code. The fact that the code deals with third-party lobbyists should not be news to anyone. First of all, it is in black and white in the code in paragraph 3. I commend that to Senator Ronaldson. Second of all, it was obvious from the terms of the code when I released an exposure draft of it in May this year, and in fact this issue was widely debated at the time. I explained the code’s application to third-party lobbyists in my ministerial statement in this chamber when I released the code. The scope of the code was an issue discussed by the Senate Standing Committee on Finance and Public Administration that considered this code in detail. Since the code was introduced, the Australian Public Service Commission has addressed the issue in not one but two circulars which set out the position. I also commend those to the opposition.

Having clarified the application of the code, let me say to the Senate that there is no doubt that a former chief of staff to a Prime Minister is in a unique position. On that basis, regardless of the lobbying code, I have spoken to Mr Epstein about his appointment and he has given me a written assurance that he understands his obligations of confidentiality with respect to government information and the undertakings he has signed regarding his duty not to disclose any official information acquired by him in the course of his employment, and that for the next 12 months he will not be lobbying the government on any policy issue concerning Qantas or the airline industry that he had any official dealing with as chief of staff to the Prime Minister. I commend that approach to the opposition. I can also indicate to the Senate that I said to Mr Epstein that if I was asked about this issue, as I expected to be asked by the opposition, I would report that assurance, as I have done to the Senate. I say to Senator Ronaldson: get your facts right. (Time expired)

Senator RONALDSON—Mr President, I ask a supplementary question. I note that the code that has not been breached has now required a very substantial letter which rather begs the question. I also note that paragraph 7.2 relates to former government staffers and is not covered by paragraph 3, if you have a look at your own code. In light of this extraordinary comment that this appointment has not breached the code, will the minister now do with 7.2 as he should have done at the start and remove it from the code because it is both not workable and not enforceable?

Senator FAULKNER—I have made absolutely clear how serious this government treats integrity measures, accountability measures and transparency measures, which are things I would again commend to the opposition. Let me say: I know what the opposition—

Opposition senators interjecting—

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

Senator FAULKNER—I know what the opposition’s position on this is. It is clear. In the Senate committee report on the Lobbying Code of Conduct, Knock, knock ... who’s there?, the opposition minority report recommended:

That post-employment restrictions on MOPS staff be removed from the Code.

The opposition, despite their huffing and puffing on this issue, have always wanted to exempt senior staff from working for third-party lobbyists immediately after leaving their positions. They have never accepted—

(Time expired)

Emissions Trading Scheme

Senator CAMERON (3.00 pm)—My question is to the Minister for Climate Change and Water, Senator Wong. Can the minister update the Senate on the outcomes of the recently released climate change mod-
elling by Treasury that will make a key contribution to the Carbon Pollution Reduction Scheme?

Senator Wong—I thank Senator Cameron for the question. I welcome the opportunity to outline briefly to the chamber the importance of the recently released Treasury modelling Australia’s Low Pollution Future. As I have said previously, this is the most comprehensive economic modelling exercise ever undertaken in Australia. It confirms yet again that it is in Australia’s economic interests to act decisively on climate change. It arrives at three key conclusions: first, the Australian economy can continue strong growth while reducing emissions; second, the earlier that Australia acts to tackle climate change the cheaper the costs of action; and, third, with a global carbon constraint many of Australia’s industries will become more, not less, competitive. As I have said previously, it shows that average annual GNP growth will continue to grow and will be just one-tenth of one per cent less if we take action than it would be in a world without climate change.

There are a couple of points that I briefly want to make to the Senate. First, these modelling estimates are in fact very conservative because the Treasury did not model the costs of climate change, and we know from Professor Garnaut’s review that those are significant. Second, I make this point: I remind the opposition of the Shergold report which they themselves commissioned when in government. It actually predated the Treasury modelling but presented a similar point of view when it came to the issue of early action. The Shergold report stated that clearly acting early increases investment certainty; an issue I would hope the opposition would have some regard to. The Shergold stated: Waiting until a truly global response emerges before imposing an emissions cap will place costs on Australia by increasing business uncertainty and delaying or losing investment.

So I would invite the opposition to remember the advice they received from their then head of the Department of the Prime Minister and Cabinet, Dr Shergold. I would also leave them with this, at the conclusion of question time. I remind those who are supporters of Mr Costello that he, in the June prior to the election, stated in relation to an ETS:

… we are talking about getting it up and running by 2010. There is plenty of time to do it—2010 and thereafter—Kerry.

Clearly, the then Treasurer was in the camp for a 2010 start date, and I would invite those who were very public Costello supporters to back him now. Second, I remind those opposite of the position of Mr Turnbull when in government. He stated this, as follows:

Our emissions trading scheme, which will be the most comprehensive in the world, will commence in 201 and by putting a price on carbon will itself drive the deployment of all clean energy sources adding to the impetus of our clean energy target.

It is up to you, Senator Minchin, Senator Bernardi and the remainder of those on that side: are you going to back Mr Turnbull or not?

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Young Carers Forum

Senator Chris Evans (Western Australia—Leader of the Government in the Senate) (3.03 pm)—I seek leave to incorporate in the Hansard an answer to a question asked by Senator Barnett of me, representing the Minister for Families, Housing, Community Services and Indigenous Affairs on 16 October. I answered the question as best I could on that day but I offered to get further information.
Leave granted.

The answer read as follows—

Follow-up to question asked by Senator Barnett to the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, Senator Evans

Question Time - 16 October 2008

Question: Does the Minister know how many very young carers, like Jazzi Pybus, who cares for both her parents at the very young age of 10, exist in Australia? Will the Minister explain why these very young carers are not considered important enough to have their voices heard at the federal funded Young Carers Forum?

Data on young carers

In Australia, there are 170,600 young carers aged up to 17 years and 348,000 young carers aged up to 25 years. From a population perspective, 3.6% of young people aged up to 17 years are carers and 9% of young people aged 18-25 years. Around half the primary young carers are aged up to 17 years, and 80% aged between 18-25 years are female.

The available data reveals the profile of young carers

- between one-fifth and one-half live in rural or remote areas
- young carers are usually representative of the general population in terms of cultural background
- most young carers live in NSW, Victoria and Queensland
- more than one half of primary young carers are caring for a parent, and that parent is likely to be a mother and a sole-parent household
- it is estimated that one in four young carers are providing care for a person with a mental illness.

1 1998 ABS Survey of Disability, Ageing and Carer (DAC)

These very young carers, like all young carers, are considered to be important and will have the opportunity to have their voices heard at the Young Carers “Bring it 2008” Forum.

There are 32 young carers who are being funded to come to Canberra to attend this event; four from each State and Territory, ensuring rural as well as urban representation. The young carers attending are also participating in a leadership program to help them represent young carer issues to politicians and to train to be mentors to other young carers when they return home. The leadership program has been designed at a level suitable for people aged fifteen and over and to get the most value out of the forum, participants have been chosen who are able to participate in both the leadership program and the forum.

However all young carers can contribute to the forum by posting questions or comments they would like raised on the “Bring it” website (www.bringit2008.com.au). In addition, Carers Australia has been in touch with the young carer mentioned and offered to tell her story at the forum.

EMISSIONS TRADING SCHEME

Senator JOHNSTON (Western Australia) (3.04 pm)—I seek leave to table the media release of Nyrstar of 12 November 2008.

Leave granted.

QUESTIONS WITHOUT NOTICE:

TAKE NOTE OF ANSWERS

Emissions Trading Scheme

Senator JOHNSTON (Western Australia) (3.04 pm)—I move:

That the Senate take note of the answers given by the Minister for Climate Change and Water (Senator Wong) to questions without notice asked by Senators Johnston, Birmingham and Cameron today relating to the Carbon Pollution Reduction Scheme.

During question time, the Minister for Climate Change and Water, Senator Wong, accused the opposition of talking down the
economy. After the first six months of the current government, the Treasurer declared that the genie of inflation was out of the bottle, so I find it quite ironic and indeed rather fatuous that the minister would shout across the chamber that we in the opposition are talking down the Australian economy while she is seeking, through the premature introduction of an emissions trading scheme, to physically demolish the economy of this country. She also said across the chamber—and, quite interestingly, further disclosing her attitude—that she is going to hold the opposition to account on various matters. In relation to an emissions trading scheme, there is only one person who needs to be held to account here, and that is of course the minister. Throughout the formulation of this policy, and indeed during all of the negotiations leading up to this point, the minister has been completely arrogant and dismissive of the needs and concerns of business. Today—and I refer to the questions that I asked her—we have seen some 1,500 casual construction jobs and 150 permanent jobs with Alcoa in Western Australia being declared as abandoned by the Australian Workers Union. This must be a concern for any politician, in particular any senator giving reasonable and decent consideration to public policy in this place, yet the minister is completely oblivious to it. She seems to give no heed to or show concern about any of these such matters.

I have also tabled the Nyrstar press release which sets out that Nyrstar, as a zinc smelter in both Port Pirie, in the great state of South Australia, and in Hobart, in the great state of Tasmania, employs approximately 3½ thousand people. The minister gives not a jot for those people. She is ideologically predisposed, and transfixed in her timing of the implementation of this policy. The opposition believes that Australia must be part of a global response to reduce emissions. The coalition considers that an emissions trading scheme should commence when it is ready and in an orderly, methodical and responsible manner. It should enjoy the broad support of Australian industry and it should protect vulnerable Australian households. It should commence not before 2011, and probably by 2012. The design detail of an Australian emissions trading scheme must be informed by the outcome of the Copenhagen meeting at the end of 2009. There is no point in us castigating ourselves economically, particularly in the face of this global financial crisis, if the rest of the world is not with us. If no action is under way, Australia must start its emissions trading scheme with a very low price and it should proceed with a very slow trajectory. That is the opposition’s position.

Mr Rudd and his government need to be, and are, upon notice that we will sign no blank checks on Australia’s future and that we will not support a scheme that will disadvantage Australia’s national interest and competitive advantage. Nyrstar puts out exports into the world zinc market worth $2 billion and today, when penalised—and they used the word ‘threatened’—they have been forced to come out, put their head above the trench in the face of this government’s ideological predisposition, and say, ‘We will not survive if this is done incorrectly.’ Everything we have seen to this point tells us that this scheme is not going to be put into action in a responsible manner.

Our position is clearly supported by Heather Ridout. She describes the modelling as a Doctor Who, Tardis arrangement. She said:

For example, if the US does not become part of a scheme, it doesn’t model the adjustment costs … It’s like a Dr Who, Tardis arrangement where you get in at 2010 and come in a 2020 with the nirvana of a whole lot of new industries established.
Companies and individuals don’t just move around like that. The costs are painful, they’re quite substantial.

That article went on to say, ‘The Treasury modelling showed that some coal-fired power stations would be forced to close.’ Yet the minister does not listen and does not care about these jobs. This policy is, potentially, in a shambolic state under her stewardship.

Senator FORSHAW (New South Wales) (3.10 pm)—It is quite clear that the opposition have learned nothing about climate change. Their own position, of course, has not changed since prior to the last federal election. The fact is that, notwithstanding those pious words about concern for climate change and a commitment to doing something about carbon reduction, the opposition, when in government, refused to really accept that there was a problem. We know this. The former Prime Minister, Mr Howard, was a climate change sceptic. He was probably one of the leaders of the climate change sceptics in the world. He slavishly followed the position of President Bush. Australia, virtually alone in the world, stood with the US administration at the time in not being prepared to accept that this was a real and significant problem. And of course their position, in the face of all of the overwhelming scientific evidence and the evidence of what was happening and being done in the rest of the world, was ultimately judged by the Australian people as not being up to the mark in dealing with the great challenge of climate change.

I note that president-elect Obama has embraced this as an important issue. I believe that the next US administration will move to a leadership position on the issue of climate change, in contrast to the position that the previous administration held, up until the 11th hour, at the conference in Bali last year. The Rudd government’s very first action was to sign up to the Kyoto protocol, something for which we were condemned up hill and down dale as meaning the end of the Australian economy. We were told that it would cost millions of jobs and that it would destroy the fabric of Australian society and our economy. That was the opposition’s mantra in government and not much has changed. What the opposition has done now is grabbed hold of the financial crisis affecting the world. It is now trying desperately to use that as an argument in order to enable it to say, ‘Let us back off on climate change as an important issue. Let us back off on moving towards the establishment of a carbon pollution reduction scheme.’

I listened carefully to what Senator Johnston said about the opposition’s commitment and the opposition’s time line, but I doubt that it is genuinely the position of most of the opposition. We know that they are, essentially, sceptics. The opposition’s position is that at the end of the day they really do not want a carbon pollution reduction scheme. They do not want an emissions trading scheme. And this is despite the fact that, as the minister pointed out in her answers, just about every nation in the rest of the world accepts that this is the way to go. It is part of an overall package of measures that has to be adopted, measures that include promoting the movement to cleaner coal production and promoting research and development into cleaner energy fuel sources—the whole suite of measures that I do not have time to go through at this point. A carbon pollution reduction scheme is, of course, an inherent part of that process.

It is sad that the opposition cannot accept that we have to tackle climate change and that the fact that we have an economic crisis confronting the world at the moment does not mean the issue of climate change should be just taken off the agenda. We have to move forward on both these critical challenges and seize the opportunities for in-
vestment in clean energy. It is what, for instance, our package for the vehicle industry is about: it is assistance to that industry to meet the challenges they confront in the economic situation, but going hand in hand with that is the obligation on them to invest in cleaner and more fuel efficient cars. *(Time expired)*

Senator BIRMINGHAM (South Australia) (3.15 pm)—I rise to take note of the responses given by Senator Wong in question time today, particularly to questions from Senator Johnston and me. Last week Reserve Bank of Australia board member Warwick McKibbin urged the government to delay the introduction of the emissions trading scheme. He did so based on the uncertainty that exists as to how the rest of the world will react. His comments were derided by the Treasurer, Mr Swan, who said:

He must have a crystal ball if he knows the outcome of the international negotiations.

The question today is: where are Mr Swan and Minister Wong hiding their crystal ball? Quite clearly they think they know the outcome of the international negotiations—or that would appear to be the case from the responses Minister Wong gave today and from the detail that underlies the Treasury modelling into the so-called Carbon Pollution Reduction Scheme.

The minister today told us that four scenarios had been modelled by the Treasury; two of them were Professor Garnaut’s scenarios and two of them were scenarios that the government itself had inserted. So we have four options. But did the minister refute the suggestion that none of those four options countenanced other countries doing nothing? No, she did not. She backed up, by her silence, the reality that the government has had the Treasury model four different scenarios for the introduction of the CPRS and its impact on the Australian economy. Not one, not two, not three but all four of these scenarios failed to consider that other countries might not act in concert with Australia. That stands up either as the height of foolishness and recklessness or as the government seeking modelling to provide the answers that it wants to hear. These are the allegations that Minister Wong must respond to if she is to return any shred of credibility to the economic modelling upon which the government plans to base its CPRS.

We are now seeing the impact that this pre-emptive action can have. We have seen the outcomes from Western Australia, where investment decisions are already being influenced and put in jeopardy. We saw the statement today by Nyrstar, an important employer in Port Pirie in South Australia, as it is in Tasmania, highlighting the risk to jobs from early the implementation, in advance of international movements, of the CPRS. These are jobs of real mums and dads, real Australians, who rely on their living to support their families in regional areas like Port Pirie, where a company like Nyrstar stands out head and shoulders as the most significant employer in the township and the area. It is outrageous that the government should be jeopardising those jobs because it will not conduct honest and truthful Treasury economic modelling of the consequences.

Contrary to what Minister Wong might wish to represent, this stands in stark contrast to the position that the coalition had, as advanced by the Shergold report last year. Our position would have ensured not just that we acted in a timely manner that reflected what countries like the United States, Canada and New Zealand, as well as China and India, would do but also that we took all necessary steps to protect Australia’s trade-exposed industries—those emissions intensive industries that are at serious risk if we get it wrong. I for one very clearly support the notion of the precautionary principle in taking
action on the risk of climate change, and have done so since the beginning of my time here. But what is most important is that we get any action we take right. There is absolutely no point in people in Port Pirie, Tasmania, Western Australia and right around Australia losing their jobs because of preemptive action based on economic modelling that has failed to model all the clear scenarios—and the scenario that other countries will not act is very real—and that fails to take into account that we have many emissions-intensive, trade-exposed industries that need clear, lasting protection; the type of model the government is proposing.

Senator JACINTA COLLINS (Victoria) (3.20 pm)—I rise to speak on the same matter. Senator Birmingham takes us back to the period before the last election, and I think it would be fruitful in this debate to contemplate what occurred at the last election. The government got a very clear mandate to act on climate change. We got a very clear mandate to act in relation to the Kyoto policy—and the Australian general public at large does recall what happened under the Howard government in relation to Kyoto.

In this debate we confront opposition senators demonstrating once again, as Senator Forshaw said, that stripped to the bone they are actually climate change sceptics and will grapple for and use every opportunity they can to revert to that position. The Rudd government does accept that we are confronting a global financial crisis. We have acted early and with strength. But for the opposition now to use every indication of industry instability to argue that that relates to our plans on climate change and that all efforts here should be stalled is clearly irresponsible. They are irresponsible in the sense that the minister referred to in question time but they are irresponsible for other reasons as well.

Yes, Australia is demonstrating leadership on climate change. Since ratifying the Kyoto protocol, the Prime Minister, ministers and senior officers have worked through key, high-level forums to drive multilateral negotiations on a post-2012 agreement, and this will continue. We accept that any post-2012 approach will need to secure the widespread agreement of countries with diverse interests and entrenched positions. But the opposition’s suggestion that the global financial crisis is a reason to just back off is irresponsible because it does not take into account the implications of no action in relation to climate change. The impacts of climate change will have serious consequences for our coastal regions, for ecosystems such as the Great Barrier Reef, for agricultural industries, for wildlife and for communities that are reliant on these assets.

To suggest that the absence of the opposition’s preferred modelling from Treasury is a reason to highlight that the Rudd government is responsible for the loss of jobs—if you were to listen to opposition senators in this debate today, you might as well accept that we are responsible for the global financial crisis as a whole. So it is not surprising, as Senator Johnston complained, that there are some suggestions that the opposition need to be very careful about talking down the Australian economy.

The Rudd Labor government and Senator Wong have highlighted on countless occasions in this place that we are taking a responsible and measured approach to how we proceed in relation to carbon pollution reduction. This responsible approach is in sheer contrast to what occurred under the previous government. We have a very clear mandate. The opposition have made no suggestions, other than through debates like the one today—trying to drum them up—that the global financial crisis is a reason to stagnate. It is not a reason to stagnate. As Senator For-
shaw highlighted, the car plan is an example of how we can be responsible in terms of industry policy but also in terms of carbon reduction at the same time. I would encourage opposition senators to contemplate that they can multitask on some of these issues. Some of these policy issues are areas where, as a nation, we can accept our clear role of leadership and the clear mandate received in the last election. We can do two things at the same time.

I fear that, for the opposition, the global financial crisis will become an excuse for not doing many, many things. We might as well have heard that the problems around ABC Learning Centres are related to problems with climate change. That will be the next suggestion to come out of the opposition. It is ludicrous to suggest that every industry failure is now going to be a result of our plans in relation to carbon pollution reduction or emissions trading. *(Time expired)*

**Senator CASH** (Western Australia) (3.25 pm)—What additional evidence does this government require before it will take responsibility and acknowledge that its proposed ETS is not only seriously flawed but also, if the government proceeds with its implementation without having proper regard for the current global financial crisis and without an up-to-date fully costed economic impact statement, it will have severe consequences for all Australians? Here we are, a short time after the Rudd government has acknowledged that we are in the middle of a global financial crisis, and those opposite are determined to recklessly pursue the implementation of an emissions trading scheme by 1 July 2010—at a time when many Australian companies are facing the worst financial crisis of the last decade.

We only have to look at the recent announcement in my home state of Western Australia by Alcoa—the world’s largest producer of aluminium. It has to now cut back its plans for expansion. Why is it halting its planned expansion of the Wagerup refinery south of Perth? It is because of, amongst other things, uncertainty associated with the introduction of an Australian ETS. I repeat: uncertainty associated with the introduction of an Australian ETS. Just as the coalition has predicted, an ill-conceived ETS that fails to recognise and address all of the issues will cost real jobs. That cannot be good for Western Australians, let alone Australians.

In WA, the AWU—and, let’s face it, they are supporters of the Labor Party, not of the Liberal Party—are sufficiently alarmed to have issued a statement about the loss of jobs. They have issued a statement that 1,500 construction workers and 150 permanent jobs will be lost because of the decision by Alcoa. But it is not Alcoa’s fault that it has to halt its planned expansion. It is because of the uncertainly created by the Rudd government. The bad news for Western Australia and Australians is that Alcoa is not the only company that has had to halt planned projects. As reported yesterday on forbes.com news, weak demand has hurt Alcoa’s peers as well, and Tuesday’s move by Alcoa follows Monday’s decision by Australian iron ore producers Rio Tinto and Fortescue Metals Group to cut their annual production by 10 per cent due to weakening demand from China.

It is almost comical to hear the Rudd government claim that it is rushing to deliver a scheme because it has to give industry certainty. The only certainty the Rudd government will be giving to industry is the certainty that growth will slow, jobs will be lost, and industry may have to move operations offshore to survive. Let us not forget Mr Rudd’s election promise of evidence based policy. Now it is crunch time for Mr Rudd. Where is the detail? Where is the comprehensive modelling? Where is the analysis of
the impact on the cost of living of the proposed ETS? Why does the Treasury modelling for the proposed so-called Carbon Pollution Reduction Scheme fail to model any scenario in instances where the major emitters do not join a world carbon pollution reduction pact? Just 20 months away from the confirmed start date, businesses are confused and they are being kept in the dark as to what the ETS will cost them. The government’s green paper came and went—no economic modelling.

Climate change demands a global solution. It is a global problem. How do we realistically move forward as members of the international community if we do not even know what steps the new president-elect in the US plans to take on a proposed ETS? History proves that Labor cannot be trusted on the economy. All that has happened since the Prime Minister and Treasurer Swan took office is that they have laid claim to the Howard government’s $20 billion-plus surplus. Remember the letter all state Labor premiers wrote to the then Prime Minister on 27 May indicating that they wanted to be involved in the formulation of an ETS? Tell us, Mr Rudd: do the state Labor premiers currently support you? I think not. They will have concerns about the loss of jobs. I say to those on the other side of the chamber: do not put at risk thousands of Australian jobs.

There cannot be two ways about this. The state government cannot be issuing eviction orders to farmers—even those who have negotiated some lease-back arrangement—to enable explosive testing to be done at the dam site and to have the removal of tens of thousands of cubic metres of overburden and rock but at the same time say that they are, in some way or another, assessing the impact of this scheme. At best, it has to be said that it is irresponsible of the state government to be allowing QWI—the water authority in Queensland that is looking at four dam proposals—to be proceeding to spend large amounts of taxpayers’ money without the approval for the dam to proceed and without, indeed, the authority of the Commonwealth.

The question here—and it goes straight to the Minister for the Environment, Heritage and the Arts, the Hon. Peter Garrett—is: at what stage does the assessment by people in departments end and the minister take action? The minister should be making it clear to the Queensland authorities that the major works involved—certainly where they are so advanced that they are leading to the effective eviction of neighbours from the site—have gone beyond the simple assessment of the region for the purposes of the dam proposal. Indeed, the proposal, when it went the Queensland cabinet, and when it goes to the federal cabinet via the national minister for the environment, should at that stage cease further advancement. The proposal is in. The proposal for the Mary River Dam has been asked by Senator Bob Brown today relating to the proposed Traveston Crossing Dam, Queensland.
made. And it is quite irresponsible for these major works to be proceeding while further consideration is underway. This is effectively the pre-emption by the Queensland authorities of decisions to be made by elected representatives in both parliaments—certainly in the national parliament and by the federal minister for the environment, and that means the federal cabinet. It is arrogant, it is expensive, and it is very, very unfair to the hundreds, if not thousands, of farmers, tourism operators, environmentalists and people who are associated with the area to be destroyed by this dam were it to proceed.

What I say to the federal government is: this should not be allowed to be a process of attrition and caving in at the end. The minister needs to make a stand on this matter. The minister should be in contact with Premier Bligh and, if she is not in contact with QWI, put an end to these works at the site. I can tell you that the locals are very, very seriously disturbed. For them, it is a decision as to whether or not this is the start of the dam works. They ought not to be put in that position when they know that the federal minister has not got to first base, effectively, in making a decision on this matter.

There is a lot at stake here. I have moved, and this Senate has agreed, that there is a need for the Queensland authorities to be looking at all the prudent and feasible alternatives. That is what Premier Bligh should be doing, instead of allowing her bureaucrats to run her government and the decision-making process. She ought to be saying, ‘We are using this time to look at the prudent and feasible alternative for Brisbane and the south-east corner of Queensland in terms of using the water that is available much more wisely than it has been up to now. This dam is not necessary. It is an expensive alternative to prudent and feasible action by the Bligh government. (Time expired)

Question agreed to.

PETITIONS

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

Disability Support Pension

To the Senators and Members of the Federal Parliament assembled—

“Fortnightly pension increase for the Disabled”

Your petitioners therefore request that your House will consider our respectful petition and work to ensure that all disabled pensioners are granted a substantial fortnightly pension increase in the interest of basic fairness in order that they might be more in line with the overall cost of living.

by Senator Xenophon (from 817 citizens)

Petition received.

NOTICES

Presentation

Senator Crossin to move on the next day of sitting:

That the exposure draft of the Personal Property Securities Bill 2008 be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 24 February 2009.

Senator Bob Brown to move on the next day of sitting:

That the Senate—

(a) notes that in October 2008, 13-year-old Aisha Ibrahim Duhulow was stoned to death for adultery in Kismayo, Somalia, by 50 men in front of 1 000 spectators, after her father reported she had been raped by three men, none of whom were arrested;

(b) expresses profound distress at this barbaric act against a child;

(c) condemns the Al-Shabaab militia rebels who arranged the stoning; and

(d) backs international action to restore peace and human dignity to Somalia.
Senator Bob Brown to move on the next day of sitting:

That the Senate calls on the Government to develop a white paper on population during this period of government which takes into account:

(a) projections of a global population of between 9 to 10 billion people by 2050;
(b) the inability of the Earth to provide for 9 to 10 billion people if average resource consumption is to be at current levels in Australia;
(c) climate change;
(d) Australia’s inability to host exponential population growth; and
(e) the wellbeing of future generations and life on Earth.

Senator Bernardi to move on the next day of sitting:

(1) That a select committee, to be known as the Select Committee on Men’s Health, be established to inquire into and report by 30 May 2009 on:

   General issues related to the availability and effectiveness of education, supports and services for men’s health, including but not limited to:
   (i) level of Commonwealth, state and other funding addressing men’s health, particularly prostate cancer, testicular cancer, and depression,
   (ii) adequacy of existing education and awareness campaigns regarding men’s health for both men and the wider community,
   (iii) prevailing attitudes of men towards their own health and sense of wellbeing and how these are affecting men’s health in general, and
   (iv) the extent, funding and adequacy for treatment services and general support programs for men’s health in metropolitan, rural, regional and remote areas.

(2) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate, and 1 nominated by any minority party or independent senators.

(3)(a) Participating members may be appointed to the committee on the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;
(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

(4) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(5) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate.

(6) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.

(7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(8) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to examine.

(9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place
to place, to sit in public or in private, not-withstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings, the evidence taken and such interim recommendations as it may deem fit.

(10) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(11) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Hanson-Young to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) Thursday, 20 November 2008, marks the 10th International Transgender Day of Remembrance, and
(ii) this day of action was established as a reminder of those who have been killed as a result of anti-gendered hatred or prejudice; and
(b) calls on the Government to act on the recommendations of the Human Rights and Equal Opportunity Commission report, Sex and Gender Diversity.

Senators Barnett and Wortley to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) on 20 December 2006, a landmark decision was made by the United Nations General Assembly to adopt Resolution 61/225,
(ii) the resolution recognised the risks that diabetes and its complications pose to families, member states and world health and was adopted by consensus,
(iii) the resolution declared 14 November as World Diabetes Day,
(iv) this resolution joins HIV/AIDS and autism as the only other diseases having its own resolution and declared day of observation,
(v) an estimated 246 million people aged between 20 and 79 worldwide have diabetes and this number is expected to grow by 44 per cent reaching 380 million by 2025,
(vi) each year 3.8 million adults die from diabetes-related illnesses, representing one death every 10 seconds,
(vii) an estimated 7.4 per cent of the Australian population has diabetes, according to the Australian Diabetes, Obesity and Lifestyle (AusDiab) study in 2000, and
(viii) according to an AusDiab study the social and medical costs in Australia were estimated in 2002 to total $6 billion annually;
(b) acknowledges the work of Professor Martin Silink, AM, MD, FRACP, as President of the International Diabetes Federation and his colleagues worldwide for their work to ensure that this united resolution was carried;
(c) recognises that:
(i) in the catalogue of chronic illness few conditions would be more needful of attention than the scourge of diabetes,
(ii) the prevention and management of diabetes are the responsibility of the whole of society,
(iii) parliaments should play a leading role in promoting community education and implementing effective policies and health care for sufferers of this worldwide scourge,
(iv) left undiagnosed and untreated, diabetes dramatically affects quality of life and shortens lifespan and its malevolent course inevitably leads to many serious associated health complications, including heart disease, stroke, renal
failure, limb amputation and blindness, and
(v) unless national governments act to deliver comprehensive policies, the implications for health budgets will be calamitous; and
(d) calls on the Government to:
(i) continue to make diabetes a national health priority,
(ii) commission a report by the Australian Institute of Health and Welfare into the health costs of diabetes,
(iii) adequately fund best-practice medicine for the treatment of diabetes, and
(iv) continue to promote healthy lifestyle programs, especially targeted to children and young people.

Senator Sterle to move on the next day of sitting:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on natural resource management and conservation challenges be extended to 12 March 2009.

Senator Fielding to move on the next day of sitting:
(1) That a select committee, to be known as the Select Committee on the Integrity of the Prime Minister’s Office, be established to inquire into and report by 3 December 2008 on:
(a) the reported leak of the telephone conversation between the Prime Minister of Australia and the President of the United States of America on 10 October 2008;
(b) the role and any involvement of the Prime Minister’s office in relation to the leak;
(c) the role and any involvement of the ‘Note Taker’, who was with the Prime Minister listening in on the telephone conversation, and any other person present or listening (if any) in regards to the leak;
(d) the role and any involvement of any of the persons, present at the location where and when the telephone conversation was made, in regards to the leak;
(e) the role of any ministerial staffer or public servant in regards to the leak;
(f) the role of any member of the media in regards to the leak;
(g) why the Australian Federal Police have not been asked to investigate the leak, especially if it is the view the conversation was leaked by either a ministerial staffer or public servant without the authority of the Prime Minister;
(h) the reported complaint by the United States Ambassador about the leak;
(i) the impact of the leak on undermining Australia’s reputation and trustworthiness of the Prime Minister’s office; and
(j) the ongoing consequences of the leak for relationships between Australia and the United States and any other country.
(2) That the committee consist of 8 members, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of Family First in the Senate and 1 nominated by any other minority party or independent senator.
(3) (a) On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and any minority party and independent senators, participating members may be appointed to the committee;
(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of committee, but may not vote on any questions before the committee; and
(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the
committee if a majority of members of the committee is not present.

(4) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.

(5) That the committee elect a Government member as its chair.

(6) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.

(7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(8) That the quorum of the committee be 5 members.

(9) That the committee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and interim recommendations.

(10) In exercising its power in accordance with paragraph (8), for the avoidance of doubt, the committee is empowered to send for:

(a) ministers and ministerial advisers; and

(b) officers of the security and police services.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(12) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) 14 November is World Diabetes Day which in 2008 is focusing on children and adolescents particularly,

(ii) there are currently 250 million people worldwide who are living with diabetes,

(iii) in Australia an estimated 1.5 million people have the disease,

(iv) people with diabetes are at an increased risk of cardiovascular disease, foot complications, blindness, dental problems, kidney failure and amputations,

(v) 2 per cent of all Australian deaths are due to diabetes,

(vi) Indigenous Australians are three times more likely to suffer from diabetes than non-Indigenous Australians,

(vii) 8 per cent of all Indigenous Australian deaths are due to diabetes, and

(viii) the relatively low use of the National Diabetes Services Scheme by Indigenous patients; and

(b) calls on the Government to continue:

(i) its efforts to ensure that people in regional, rural and remote communities have adequate access to the National Diabetes Services Scheme, and

(ii) to explore means through which the access of Indigenous people to the National Diabetes Services Scheme can be improved.

Senator Parry to move on the next day of sitting:

That the resolutions of appointment of the following select committees, agreed to on the dates indicated, be varied in accordance with this resolution:

(a) Select Committee on Agricultural and Related Industries, agreed 14 February
2008—paragraphs (7) and (9) of the resolution be omitted;

(b) Select Committee on Fuel and Energy, agreed 25 June 2008—paragraphs (9) and (11) of the resolution be omitted;

(c) Select Committee on the National Broadband Network, agreed 25 June 2008—paragraph (8) and in paragraph (11) “, and that the quorum of a subcommittee be 2 members” of the resolution be omitted; and

(d) Select Committee on Regional and Remote Indigenous Communities, agreed 19 March 2008—paragraph (9) of the resolution be omitted.

Postponement

The following item of business was postponed:

General business notice of motion no. 272 standing in the name of Senator Ludlam for today, relating to the National Rental Affordability Scheme, postponed till 27 November 2008.

BUSINESS

Days and Hours of Meeting

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (3.37 pm)—I move:

That the days of meeting of the Senate for 2009 be as follows:

**Autumn sittings:**
- Tuesday, 3 February to Thursday, 5 February
- Monday, 23 February to Thursday, 26 February
- Tuesday, 10 March to Thursday, 12 March
- Monday, 16 March to Thursday, 19 March

**Budget sittings:**
- Tuesday, 12 May to Thursday, 14 May

**Winter sittings:**
- Monday, 15 June to Thursday, 18 June
- Monday, 22 June to Thursday, 25 June

**Spring sittings:**
- Tuesday, 11 August to Thursday, 13 August
- Monday, 17 August to Thursday, 20 August
- Monday, 7 September to Thursday, 10 September
- Monday, 14 September to Thursday, 17 September

**Spring sittings (2):**
- Monday, 26 October to Thursday, 29 October
- Monday, 16 November to Thursday, 19 November
- Monday, 23 November to Thursday, 26 November.

Senator MINCHIN (South Australia—Leader of the Opposition in the Senate) (3.37 pm)—by leave—I want to refer very briefly to the 2009 sitting program and the estimates program. I note that the 2009 program provides for one of the smallest numbers of sitting weeks I think we have ever seen in this chamber. There are only 18 weeks in total and four of those are for estimates. Fourteen weeks, therefore, are normal sitting weeks, four of which are only three-day weeks. In terms of the government’s accountability to this chamber, we are seeing in a non-election year one of the smallest numbers of sitting weeks that we have ever seen.

My and the opposition’s particular concern relates to the supplementary budget estimates, which in 2009 are scheduled for the week of 19 October. I regret to say and am profoundly disappointed that they are very similar to this year in that the supplementary budget estimates are being held before the due date for most of the annual reports of departments, which typically are required to be tabled by 31 October. That is why, for virtually all of the 11 years that we were in government, supplementary budget estimates were scheduled in early November in order to enable estimates committees to consider the annual reports of departments. That was for good reason.

I note the advice of the Clerk in relation to this matter that it is not a particular require-
ment and that the annual reports can be considered at the February estimates, and that is certainly true. But I would note that that is four months later. The immediacy of being able to deal with annual reports at what were typically the November estimates was a very important part of the estimates process. I appreciate that when I raised this with Senator Conroy in my estimates committee he was prepared to treat the matter seriously and take it up within the government, and I am sorry that he has not been able to influence the scheduling of the supplementary estimates. In the absence of that, I simply ask in good faith that the government does its utmost to ensure that annual reports are indeed made available by departments for those supplementary budget estimates in the week of 19 October. That should be possible. While they are not required, typically, until 31 October, 19 October is still 3½ months after the end of the financial year. I hope that the government will do its utmost to ensure that the reports are made available to those Senate estimates rather than us having to wait until four months later in February.

Senator LUDWIG (Queensland—Minister for Human Services) (3.40 pm)—by leave—Having moved the motion, I would also like to briefly respond. Two things really come out of this. One is that the government will take on board the request to do its utmost to ensure that annual reports are provided in a timely way that allows for their consideration in supplementary estimates. I note that, whilst the opposition say that reports were previously provided for supplementary estimates, my experience over the last 11 years tells me otherwise. There were times when annual reports were not provided by the due date of 31 October, and in many instances if you were at the early part of the supplementary estimates week then they were not available to be dealt with at that time. In the Attorney-General’s and Immigration portfolios there were numerous occasions when the report was tabled the day before, during the day itself or during the following day when time was no longer available.

Having said that, the advice from the Clerk is that the following February estimates are available for consideration of annual reports, but I do recognise the request for annual reports to be utilised by the opposition to question the government on them and the financials that accompany them. There is the opportunity, of course, to deal with those separately, and I think that the opposition recognise that. In saying that, I will seek to do my utmost to ensure that the annual reports are provided in a timely way for these coming estimates. I will also do my utmost to ensure that in 2009 we take on board the remarks by Senator Minchin and do our utmost in that regard.

In relation to the sitting pattern, I have not had an opportunity to examine it in detail to see whether in fact Senator Minchin’s comments stack up about their time in government, but I will undertake that inquiry. Let us hope, Senator Minchin, that you are right. My recollection is that there have been varying sitting patterns over the last 10 or 11 years. This is not out of kilter with those. It is in accordance with the average of the past, as I understand it, but I will check the record.

Question agreed to.

BUDGET
Consideration by Estimates Committees Meeting

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (3.44 pm)—I move:

(1) That estimates hearings by standing committees for 2009 be scheduled as follows:

2008-09 additional estimates:
Wednesday, 12 November 2008

SENATE

Monday, 9 February and Tuesday, 10 February 2009, and, if required, Friday, 13 February 2009 (Group A)
Wednesday, 11 February and Thursday, 12 February 2009, and, if required, Friday, 13 February 2009 (Group B).

2009-10 Budget estimates:
Monday, 25 May to Thursday, 28 May 2009, and, if required, Friday, 29 May 2009 (Group A)
Monday, 1 June to Thursday, 4 June 2009, and, if required, Friday, 5 June 2009 (Group B)
Monday, 19 October and Tuesday, 20 October 2009 (supplementary hearings—Group A)
Wednesday, 21 October and Thursday, 22 October 2009 (supplementary hearings—Group B).

(2) That the committees consider the proposed expenditure in accordance with the allocation of departments and agencies to committees agreed to by the Senate.

(3) That committees meet in the following groups:

**Group A:**
Environment, Communications and the Arts
Finance and Public Administration
Legal and Constitutional Affairs
Rural and Regional Affairs and Transport

**Group B:**
Community Affairs
Economics
Education, Employment and Workplace Relations
Foreign Affairs, Defence and Trade.

(4) That the committees report to the Senate on the following dates:

(a) Tuesday, 17 March 2009 in respect of the 2008-09 additional estimates; and

(b) Tuesday, 23 June 2009 in respect of the 2009-10 Budget estimates.

Question agreed to.

AUSTRALIAN NATIONAL ACADEMY OF MUSIC

Senator RONALDSON (Victoria) (3.44 pm)—I, and also on behalf of Senator Milne, move:

That the Senate—

(a) notes the importance of the Australian National Academy of Music as a unique institution for the cultivation of Australia’s finest classical musicians;

(b) deprecates statements by the Minister for the Environment, Heritage and the Arts (Mr Garrett) casting aspersions on the efficiency and effectiveness of the academy; and

(c) calls on the Government immediately to reinstate Commonwealth funding to the Australian National Academy of Music for the 2008-09 financial year in the amount of $2 545 000, as originally promised by the Rudd Government.

I seek leave to make a short statement.

Leave granted.

Senator RONALDSON—On behalf of Senators Kroger and Brandis—who I know were very anxious to talk on this matter but, because of time constraints, have not done so—I record their very strong support for this motion.

Senator LUDWIG (Queensland—Minister for Human Services) (3.45 pm)—by leave—The Australian government remains committed to the provision of elite level classical music training in Australia. On Friday, 31 October the Minister for the Environment, Heritage and the Arts met with a number of representatives from the sector, including a delegation of ANAM students, and reiterated the government’s determination to provide ongoing funding for our talented musicians. The government believes
that the funding previously provided to ANAM could be spent more effectively to deliver support for emerging classical musicians. The government is now investigating possible models for the most effective delivery of elite level classical music training in Australia and expects to announce an alternative shortly which will ensure continuity for students and provide a stable, long-term program for music training.

Question agreed to.

NATIONAL SKIN CANCER ACTION WEEK

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

That the Senate—

(a) notes that:

(i) the week beginning 16 November 2008 is National Skin Cancer Action Week,

(ii) Australia has the highest incidence of skin cancer in the world,

(iii) within Australia, Queensland has the highest rate of skin cancer, followed by Western Australia,

(iv) skin cancers currently account for 80 per cent of all newly diagnosed cancers,

(v) more than 1600 Australians die from skin cancer each year,

(vi) an estimated 950,000 visits to general practitioners each year are for the treatment of preventable non-melanoma skin cancers, and

(vii) annually, 281 new melanoma cases, 43 melanoma-related deaths and 2,572 new cases of squamous cell carcinoma are attributable to the use of solaria; and

(b) calls on the Government to:

(i) support the recommendations of the Australasian College of Dermatologists and Cancer Council Australia by working with the states towards effecting tighter regulation of solaria, and

(ii) implement and fund an ongoing national level skin cancer prevention campaign.

Question agreed to.

URANIUM EXPORTS

Senator LUDLAM (Western Australia)  
(3.47 pm)—I move:

That the Senate—

(a) notes the uranium study conducted by NewsPoll for the Australian Conservation Foundation over the weekend of 1 November and 2 November 2008, which shows that:

(i) Australians are 2:1 against uranium exports to countries with nuclear weapons,

(ii) 40 per cent of Australians are against the export of Australian uranium to any country for use in nuclear power plants for electricity generation,

(iii) a majority of Australians in every state are opposed to uranium exports to countries with nuclear weapons or against any uranium exports at all, and

(iv) results show 48 per cent of women are against uranium exports to any country, and a total of 73 per cent of women are against uranium exports to countries with nuclear weapons that have signed the Nuclear Non-Proliferation Treaty; and

(b) calls on the Government to take this strong indication of public opinion into account as it makes a decision on the clear recommendations provided by the Joint Standing Committee on Treaties on the Australia-Russia uranium agreement signed by former Prime Minister Howard and the then President Putin in 2007.

Question put.  
The Senate divided.  [3.51 pm]  
(The Deputy President—Senator the Hon. AB Ferguson)
Ayes………….. 6
Noes…………. 35
Majority…….. 29

AYES

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

NOES

Adams, J. Arbib, M.V.
Barnett, G. Bilyk, C.L.
Bishop, T.M. Boswell, R.L.D.
Boyce, S. Brown, C.L.
Bushby, D.C. Cameron, D.N.
Cash, M.C. Collins, J.
Coonan, H.L. Cormann, M.H.P.
Crossin, P.M. Ellison, C.M.
Farrell, D.E. Feeney, D.
Ferguson, A.B. Forshaw, M.G.
Joyce, B. Ludwig, J.W.
Lundy, K.A. McEwen, A.
Moore, C. Parry, S. *
Payne, M.A. Polley, H.
Pratt, L.C. Ronaldson, M.
Stephens, U. Troeth, J.M.
Wortley, D.

* denotes teller

Question negatived.

COMMITTEES

Procedure Committee

Report

Senator FERGUSON (South Australia) (3.54 pm)—I present the third report of 2008 of the Procedure Committee.

Ordered that the report be printed.

Senator FERGUSON—by leave—I move:

That consideration of the report be made a business of the Senate order of the day under for the next day of sitting.

Question agreed to.
threshold. Pursuant to the amendment, the regulations must also take into account:

- the probability of the occurrence of an adverse impact;
- the extent of the adverse impact; and
- the extent of the impact relative to the extent of petroleum operations in the petroleum title area impacted.

In essence, therefore, the amendments will enable greater guidance and certainty to be contained in the regulations in relation to determining significant risk as to the various interests of the relevant parties who are potentially affected by the operation of this legislation.

The committee is very pleased to note these amendments. On behalf of the committee, I would like to thank the Minister for responding to the committee’s concerns in relation to this bill. The results in this case once again serve to highlight the important work of this committee in its scrutiny role.

I commend the committee’s Twelfth Report of 2008 and Alert Digest No. 12 of 2008 to the Senate.

Senator COONAN—I move:

That the Senate take note of the report.

Question agreed to.

MINISTERIAL STATEMENTS

Global Food Security

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (3.56 pm)—On behalf of the Minister for Agriculture, Fisheries and Forestry, Mr Burke, I table a ministerial statement relating to global food security.

COMMITTEES

Fuel and Energy Committee

Membership

The DEPUTY PRESIDENT—Order! The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (3.57 pm)—by leave—I move:

That Senator Fierravanti-Wells be discharged from and Senator Fifield be appointed to the Select Committee on Fuel and Energy.

Question agreed to.

FAMILY LAW AMENDMENT (DE FACTO FINANCIAL MATTERS AND OTHER MEASURES) BILL 2008

OFFSHORE PETROLEUM AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008

Returned from the House of Representatives

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

SAFE WORK AUSTRALIA BILL 2008

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Safe Work Australia Bill 2008, informing the Senate that the House insists on disagreeing to the amendments made and insisted on by the Senate, and requesting the reconsideration of the bill in respect of the amendments.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for the next day of sitting.
Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (3.59 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (3.59 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TAX LAWS AMENDMENT (EDUCATION REFUND) BILL 2008

This Government is committed to implementing an Education Revolution.

Because education is the engine room of prosperity and helps create a fairer, more productive society.

It is the most effective way we know, to build prosperity and spread opportunity.

A key part of the education revolution is helping parents meet the everyday costs of their children’s education.

Helping parents meet the costs of the books and the computers and the software our kids need, to get the best start.

That’s why the Budget included $4.4 billion to create a new Education Tax Refund. The Education Tax Refund is a refundable tax offset of 50 per cent of eligible education expenses for children undertaking primary and secondary school studies. About 1.3 million families (with 2.7 million students) will be eligible for the Refund.

This bill will introduce the Education Tax Refund. Under the plan eligible families will be able to claim 50 per cent of eligible education expenses up to $750 for each child undertaking primary school, to provide a maximum tax offset of $375 per child, per year.

For children undertaking secondary school studies families will be able to claim 50 per cent of their eligible expenses up to $1,500 per child, to give a maximum tax offset of $750 per child, per year.

Eligible expenses for the purposes of the Education Tax Refund are laptops, home computers, printers, paper, education software, school textbooks and associated materials and trade tools. This includes purchase, lease, hire or hire-purchase costs of these items. In addition, the expenses of establishing and maintaining a home Internet connection are also included.

Parents and others entitled to Family Tax Benefit Part A and who have children undertaking primary or secondary school studies will be eligible for the Education Tax Refund.

In addition, those who would be eligible for Family Tax Benefit Part A in respect of a child but, for the fact that they or the child are in receipt of other payments such as Youth Allowance, Dis-
ability Support Pension or ABSTUDY Living Allowance, are also eligible for the Education Tax Refund.

Students who are living independently from their parents may also be eligible for the Education Tax Refund for their own expenses.

This tax offset will apply to eligible expenses incurred from 1 July 2008. Those eligible for the Education Tax Refund should start keeping receipts to allow them to claim the tax offset in their 2008-09 income tax return from 1 July 2009.

For those not required to lodge an income tax return, they will be able to access their entitlement to the offset through the Australian Tax Office by lodging a separate form at the end of the 2008-09 financial year.

The Education Tax Refund legislation will apply to the 2008-09 income tax year and later income years.

It will help families invest in their children’s education – at the same time that the Government is investing in a better education system.

For Labor, better education is the cornerstone of a decent society.

Education increases productivity and participation, it builds prosperity, and it also offers the hope of breaking the intergenerational cycle of poverty.

While our predecessors spoke of improving Australia’s education system, we are getting on with the job of real education reform.

Full details of amendments relating to the Education Tax Refund are contained in the explanatory memoranda.

TRANSPORT SECURITY AMENDMENT (2008 MEASURES No. 1) BILL 2008


Background

Australia’s economy relies heavily on the safe and secure movement of billions of dollars in imports and exports. As the international shipping industry continues to grow, so does its importance to the Australian economy. Similarly, the offshore oil and gas industry also contributes strongly to Australia’s prosperity.

In our skies, the aviation industry plays a key role in connecting Australia with the world and Australians with each other. Whether moving tourists, families, freight or business people, the aviation industry is essential to the efficient operation of the Australian economy.

More than ever, these industries underpin Australia’s economic growth and serve as the nation’s gateways to the global economy. Given this significance, security is an important consideration.

The Maritime Transport and Offshore Facilities Security Act 2003 implements a preventive security regime to enhance security at ports, port facilities, ships and offshore facilities.

It gives effect to Australia’s international obligations under the International Maritime Organisation’s International Ship and Port Facility Security Code and under chapter 11-2 of the Safety of Life at Sea Convention 1974. The Act establishes a scheme which safeguards against unlawful interference with maritime transport and offshore facilities.

Likewise, security systems are an essential component of the aviation sector. The primary function of the Aviation Transport Security Act 2004 is to ensure Australia’s aviation industry is safeguarded and able to respond quickly against threats of unlawful interference with aviation.

The regulatory frameworks for both the maritime and aviation security Acts are centred on the development of preventive security plans for industry participants.

These plans set out security measures and procedures to safeguard against unlawful interference against the transport sector. The plans ensure industry participants have a planned and risk-based approach to the management of transport security.

Objective of the bill

The bill amends the maritime security Act to implement proposals arising from a review of the maritime security regime. The bill also amends both the maritime and aviation Acts to ensure flexibility for industry participants in the way
they document their security arrangements as required by each Act.

The bill enhances current measures in both Acts to deliver effective security outcomes now and into the future.

The measures of this bill are an example of the continued and successful cooperation between the Department of Infrastructure, Transport, Regional Development and Local Government and Australia’s maritime, offshore and aviation industry stakeholders. It is a relationship based on consultation and cooperation.

**Measures in the bill**

Schedule 1 amends both the maritime and aviation security Acts to confirm that industry participants may hold multiple security plans, or programs, for different locations and operations.

Schedule 1 of the bill also amends the maritime security Act to:

- clarify its application to foreign regulated ships visiting an external Australian territory;
- allow for maritime and offshore security plans to have a life span of five years or less (but no less than 12 months);
- provide for regulations to develop nationally consistent mapping standards; and
- correct anomalies.

The maritime industry is a significant contributor to the Australian economy. Ensuring that a robust security regime is in place and maintained is important to the protection of the sector.

At present a foreign regulated ship visiting an external Australian territory such as Norfolk Island may not be required to comply with requirements such as the provision of pre arrival reporting information. The bill will clarify this matter and require compliance with the relevant provisions.

The amendment providing for maritime security plans and offshore security plans to have a life span of five years or less (but no less than 12 months) will significantly benefit maritime industry participants. It will also provide my Department with greater flexibility to effectively respond to changes in Australia’s security environment and the operational requirements of industry.

Clear and accurate mapping of security regulated port boundaries and maritime security zones are key elements in an effective maritime security regime. At present there is much variation between approaches to the format, quality and accuracy of maps that must be submitted when considering a security plan for approval.

The bill will provide greater certainty for industry when preparing such maps by providing for regulations to be made to establish nationally consistent mapping standards.

The bill contains several minor, miscellaneous amendments to rectify drafting errors and anomalies in the maritime security Act. These amendments provide greater clarity and certainty for industry participants who play an integral role in implementing and maintaining the maritime security regime.

The regulatory security frameworks for both the aviation and maritime sectors centre on the development of preventive security plans or programs. The plans and programs set out security measures and procedures to be implemented to safeguard against acts of unlawful interference with aviation and maritime transport.

It is common for industry participants to conduct multiple operations or operate at different geographical locations. Presently, it is not clear whether the maritime or aviation security Acts allow for industry participants to hold more than one security plan or program.

To remove all doubt, the bill will clarify in the relevant maritime and aviation legislation that industry participants may hold different security plans or programs for each location or operation, with the approval of the Secretary of my Department.

**Conclusion**

The Transport Security Amendment (2008 Measures No. 1) Bill 2008 will add greater certainty and clarity to the operation of the maritime and aviation security regimes, for the benefit of our maritime, offshore and aviation industries.

I am confident the measures introduced in this bill will enable industry participants to more confidently interpret, implement and administer the legislation as it relates to their daily business.
practices and that this will, in turn, strengthen Australia’s transport security regime.

CUSTOMS AMENDMENT (AUSTRALIA-
CHILE FREE TRADE AGREEMENT
IMPLEMENTATION) BILL 2008

These Agreement negotiations were concluded on the 27 May 2008 by the Minister for Trade, Simon Crean and the Chilean Foreign Minister, Alejandro Foxley, with the Agreement being signed by the Minister for Foreign Affairs, Stephen Smith and Alejandro Foxley on the 30 July 2008, during Mr Foxley’s visit to Australia.

The Australia-Chile Free Trade Agreement is expected to enter into force on 01 January 2009.

The Free Trade Agreement is a comprehensive and wide ranging Agreement that provides Australia and Chile with more liberal access to each other’s goods and services. The Agreement reaffirms the close relationship between Australia and Chile, and will contribute to greater growth, prosperity and security in the region.

Implementing Legislation

In order to implement the Agreement, two pieces of legislation require amendment – the Customs Act 1901 and the Customs Tariff Act 1995.

The Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 contains proposed amendments to the Customs Act 1901.

These amendments provide the rules for determining whether goods originate in Chile and introduce powers to allow Customs to obtain manufacturing records from Australian exporters and producers.

The amendments will give effect to Australia’s obligations under Chapter 4 of the Australia–Chile Free Trade Agreement. Chapter 4 provides the rules for determining whether goods originate in Australia or Chile. The rules are essential for the purposes of determining whether imported goods from Chile are eligible for preferential customs duty rates under the Agreement.

This bill will be complemented by the Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008.

Goods will be considered to originate in Chile for the purposes of providing a preferential duty rate if they are wholly obtained or wholly produced in Chile or if they meet the product specific rules of Annex 4-C of the Agreement.

The product specific rules use the “Change in Tariff Classification” concept as used in previous Australian Free Trade Agreements. Under the change in tariff classification rules, origin will be conferred on a product where the tariff classification of each non-originating material (in this case, a material from outside Chile and Australia) used in the manufacture of the product is different from the tariff classification of the good. The rules are a means of demonstrating that there has been substantial transformation of the non-originating material inputs.

For certain goods, the change in tariff classification rule is combined with a regional value content.

Customs will also have the powers to obtain manufacturing records of Australian exporters and producers to verify that the goods that they export to Chile were produced in Australia.

The bill I introduce today will reinforce the contribution of both countries to the multilateral trading system and serve as an excellent model for other APEC economies as they work towards deeper economic integration.

CUSTOMS TARIFF AMENDMENT
(AUSTRALIA-CHILE FREE TRADE
AGREEMENT IMPLEMENTATION)
BILL 2008

The Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 contains amendments to the Customs Tariff Act 1995 to implement part of the Agreement by:

- providing duty-free access for certain goods and preferential rates of customs duty for other goods that are Chilean originating goods;
- phasing the preferential rates of customs duty for certain goods to zero by 2015; and
- creating a new Schedule 7 to the Tariff to accommodate those phasing rates of duty.
This bill will complement the amendments contained in the Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008.

Debate (on motion by Senator McLucas) adjourned.

Ordered that the Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 and the Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 be listed on the Notice Paper as one order of the day, and the remaining bills be listed as separate orders of the day.

COMMITTEES
Economics Committee
Report

Senator HURLEY (South Australia) (4.00 pm)—I present the report of the Senate Standing Committee on Economics Lost in Space? Setting a new direction for Australia’s space science and industry sector, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator HURLEY—by leave—I move:

That the Senate take note of the report.

I wish to thank former Senators Stott Despoja and Chapman for their support in instigating this inquiry. It was indeed at their initiative that this inquiry began and I, as the representative of the Labor Party, was pleased to join in that. I would also like to thank committee members and participating members for their work on the report and the secretariat for their tireless work throughout the inquiry, when a great number of other reports were also in train.

There were many contributors and witnesses who provided evidence to the inquiry who were thoughtful, knowledgeable and passionate about this area. I would particularly like to thank organisations we visited during the inquiry: the Canberra Deep Space Communication Complex, the ANU Advanced Instrument Technology Centre, Electro Optic Systems Space Research Centre and Optus International Earth Station.

The inquiry was referred to the Senate Standing Committee on Economics on 19 March 2008. An interim report was released on 23 June 2008, and an extension of time was granted until 12 November. There were three main areas to explore: Australia’s capabilities in space science, industry and education, including existing activity and areas in which there is little or no activity but which are within the capacity of the country to build; arguments for and against expanded Australian activity in space science and industry; and realistic policy options that facilitate effective solutions to cross-sector technological and organisational challenges, opportunity capture and development imperatives that align with the national need, considering existing world-class capability.

In this inquiry we first had to look at what was in the space science sector, and in that regard I would particularly like to thank CSIRO for their extensive briefing on this subject. There was some very interesting evidence from a number of their experts in various areas in the space science and technology field. We heard that it involves a number of disciplines including manufacturing, high-temperature materials, advanced chemistry, information processing, telecommunications, computing and data processing, robotics, nanotechnology and general areas like project management and finance and legal services.

There were a number of areas, and the committee found it would be useful to divide these up into several main areas—apparently the space community do this as well. They were: looking down, looking out and going
The ‘looking down’ area was for satellites in outer space looking down onto the Earth. We discovered that there is quite a lot of expertise in Australia already in this area from the data that is collected from earth observations. That is in areas like weather forecasting; monitoring global climate change; communication links; GPS, which was an interesting area and one that is being used increasingly in fields such as the finance industry; mobile phone networks; navigation signals, which we are very familiar with; and also agriculture, mining and defence capabilities.

‘Looking out’ was for looking out from the Earth. We looked at many areas in astronomy, including an area that Senator Bishop referred to in a speech today—that is, the Square Kilometre Array, which Australia is bidding for. During our tour we also had a look at many of the tracking facilities that are here in Australia and are well valued in world terms.

Finally we looked at ‘going up’, which concerned launching rockets, both large ones and the smaller suborbital launches. We heard about the previous work that had been done at Woomera in that regard.

There were a number of very significant areas that we had to look at, but one of the principal issues we wanted to determine was whether Australia needed a space policy and a space agency. Australia at the moment has a very decentralised approach to space policy, and there are many government agencies currently involved in space work, such as the Department of Defence, including the Defence Science and Technology Organisation; the Department of Innovation, Industry, Science and Research; the CSIRO; the Department of Climate Change; the Bureau of Meteorology; and the Department of the Environment, Water, Heritage and the Arts, including the Australian Antarctic Division, Geoscience Australia and the Office of Spatial Data Management. So I think there was a wider scope than many of us had realised. All of those departments have a very significant involvement with space science and research.

We heard that the Government Space Forum meets twice a year and involves many of those agencies but does not then connect with industry and academic work being done in the field. That gave the committee some concern. There was also the recurring theme coming through the evidence that Australia does not have a well-articulated space policy and that this is stunting growth of the sector as well as causing Australia to miss out on opportunities for collaboration internationally. The committee felt that that was a great shame because it was clear and very obvious from evidence that Australia has great capacities in the space industry. We have very talented people, we have a very innovative industry and we have a lot of private industry involved in the space sector as well. Indeed, we heard from the Australian Space Industry Chamber of Commerce that they have a list of over 300 private companies involved in the area.

The decentralised policy that we have now was not always the case. There was a space board set up in response to the 1985 Madi-gan report. That gained significant support from the government including the establishment of the Australian Space Council in 1994. But following an inquiry, despite recommendation for further support, funding was removed in 1996 and that board was disbanded. There have been various attempts and discussion since then about the wisdom of that move.

In 2005 former Senator Grant Chapman convened a Space Policy Advisory Group, which prepared a report calling for a national space policy assigned to a specific agency,
and the committee built on a lot of that work. The committee did take into account in its report concern from many witnesses that there should not be similar ups and downs with insufficient support that is then withdrawn and leaves the industry back where it was. We did take that into account and tried to introduce a measured approach, a modular approach, that would allow us to see if there was enough support to gradually build up a space agency. The Australian Space Industry Chamber of Commerce said:

Nations are recognising that an investment in space can be a catalyst to stimulating innovation across the spectrum of existing and emerging high technology industries.

We did hear through the inquiry that there are many opportunities of collaborating with international agencies, including the European Space Agency and the Canadian Space Agency. They are similar countries with similar requirements and they are very keen to get involved with Australia in developing that industry.

The recommendations give a path for Australia to start to bring together not only government agencies but also private industry and those working in the academic areas to see if there is a platform for developing a coordinated space policy and a coordinated space agency. We saw it as a very clear and high priority for Australia at this time to build upon that capacity we have in this exciting and interesting area.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—GENERAL LAW REFORM) BILL 2008
Second Reading
Debate resumed.
ples are denied to same-sex couples. That
discrimination also exists in non-financial
areas such as evidence and administrative
laws. To demonstrate the financial and emo-
tional strain same-sex couples experience
just trying to support each other and their
families, I quote with permission personal
accounts provided to the commission:

Put simply, I want the same rights and respon-
sibilities to form a family and support it and nur-
ture it. I want my partner to feel as secure in her
parenting role as any other parent, without the
uncertainty that comes with not being on the birth
certificate, not being on the same Medicare card,
not being seen as a family for tax purposes, and
so on.

Again I quote:

We are productive members of our society. We
are both employed, so we contribute to society
with our taxes. We serve the community in other
ways as well. We have been together now for 19
years. Our commitment to each other is deep,
genuine and ongoing. Our relationship is utterly
lawful.

Just one example of unfair discrimination from
the aged care system: where a member of an op-
oposite sex couple is incapacitated and requires
nursing home care, the means test for an accom-
modation bond excludes the family home. How-
ever, if one member of a same-sex couple re-
quires residential nursing care then that person’s
share of the family home is treated as an asset.
What this means for us is that if either of us were
ever incapacitated we would face the possibility
of being forced to sell our home out from the
other one. It is happening to other couples now.

A serving member of the Australian Defence
Force made this submission:
I am continually bemused at the Federal govern-
ment’s concern—
that is, the Howard government’s concern—
that giving recognition to same-sex couples is
going to disintegrate the moral fabric of society.
The implementation of changes in the military
came with a minimum of fanfare. We are not ask-
ing for new or unusual benefits, just to be treated
in equality with those in heterosexual relation-
ships.

A doctor’s submission put it quite succinctly:
I am a first-class taxpayer but a second-class citi-
zen …

And a same-sex couple from my own home
city of Adelaide submitted:
We are an average suburban family. We are work-
ing hard and contributing to our community …

We don’t want special treatment—just what oth-
ers can expect from their legal and social com-

It is our intention to alleviate the injustices
that emerge so clearly from these very hu-
man stories. The Same-Sex Relationships
(Equal Treatment in Commonwealth Laws—
General Law Reform) Bill provides for this
by way of revision to definitions. The bill
ensures that each law amended will recogni-
se a same-sex partner and will ensure equal
treatment of children, whether of opposite-
sex or same-sex parents. The Acts Interpreta-
tion Act 1901 will include a new definition
of a de facto partnership to be used in most
instances.

This bill will put an end to discriminatory
treatment presently existing in Common-
wealth law of people who are in the same
circumstances as those who are married. So,
for example, if a same-sex couple with a
child or children separates, child support will
be accessible in the same way as it is pres-
ently for opposite-sex couples. Marital status
discrimination embodied in Commonwealth
laws with regard to stepchildren, step-
parents, widows and widowers will be re-
moved. A new tracing rule to identify family
relationships is also introduced by way of the
bill to ensure that these relationships will be
acknowledged in the same way for both
same-sex and opposite-sex families.

These measures import fairness and con-
sistency into the law. Once again, I join with
so many Australians—here, in the other place and in communities both urban and regional right across our country—in expressing my sincere view that the reforms set out in this and the related superannuation bill are well overdue. As I said on an earlier occasion, these measures are not about special treatment or special rights for same-sex couples and their families. They are about equal treatment for all Australians. They are about equal access to the rights and entitlements which not all Australians yet enjoy. And they are about equal adherence to the responsibilities that accompany those rights and entitlements.

We know that the amendments as a whole are expected to be in operation by mid-2009. But, as I have also noted, every day’s delay in passing this legislation is an extra day of discrimination against same-sex couples, an extra day of discrimination that could have long-term detrimental consequences for many in same-sex relationships and for their children. Labor is committed to achieving equity in our community. I support the measures and the intention of this bill, which will lay the path for this to be achieved.

Senator FIELDING (Victoria—Leader of the Family First Party) (4.19 pm)—Family First is concerned that this bill, the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008, would undermine marriage by treating other relationships as being much the same as marriage. The government says that this bill is to ‘eliminate discrimination against same-sex couples and the children of same-sex relationships in a wide range of Commonwealth laws’. Ending discrimination is reasonable, but we have to make sure we are talking about discrimination rather than differentiation.

This is a major bill that would change 58 pieces of Commonwealth legislation. A number of submissions to the committee inquiry made the point that there had been no public consultation and the Senate committee had inadequate time to properly consider the full scope of the bill. Yesterday I was forwarded 15 pages of government amendments which seem designed to respond to some of the concerns around definitions of children and parents in the bill, but of course this major revision of the bill has not been presented to a committee inquiry for more thorough examination. That is not a good way to make major decisions on such an important area of policy.

Family First is opposed to two other government bills that are part of the same general package: the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008 and the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Supernuation) Bill 2008. That opposition has been based on the concern that the legislation should be child focused and that marriage should not be undermined. Legislation should, as I was saying, be child focused and not adult focused. It is in the best interests of children to have both a mother and a father where possible. It is vitally important to promote marriage and not reduce its status, because it is marriage where children get both a mum and a dad.

In evidence to the Senate Standing Committee on Legal and Constitutional Affairs inquiry, Professor Parkinson asked a valid question: is there evidence as claimed in the bill of discrimination against children? He makes the good point:

All that this Bill will do is to define someone as a parent who is not in fact a parent. That has nothing to do with preventing discrimination against children. It is all about the adult’s claims. As so often happens, children are being used to promote adult agendas.

Marriage is the relationship which provides children with the best chance of the stable
family life that they need. It is the backbone and the core of our society. This should not be reduced by any measure. Without question, marriage is the best environment in which to raise children. Family First believes that the important and overriding principle to guide us when looking at this legislation is that marriage should keep its privileged status and not be undermined. A second important principle is that relationships other than marriage relationships should be recognised as interdependent relationships rather than marriage-like relationships. Interdependent relationships could include same- and opposite-sex couples in sexual relationships, but they could also include a couple of mates or two sisters who live together, who share housework, rent and other bills and who are genuinely financially interdependent. Family First will not be supporting this bill.

Senator MILNE (Tasmania) (4.24 pm)— I rise today to enthusiastically support the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008. It has been a long time coming, and I think it is fantastic that at last this federal parliament has been prepared to end discrimination against people in this community who have been vilified for so very long. Ending discrimination against gays and same-sex couples is just fantastic. We ought to go further, as my colleague Senator Hanson-Young has said, and I would hope that, when we get to the committee stage of the bill and the amendment is moved in relation to same-sex marriage, both the government and the opposition might consider supporting a conscience vote on the issue, because it is absolutely critical.

I have followed the issue of discrimination in Australia in relation to gender and sexuality for a very long time. I have to say that it is terrific that at last that discrimination is being removed from 68 Commonwealth laws so that same-sex couples can be treated equally before the law. We are eliminating discrimination, and that feels like such a good thing to be happening. This removal of discrimination will flow to other legislation, including tax, social security, health care, superannuation, migration and so on. It is a great day in Australia that we are removing this discrimination and accepting that same-sex couples should be treated equally before the law.

I want to go back to some of the history in this because this year is the 20th anniversary of a shameful episode in Tasmania’s history. In 1988, the Hobart City Council banned the gay and lesbian community stalls in Salamanca market in Tasmania on the basis that they were inappropriate in a family market. One hundred and thirty activists were arrested, and there were large-scale protest rallies demonstrating against the actions of the Hobart City Council. I am pleased to note that that is going to be put right this year when the Hobart City Council apologises to the community in Tasmania for that action 20 years ago. At last things are being put right around the country in relation to discrimination against gay, lesbian and transgender people.

The last 20 years have been horrendous for many people in this community. When I was a member of the House of Assembly in Tasmania, gay law reform was introduced in 1990. It was actively discouraged and opposed by all others in the parliament. We brought the legislation in time and time again and, eventually, we got it through. There was much vitriolic antigay debate. Some members of parliament in Tasmania called for the forced removal of gay, lesbian and transgender people from Tasmania and the reimposition of the death penalty for homosexuality. That is the sort of nonsense that went on for so long in Tasmania, to the point that, in 1996, under a majority Liberal govern-
ment, the penalty was increased under the Criminal Code for practising homosexuality. The penalty went from a 21-year jail sentence to a 25-year jail sentence. That was as recently as 1996, I repeat for the Senate. In 1997, under a Liberal minority government with the Greens holding the balance of power, I am very pleased to say that it was my bill that ended discrimination in Tasmania. We went from having the worst laws in the Commonwealth in relation to the severity of punishment for and discrimination against gay, lesbian and transgender people to having the best laws.

I would like to acknowledge the tremendous work and sacrifice of the activists in this community who have worked so long to end discrimination and who will continue to work until same-sex marriage in Australia is achieved. In particular, I want to name, of course, most prominently, Rodney Croome and Nick Toonen because of the campaigns that they ran for a long time but also high-profile Justice Michael Kirby for having the courage to speak out as he has done. I quote him when he was referring, in a speech he made, to the Freedom Charter in South Africa, where the ANC introduced that Freedom Charter. One of the noted freedom fighters in South Africa said at that time:

What has happened to lesbian and gay people is the essence of apartheid—it tried to tell people who they were, how they should behave, what their rights were. The essence of democracy is that people should be free to be what they are. We want people to be and to feel free.

This is what Justice Michael Kirby said of that:

Perhaps those who have felt the pain of discrimination on the basis of their race and skin colour (which they cannot change) understand more readily than many Australians the pain and wrong-headedness of criminalising people on the grounds of their sexual orientation (which likewise they cannot change).

Fortunately, that has been changed and the Commonwealth is moving today to end the discrimination under federal law against same-sex couples and their children. It is a great day and a great step forward, but we would like to see all of the recommendations of the HREOC report carried out. As I have indicated, I hope that the government and the opposition will consider a conscience vote when the amendment is moved to support same-sex marriage.

I want to comment briefly on those who talk about a weakening of the institution of marriage. If anything, it strengthens it, because there is an aspiration by all people who want to move to demonstrate their commitment and love for each other to do it through the institution of marriage. I really fail to understand how you can deny that to people who love each other in that way. I thought that was what we were trying to encourage more of in our community, rather than more discrimination, more vilification and more hatred. I think that one of the really wonderful things about what is happening today is this: not only does it end the discrimination under the law against same-sex couples but it actually increases pressure on the general community for people to rethink the sorts of things that they say and to recognise that any sense of a notion that they might have had of an institutional legitimacy backing what was a discriminatory and cruel point of view has now gone. There is no legitimacy for discrimination of any kind and there is no legitimacy to sneer at people because of their sexuality. So I do think that this will make such a difference to the attitude, hopes and aspirations of same-sex couples and those in the gay and lesbian and transgender community generally in Australia.

I would like to finish by saying that I was at a dinner celebrating gay law reform in Tasmania many years ago, after we finally achieved it, and at that dinner Justice Mi-
Michael Kirby read from a poem called *Song of Hope*, by Oodgeroo of the Noonuccal. Oodgeroo was talking about an end to discrimination on the basis of race. I would like to read part of that poem today because it summarises how I feel about what this parliament is doing, about what an important day it is for the Australian community to end yet another form of discrimination and about how it follows from the apology earlier this year to the stolen generation and also the seeking of permission by the Prime Minister for this parliament to meet on Aboriginal land. We are, in this first year of the Rudd government, addressing a number of areas of discrimination, which makes us all feel better as Australians and helps to lift our self-definition of ourselves and to restore something that was lost for so many years under the last federal government. I remind my colleagues in the Senate that in June 2006 we had a debate in this house concerning the Australian Capital Territory civil union legislation and at that time I said to the Howard government members:

… you do have a Senate majority … but let me tell you that, after next year’s federal election, that Senate majority will be gone, because the Australian people are desperate to rescue the Senate from the intolerance and heavy-handedness that we are seeing from this government. People do not like the abandonment of multilateralism. Don’t you think Australians are humiliated today that on the London Tube people can pick up a free newspaper and see that Prime Minister John Howard has moved to overrule the civil union legislation in the ACT? The whole of London can pick that up today and see where Australia is going as the deputy sheriff to the United States—abandoning … even the principle of fairness and equal treatment under the law.

That was in June 2006, and so it has come to pass. It was obvious at that time that Australians were starting to feel ashamed of the values that the government of the day were putting out there and demonstrating to the rest of the world—values that were not shared in the Australian community. So today we are celebrating the values which are shared in the Australian community, values based on fairness and equality under the law.

That is why today is so special. So I share the excitement that will be out there in the gay and lesbian and transgender community with the passage of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008* and I look forward to supporting the rest of the package of this same-sex legislation as it comes through. I end by reading part of *Song of Hope*, by Oodgeroo of the Noonuccal, as read by Justice Michael Kirby at that dinner celebrating gay law reform in Tasmania back in 1997:

Look up, my people,
The dawn is breaking,
The world is waking,
To a new bright day,
When none defame us,
Nor colour shame us,
Nor sneer dismay.

Now brood no more
On the years behind you,
The hope assigned you
Shall the past replace,

… … …

So long we waited
Bound and frustrated,
Till hate be hated
And caste deposed;

Now light shall guide us,
And all doors open
That long were closed
See plain the promise,
Dark freedom-lover!

Night’s nearly over,
And though long the climb,
New rights will greet us,
New mateship meet us,
And joy complete us
In our new Dream Time.
To our father’s fathers
The pain, the sorrow;
To our children’s children
The glad tomorrow.

Senator FARRELL (South Australia)
(4.37 pm)—I seek leave to incorporate Senator Xenophon’s speech.
Leave granted.

Senator XENOPHON (South Australia)
(4.37 pm)—The incorporated speech read as follows—
I support the second reading of this bill and note that my comments relate to both of the Same Sex Relationships bills currently before the Senate. These bills have generated considerable debate in the community, evoking responses from those who are in strong support and those who strongly oppose. Many opponents of these bills see the proposed measures as ‘sanctioning’ same sex relationships. Meanwhile, many supporters would argue that these bills are not about special rights, they are about equal rights.

A generation ago, the South Australian Parliament led other parliaments around Australia in repealing laws that criminalised homosexual conduct, and those laws, in turn, were part of changing a culture of homophobia and outright hostility towards homosexuals. I believe those changes to the law were an unambiguously good thing.

I am old enough to remember the terrible and tragic death of Adelaide University Law School lecturer Dr George Duncan, who died essentially as a result of being a homosexual man in the wrong place at the wrong time. He drowned as a result of a hate crime. It was an immense injustice. I still remember from my time in law school in the mid 1970s when Horst Lucke, one of our lecturers, was involved in a campaign for justice to unearth the truth of what happened to Dr George Duncan, his colleague.

It is a blemish on my state and South Australia’s justice system that the investigation into his death was deeply flawed and charges were not brought in a timely manner against the perpetrators of the incident that led to his death. That a person died because of their sexuality is the ultimate tragic result of ignorance and discrimination. However, if any good can be said to come from Mr Duncan’s death, it was that archaic laws in my state were forced to change.

Over thirty years later, these events continue to underpin my support for the end of any form of discrimination against same sex couples. Thus, I support the broad intent of these bills. To those who oppose the bill because they believe it will undermine the institution of marriage, I respectfully disagree with that proposition. I do not believe it is inconsistent to support the institution of marriage and also support the removal of discrimination against same sex couples. Members of Parliament are trusted to do a lot of things. One of the most fundamental tasks that we are given is to protect our citizens. And that means protecting them from discrimination. I support the second reading of this bill.

Senator WONG (South Australia—Minister for Climate Change and Water)
(4.37 pm)—I would like to thank the honourable senators for their contributions to this debate. The Same Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 introduces the second part of the Rudd government’s historic reforms to amend Commonwealth laws that discriminate on the basis of sexual orientation. The Senate has, of course, previously debated on second reading the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Supérannuation) Bill 2008, which I will refer to as the superannuation bill. Together, these laws, and the Family Law Act de facto reforms, implement the Rudd government’s election commitment to remove same-sex discrimination, and its commitment to implementing the recommendations of the Human Rights and Equal Opportunity Commission’s Same-sex: same
entitlements report. I want to take this opportunity to thank the commission for its work on that report.

This is a significant day. This is the Rudd government implementing its election commitments, and I want to note that, over the course of Australia’s history, it has been the task of Labor governments to legislatively remove discrimination. This was previously done in relation to race and gender, and it was done some 20 years ago in adding sexual preference as an additional ground of discrimination under the Human Rights and Equal Opportunity Commission regulations. So, despite years of this issue having been discussed by the Howard government, we now have a Labor government—yet again—willing and able to put in place legislative reforms to remove discrimination. I also want to acknowledge that this is a reform that has been argued for and campaigned on by a great many members of the Australian community—in particular, members of the gay and lesbian community—who have worked very hard to achieve the equality in Australia that is being provided for in this legislation.

The bill before the chamber removes discrimination against same-sex couples and their children in 68 Commonwealth laws. These reforms are long overdue. The general approach taken in the bill is as follows: inserting a non-discriminatory definition of ‘de facto partner’ usually based on the new definition of a de facto partner which is to be included in the Acts Interpretation Act; recognising certain registered relationships under prescribed state and territory relationship registers; recognising children and parents in same-sex families where the child is a child within the meaning of the Family Law Act; removing marital status discrimination by expanding the meaning of ‘stepchild’ beyond its current meaning of ‘a child of a husband or wife by a former union’ to ‘a child of a de facto partner’; inserting a non-discriminatory definition of a step-parent; and inserting a tracing rule to recognise other family relationships—such as brother, aunt and grandparents—for relatives of non-biological parents.

In relation to the definition of ‘de facto partner’, the bill utilises the new definition of de facto partner which is to be included in the Acts Interpretation Act by the superannuation bill and will apply to de facto partnerships whether the parties to a relationship are of the same sex or different sexes. This definition of a de facto partner will recognise two different types of relationships. The couple will be taken to be in a de facto relationship if they have a relationship as a couple living together on a genuine domestic basis, having regard to a number of circumstances included within the definition. Registered relationships will also be recognised where that relationship is registered under prescribed state or territory laws as a prescribed kind of relationship for the purposes of the Acts Interpretation Act. The definition will, however, not apply to a number of acts such as the Social Security Act 1991, the Migration Act and the Veterans’ Entitlements Act, which currently have their own particular approach to defining who is a member of a couple or a de facto partner or a child of a person.

The government has tabled parliamentary amendments to the general law reform bill. The majority of the amendments make changes consistent with the first recommendation made in the report of the Senate Standing Committee on Legal and Constitutional Affairs, and they reflect community input into the committee’s inquiry. I thank the committee for its work in consideration of the bill. As was noted in the debate on the superannuation bill, there were criticisms that the particular term used in relation to the expanded definition of a child would create
interpretational difficulties. As a result, the amendments will build on the bipartisan support for amendments to the Family Law Act and adopt the definition of ‘child’ within the meaning of that act. This was one of the recommendations of the Senate committee.

On 18 September, the Attorney-General announced that the government would reform access to child support to remove discrimination against same-sex couples and their families. From 1 July 2009, parents with children from same-sex relationships will be able to seek child support from the other parent if the relationship breaks down. Presently, the non-biological parent in a same-sex couple where the couple has had a child is not liable for child support if the relationship breaks down, and this situation arises because the Child Support Scheme expressly relies on section 60H of the Family Law Act, which, until recently, did not confer parentage to the same-sex partner of a biological parent of a child born within that relationship. Recent amendments to that section mean that female same-sex couples will be recognised as the parents of children born as a result of artificial conception procedures, and these amendments will apply for child support purposes from 1 July next year.

Similarly, amendments to the new section 60HB in the Family Law Act for children born under surrogacy arrangements regulated by state and territory laws will also apply for child support purposes from 1 July 2009. Government amendments will update the child support legislation to also refer to section 60HB in addition to the current reference to section 60H.

In addition to those reforms, the government amendments, which were tabled on 11 November 2008, will apply the general approach taken in the bill to the child support acts by amending provisions in the Child Support (Assessment) Act that relate to the concept of a parent so as to maintain consistency between that act and the Family Law Act as amended by the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008, amending the definitions of ‘de facto relationship’ and ‘member of a couple’ in the Child Support (Assessment) Act to recognise both same- and opposite-sex de facto relationships and registered relationships within the meaning of section 22B of the Acts Interpretation Act, as we propose to amend it, and inserting a tracing rule in the Child Support (Assessment) Act and Child Support (Registration and Collection) Act.

I want to turn very briefly to some implementation issues that have been raised. The Senate committee’s report on this bill included a recommendation to develop and implement user-friendly initiatives and strategies to inform clients and staff of the proposed changes by no later than 31 March 2009, and I note that Senator Hanson-Young raised the issue today. Can I indicate to senators that relevant government agencies have been consulting with community representatives to ensure that the concerns of affected community members are carefully considered in the implementation of these reforms. Each portfolio will be responsible for the dissemination of information to its particular client groups. Each relevant department or agency is in the process, I am advised, of developing specific communication strategies in order to reach such groups.

As part of this development process an interdepartmental communications working group, comprising representatives from relevant departments, has been established. This group will consult with community representatives to identify the communication tools most effective in disseminating information to the community and to ensure that the employment of any communication strategies is done in the most appropriate and targeted manner. I understand that the working group
will meet with community representatives on 14 November.

Agencies involved in this process are developing specific communications strategies to reach client groups. These include a public awareness campaign, targeted communication activities, updates to current materials, training of staff where necessary and updating of policy manuals. In addition, certain departments currently providing services will also be available to assist clients to adjust to the reforms—for example, Centrelink will provide access to its financial information service and social workers to those clients affected by the changes.

The government also has in place a process to monitor the broader implementation of the reforms to ensure effective and orderly introduction. This is being auspiced by the interdepartmental working group, which is charged with monitoring the implementation of the reforms for a period of two years. Further meetings will be held as needed.

Some community groups have requested that certain parts of the reform be delayed. The government's view is that extension of the commencement dates beyond 1 July 2009 would not only continue discrimination against same-sex relationships in the social security laws but also affect other Commonwealth acts which interact with those laws, possibly creating inconsistencies in legislative outcomes.

In relation to some of the specific comments raised by honourable senators, I will make the following comments. It has been proposed by the Greens that the Acts Interpretation Act definition of 'de facto partner' should directly recognise overseas relationship registration and civil unions. Recognition of overseas civil unions as conclusive proof of a relationship does raise certain complex issues. So, whilst a same-sex couple will not be able to use an overseas relationship registration or civil union to conclusively prove the existence of the relationship, the bill provides that registration may nevertheless provide evidence which will make it easier for such a couple to prove the existence of a de facto relationship. For example, evidence of an overseas civil union may demonstrate a mutual commitment to a shared life for the purposes of proposed section 22C(2)(f) of the definition of de facto relationship in the Acts Interpretation Act. It may also be relevant to the reputation and public aspects of the relationship for the purposes of other sections of that definition in that act.

In some overseas jurisdictions there may be little distinction between a same-sex marriage and a civil union. The government retains its view that marriage is a union between a man and a woman. Government policy on the recognition of overseas civil unions must have regard to the requirement of the Marriage Act 1961, which reflects that recognition, and it is the case that the government is not proposing to recognise overseas same-sex unions as marriages in Australia.

The Greens have also proposed to introduce the new umbrella term 'couple relationship' to cover all forms of relationship: marital, registered and de facto. The introduction of such a term would require extensive amendment to legislation—much more than is currently proposed. The approach that has been taken by the government is a functional one to remove discrimination without a major legislative overhaul.

Senator Hanson-Young also asked why not all acts identified as discriminatory by the HREOC are being amended. There are a number of reasons. First, on further review some acts were found not to be discriminatory; second, some acts relied on definitions in other acts which are being amended; third,
some acts were determined to have little practical effect; fourth, subsequent to identification, some acts were repealed or are intended to be repealed; finally, some acts are intended to be amended or repealed as part of other government reforms.

The Greens have also proposed an amendment to the Sex Discrimination Act to remove all discrimination against all forms of relationship. Any such amendment would need careful consideration, and the government will carefully consider this issue in the context of the broader review of the Sex Discrimination Act that is being undertaken by the legal and constitutional affairs committee. Alternatively, the government may consider this issue in the context of any consideration of a sexuality discrimination bill.

The government needs to ensure that any extension of the SDA to recognise a same-sex relationship does not lead to any unintended consequences. Exemptions for Commonwealth, state and territory laws would probably be necessary and, whilst the general law reform bill introduces wide-ranging reforms, there remains widespread discrimination in statutory instruments, which would need to be either exempted or reformed. The government is moving to remove same-sex discrimination in statutory instruments.

Finally, the Greens have called for a conscience vote by all senators on amending the Marriage Act. The government’s position—and, for that matter, the opposition’s position—on this issue is well known.

This bill completes the government’s package of reforms to remove discrimination against same-sex couples and their children in a wide range of Commonwealth laws.

In conclusion, it is acknowledged by the government that recognition of same-sex relationships may lead to financial disadvantage for some. These reforms are about equality and extending the same treatment to persons in de facto partnerships, regardless of their sexual preference. How much value is to be placed on having equal recognition before the law and having the same entitlements and obligations as mixed-sex de facto relationships? Under the government’s evidence reforms, for example, which are currently before the Senate, same-sex de facto partners of people charged with offences will be able to object to being required to give evidence against their partners. The entitlement to object currently applies only to married couples and mixed-sex de facto partners.

In the event of a breakdown in the relationship, what value can be placed on having equal access, equal to that of mixed-sex relationships, to the federal family law courts on property and maintenance matters and also to the same entitlement to seek child support from the parent of the child of the relationship? As part of the reforms to the Bankruptcy Act, for example, the recovery and distribution of a bankrupt’s property depends in part on whether a person is regarded as a related entity, close relative or a family member of a bankrupt. By virtue of these amendments, a partner in a same-sex de facto relationship will be included within the definition of ‘related entity’ and ‘close relative’ under that act.

In its inquiry, the Australian Human Rights Commission discussed the importance of formal recognition of same-sex relationships. It also discussed some of the advantages and disadvantages of the different recognition models. The commission did observe that there was a consensus that gay and lesbian couples should have the same rights to financial and work related entitlements as opposite-sex partners.

It is the government’s view that the reforms in this bill are fair and equitable. It is the government’s view that this legislation is
the right thing to do. We commend the bill to the Senate.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (4.54 pm)—I seek leave to make a brief statement.

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—Is leave granted?

Senator WONG (South Australia—Minister for Climate Change and Water) (4.54 pm)—Through you, Madam Acting Deputy President, I have just summed up on behalf of the government. I understand that we will be moving into committee in relation to the superannuation bill and then subsequently on the general law reform bill. So there is the opportunity for Senator Joyce to make a contribution there. If Senator Joyce is intent on making a contribution now, the government will grant leave on the basis that it will be one or two minutes.

Leave granted.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (4.55 pm)—I just want to note that it is quite obvious that this bill, the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008, remains very close to a conscience vote. My concern is that the outcome that could be represented in a conscience vote by those who have a more conservative view on this issue might be worse than where we could end up here.

I also want to note for the record that there is still a strong issue of concern held by people who may not be drawn, for reasons, to vote against this legislation but who are certainly not in support of it. I think that has to be brought out. The issue remains one about the institution of marriage. If, as I said, you pull down everything else but the word ‘marriage’ then you have obviously affected what a marriage is and you have obviously affected the principal part of a marriage, and that is how children are brought up. This is another move towards a diminution of the rights of the child. I know that other people see it differently, but that is something that, as a senator, I have a right to say, not only on my own behalf but also on behalf of so many of my colleagues who hold very strong views on this issue as it is at this point.

Senator BRANDIS (Queensland) (4.56 pm)—I seek leave to make a short statement.

Leave granted.

Senator BRANDIS—Just for the sake of clarification, can I confirm that the opposition’s position is as I indicated in my speech in the second reading debate earlier in the day.

Question agreed to.

Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for a later hour.

SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—SUPERANNUATION) BILL 2008

Consideration resumed from 15 October.

In Committee

Bill—by leave—taken as a whole.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.57 pm)—I table a supplementary explanatory memorandum relating to government amendments and requests for amendments to be moved to this bill. The memorandum was circulated in the chamber on 14 October 2008.

Senator BRANDIS (Queensland) (4.58 pm)—I move opposition amendment No. (1), to clause 2 of the bill, which has been circulated in the chamber:

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

Commencement information

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<td>The day on which this Act receives the Royal Assent</td>
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The amendment which the opposition moves, and it is the only amendment that the opposition will be moving to the superannuation bill—if I may call it that for the sake of brevity—is in relation to the commencement date. Honourable senators will recall that earlier in the year the opposition indicated that it proposed to refer this bill and the related bills to the Senate Standing Committee on Legal and Constitutional Affairs for consideration. That reference took place and that consideration has since occurred.

It was said by some at the time that the opposition’s move to refer these bills to a Senate committee for scrutiny was a device or a tactic to delay the passage of the bills. Those remarks by those who made them were ignorant and should never have been made. It is apparent from what Senator Wong, who represents the Attorney-General in this place, has said in her contribution to the debate on the omnibus bill that the government not only welcomed the deliberations of the Senate Standing Committee on Legal and Constitutional Affairs but in fact decided—as is apparent from the government amendments to the superannuation bill and the omnibus bill, which we will be debating shortly—having regard to the recommendations of the Senate committee, to improve the bill in the various respects reflected in those amendments.

The reference to the Senate committee was, from the point of view of both sides of the chamber, a beneficial circumstance which will result in an improvement to the bills. So it is a good thing that it happened, and the suggestion that it was done for the purposes of delay, as I have said, had no basis in fact and was ignorant.

Nevertheless, because the superannuation bill was not passed before the end of the last financial year a concern arose as to the possible position of individuals who might have been beneficiaries of the bill had it been passed before the end of the last financial year but, because of the period of time taken up by consideration of the bills in the Senate committee, may have missed out. The particular cases pointed to were cases of people to whom the terms of the superannuation bill might apply who were in relationships and where, between 1 July 2008 and now, a partner in a same-sex relationship died. The opposition has always been concerned to ensure that there is nobody placed in that position. I am not aware, by the way, that in fact there is anybody placed in that position. I have made inquiries and, to the best of my knowledge, there is no-one, but we cannot be sure.

I remind the Senate of what the member for Wentworth, the then shadow Treasurer, now the Leader of the Opposition, said on this matter in the House of Representatives when he spoke in the second reading debate on this bill on 4 June 2008:

The key point that I wish to make now is that if the government wishes to have the benefits of this legislation available to people who would benefit from it, were it to be law today, it could choose to backdate the effective date of this legislation from whenever it chose. We know the tax laws and laws relating to superannuation are routinely—in fact, almost invariably—made effec-
tive as of the date of announcement. And it will take some months, often many months, for them to be passed into law. There is no reason why referral to a committee should defer the granting of the benefits that both sides of this House are committed to in terms of substance and in terms of the overall objective. That would ensure that those people who are concerned that they or their partner may die before this bill becomes the law of the land can have their concern set aside, and then the focus can be on the parliament getting the detail and the drafting right.

I interpolate to say that that is precisely what has happened in the ensuing months. Mr Turnbull went on to say:

This is the challenge I throw down to the government: if you are serious about delivering justice to people in same-sex relationships then you can say, as the government, that it will be effective as of budget night, the day after the election or whatever date you choose. It is entirely a matter for the government. It is the government's liability. It is its money. The only consequence would be that there would be an additional number of people, probably a small number, who would benefit from the additional cost in the scheme of the Commonwealth budget. Having regard to the great objective of equality and equal treatment of people regardless of their sexual orientation, the additional cost is not something that I would imagine would delay or deter members on either side of this House.

The purpose of the opposition's amendment is to ensure that the provisions of this act, when it receives royal assent, come into effect retrospectively, as from 1 July 2008—in other words, the commencement of the current financial year—and that, in the event that there are some individuals who, as a result of the reference to the Senate committee, might have been prejudiced because of the death of a partner to whom the provisions of the bill would otherwise have applied, then the position of anybody in that unfortunate circumstance can be secured. I wonder whether the minister, who represents the Attorney-General in this place, would be kind enough to explain to the chamber why it is the case, as I understand it, that the government has set its face against this amendment.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.06 pm)—I thank Senator Brandis, given Senator Joyce’s previous intervention, for clarifying what the opposition's position is on this matter. Firstly, I confirm that the government does not support the amendment. I indicate to the chamber that the government is concerned that retrospective operation of the bill and the amendments to the relevant trust deeds would give rise to significant legal complications and that the complications could only be addressed by the enactment of various and somewhat complex transitional and consequential amendments. I am advised that provision would also need to be made for the Commonwealth to provide just terms in respect of any acquisition of property affected by the retrospective application of the amendments to ensure that the bill did not involve an impermissible acquisition of property for the purposes of section 51(33xi) of the Constitution.

Further, the government is also concerned that an earlier commencement date may have adverse consequences for members of self-managed superannuation funds. Can I indicate to Senator Brandis that the government is proposing further government amendments—which, I understand, will be moved in the House of Representatives—for reasons which I am sure he would understand, which will enable a person who, if this bill had commenced on 1 July 2008, would have been entitled to one or more payments to make an application to the finance minister for one or more replacement payments. This amendment would deal with some of the concerns that Senator Brandis and other honourable senators have raised but would not require the amendment effected by the bill to have a retrospective effect. So I would...
ask senators who are putting this amendment to consider the concerns that the government has raised in relation to this amendment and to recognise that some aspects of the policy logic behind their amendment are dealt with via the avenue the government is proposing to take in relation to applications being made to the finance minister.

Senator BRANDIS (Queensland) (5.08 pm)—Mr Temporary Chairman, through you: the reason the opposition is not satisfied with the amendments that the minister has foreshadowed will be moved in the House of Representatives, a draft of which has been circulated to us this afternoon, is that they leave people who are in the circumstances of being potential beneficiaries of this bill, arising from a death that occurred prior to now but after 1 July, entirely at the mercy of the discretion of the finance minister. It does not secure their rights. It gives them the opportunity to make an application for what would in effect be an ex gratia payment. And, in our view, if we are going to do this properly, the rights of such people should be secured rather than left to the mercy of the generosity of the government. I do not suggest that there would be any bad faith affecting the exercise of any discretion but, nevertheless, their rights are not secured. As Mr Turnbull pointed out in the speech I quoted from before, it is the most common thing in the world to make retrospective the commencement date for the operations of tax laws and superannuation laws, and we are not persuaded that that cannot be done in this case.

Senator Wong referred to section 51(xxxi) of the Commonwealth Constitution as being a potential hurdle here. I am, of course, not going to compromise the confidentiality of any discussions which we, the opposition, have been party to at the Attorney-General’s office, but can I say that I understand the concern. I have considered the matter, but I think the concern is not soundly based. The concern seems to arise in particular from the possible application to this case of some dicta by the former Chief Justice Murray Gleeson in the High Court’s decision in Theophanous v Commonwealth of Australia in 2005, when His Honour allowed, in an obiter dictum remark, which was not determinative or dispositive of the case at all, for the possibility that the defeasance of a superannuation fund could conceivably be a violation of the just-terms requirement of section 51(xxxi) of the Constitution. But this is all His Honour had to say, at page 134 of the Commonwealth Law Report:

… I would not accept that statutory superannuation or pension benefits are inherently defeasible and that, on that account alone, their modification or withdrawal could never constitute an acquisition of property.

That is all His Honour said. And that seems to be the basis upon which a concern has been expressed among those who advise the government. But might I point out—and Senator Wong will understand this perfectly well—that merely for a judge to say that the defeasance of a fund ‘could never constitute an acquisition of property’ is a very different thing from saying that to create a legislative scheme whereby, conceivably, a claim could be made on a fund which would, in the circumstances of this case, be a de minimis claim—even in the event that there were anyone who would be a potential claimant on a Commonwealth superannuation fund as a result of the death of a partner between 1 July this year and November of this year—would not be regarded as the defeasance of that fund. Nor does His Honour say that it would be an acquisition of property from the fund on unjust terms. He merely says that he is not prepared to say that the modification or withdrawal could never constitute an acquisition of property.

I understand why governments, particularly when they seek legal advice, operate on
the precautionary principle—that is entirely proper—but I must say, Senator Wong, that the degree of caution being exhibited by the government in relation to the possible application of section 51(xxxi) of the Constitution in this case to a Commonwealth fund in relation to the miniscule, if any, class of potential claimants is, I think, a concern so little grounded in any likely adjudication of this issue that it ought not to stand in the way of the government doing the right thing and commencing the operation of the legislation from 1 July.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.13 pm)—Senator Brandis, I do have regard for the position you have taken in relation to this bill. But I have to say, in relation to doing the right thing, that for the opposition to lecture the government about delay in enacting these rights is really quite extraordinary—after so many years of government, and after the fact that these bills were delayed as a result of the opposition having difficulty with its own position—as it is for Senator Brandis to come in here and essentially criticise the government for not wanting, for very good policy reasons, to support a retrospection amendment which, in large part, is being put by the opposition as a result of their own delay and inaction on this issue.

Senator Brandis, I appreciate that you are a lawyer and I appreciate your views about the legal position in relation to the acquisition issue. I make the point that I raised a number of issues in relation to retrospection, of which that was one. For example, the adverse consequences for members of self-managed superannuation funds was also an issue raised. We do believe that there are legal complexities which would arise from the passage of this amendment. On this issue I would invite senators to consider that we are debating legislation which we regard as being overdue. This is really not the time to be introducing amendments, when the minister in the chamber has indicated very clearly that these particular amendments, in our view, would create legal complexity in terms of these reforms. For those senators who are genuinely seeking the passage of these reforms, I would invite consideration of the avenue that the government is proposing, whereby application could be made, and would be enabled to be made, to the finance minister.

Senator Brandis commenced his remarks by saying that such payments would be within the discretion of the finance minister. That is the case. That is precisely what I indicated the nature of the amendments would be. But I again say that the government’s view is that the retrospective operation of the bill and the amendments to the trust deeds would give rise to significant legal complications. We are proposing an alternative mechanism by which, I suppose, unfairness might be remedied. We would ask that senators in the chamber consider that approach rather than supporting an amendment which, in our view, may have significant legal complications as well as unintended consequences.

Senator BRANDIS (Queensland) (5.16 pm)—I do not want to prolong this, but can I just say four things very briefly in reply. First of all, we are not accusing the government of delay. We are accusing the government of offering a less satisfactory mechanism—one which, as the minister concedes, does not secure the rights of potential claimants but leaves them at the mercy of the exercise of a ministerial discretion. Secondly, with respect, Senator Wong, when you yourself thanked the Senate committee for the work that it had done, and when you are about to propose extensive amendments inspired by and informed by the deliberations of that committee, which it is plainly the government’s view will improve—

CHAMBER
Senator Wong—They are not the only reason.

Senator BRANDIS—In part they are.

Senator Wong—They were not the only reason for the delay, George. You know that.

Senator BRANDIS—Excuse me, Senator Wong. May I finish? The only reason this legislation was referred to the Senate committee was so that it could be looked at and the Senate committee could make recommendations for its improvement. In many respects the government has adopted those recommendations, so in the government’s own view the process has improved the bill. So it does not really lie in the mouth of the government to say that this was about delay. Thirdly, you referred to self-managed superannuation funds, Senator Wong. This had nothing to do with self-managed superannuation funds. These are Commonwealth funds.

Fourthly, the government can take its legal advice from those who advise it. The opposition will take its legal advice from those who advise it. The opposition has considered the matter. The opposition has had the benefit of briefings from the minister’s office. So, without trespassing upon the confidentiality of those discussions, we are aware of the matters which are informing the thinking of the government. It is our considered view that the potential legal difficulties of which you speak are fanciful, that the application by the government of what I call the precautionary principle in this case has been taken too far and that the parliament may confidently proceed to pass the opposition’s amendment secure in the knowledge that it will not compromise the legal validity of the bill.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.18 pm)—The government disagree with the legal opinion that Senator Brandis just gave us. I ask senators who care about actually ensuring the passage of this legislation whether they want to take a risk on the basis of Senator Brandis’s legal advice to the chamber. In relation to the self-managed superannuation funds, as I understood the amendment—and perhaps I misunderstood—schedule 4 of the amendment deals with the SI(S) Act, so that obviously extends beyond the Commonwealth superannuation funds sector. That was the basis of my indication previously.

Question put:

That the amendment (Senator Brandis’s) be agreed to.

The committee divided. [5.24 pm]

(The Chairman—Senator the Hon. AB Ferguson)

Ayes............ 37
Noes............ 26
Majority........ 11

AYES
Adams, J. Barnett, G.  
Birmingham, S. Boyce, S.  
Brandis, G.H. Brown, B.J.  
Bushby, D.C. Colbeck, R.  
Coonan, H.L. Eggleston, A.  
Ellison, C.M. Ferguson, A.B.  
Fielding, S. Fifield, M.P.  
Fisher, M.J. Hanson-Young, S.C.  
Heffernan, W. Humphries, G.  
Johnston, D. Joyce, B.  
Ludlam, S. Macdonald, I.  
Mason, B.J. McGauran, J.J.J.  
Milne, C. Minchin, N.H.  
Nash, F. Parry, S. *  
Payne, M.A. Ronaldson, M.  
Ryan, S.M. Scullion, N.G.  
Siewert, R. Troeth, J.M.  
Trood, R.B. Williams, J.R.  
Xenophon, N.  

NOES
Arbib, M.V. Bilyk, C.L.  
Bishop, T.M. Brown, C.L.  
Cameron, D.N. Collins, J.  
Crossin, P.M. Evans, C.V.  

CHAMBER
Senator WONG (South Australia—Minister for Climate Change and Water) (5.28 pm)—I move government request (3) on sheet QH400:

That the House of Representatives be requested to make the following amendment:

(3) Schedule 1, page 3 (line 2) to page 11 (line 21), omit the Schedule, substitute:

1 Subsection 4(1) (definition of former spouse)

After “marital”, insert “or couple”.

2 Subsection 4(1)

Insert:

marital or couple relationship has the meaning given by section 4B.

3 Subsection 4(1)

Insert:

partner: a person is the partner of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

4 Subsection 4(1)

Insert:

spouse has a meaning affected by section 4C.

5 Subsection 4B(1)

After “marital”, insert “or couple”.

Note: The heading to section 4B is replaced by the heading “Marital or couple relationship”.

6 Subsection 4B(1)

After “husband or wife”, insert “or partner”.

7 Subsection 4B(2)

After “husband or wife” (wherever occurring), insert “or partner”.

8 Subsection 4B(3)

After “marital”, insert “or couple”.

9 After paragraph 4B(4)(b)

Insert:

(ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901, as a kind of relationship prescribed for the purposes of that section;

10 At the end of paragraph 4B(4)(c)

Add:

or (iii) a child of both of the persons within the meaning of the Family Law Act 1975;

11 Subsections 4C(2) and (3)

After “marital” (wherever occurring), insert “or couple”.

12 Paragraph 19AA(2)(d)

Repeal the paragraph, substitute:

(d) was not or is not survived by a person with whom the deceased person had had a marital or couple relationship and who is:

(i) the natural or adoptive parent of that child; or

(ii) the parent of that child because the child is a child of the person within the meaning of the Family
Law Act 1975;

13 Paragraph 19AA(2B)(a)
Repeal the paragraph, substitute:

(a) the child:
   (i) was born while the deceased person was having a marital or couple relationship with another person; or
   (ii) was adopted by the deceased person or the deceased person with that other person during the duration of that relationship; or
   (iii) was a child of the deceased person, and that other person, within the meaning of the Family Law Act 1975; and

14 Subsection 19AA(5) (definition of child)
Repeal the definition, substitute:

child, in relation to a person, means a child of the person, including:

(a) an adopted child or an ex-nuptial child of the person; and
(b) someone who is a child of the person within the meaning of the Family Law Act 1975.

15 Application of amendments of the Parliamentary Contributory Superannuation Act 1948
The amendments of the Parliamentary Contributory Superannuation Act 1948 made by this Schedule apply in relation to a benefit payable under that Act in respect of a person who dies on or after the commencement of this Schedule if the deceased person:

(a) was entitled to a parliamentary allowance at the time of his or her death; or
(b) was entitled to a retiring allowance (whether or not the retiring allowance was immediately payable) at the time of his or her death.

Superannuation Act 1922

16 After subsection 48AB(4)
Insert:

(4A) If a pensioner or contributor died before the day on which Schedule 1 to the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008 commenced:

(a) the amendments of the Superannuation Act 1976 made by that Schedule do not apply in relation to any pension that, apart from this subsection, may be granted under this section in respect of the deceased pensioner or contributor; and
(b) the Superannuation Act 1976 as in force immediately before the commencement of Schedule 1 continues to apply in relation to any pension granted or that may be granted under this section in respect of the deceased pensioner or contributor.

17 At the end of section 48ABA
Add:

(9) For the purposes of applying the definitions of eligible child and spouse in subsection (1) in relation to a deceased pensioner who died before the day on which Schedule 1 to the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008 commenced:

(a) the amendments of the Superannuation Act 1976 made by that Schedule do not apply; and
(b) the Superannuation Act 1976 as in force immediately before the commencement of that Schedule continues to apply.

Superannuation Act 1976

18 Subsection 3(1) (definition of child)
Repeal the definition, substitute:

child, in relation to a person who has died, means:

(a) a child of the person, including:
   (i) an adopted child, an ex-nuptial child, a foster child, a stepchild or a ward, of the person; and
(ii) someone who is a child of the person within the meaning of the Family Law Act 1975; or
(b) a child of a spouse of the person, including:
   (i) an adopted child, an ex-nuptial child, a foster child, a stepchild or a ward, of the spouse; and
   (ii) someone who is a child of the spouse within the meaning of the Family Law Act 1975.

19 Subsection 3(1) (definition of late short-term marital relationship)
Repeal the definition (including the note).

20 Subsection 3(1)
Insert:
late short-term marital or couple relationship, in relation to a deceased retirement pensioner, means a marital or couple relationship between the pensioner and his or her spouse that began:
(a) less than 3 years before the pensioner’s death; and
(b) after the pensioner became a retirement pensioner and had reached the age of 60 years.

21 Subsection 3(1)
Insert:
marital or couple relationship has the meaning given by section 8A.

22 Subsection 3(1)
Insert:
partner: a person is the partner of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

23 Subsection 3(1)
Insert:
spouse has a meaning affected by section 8B.

24 Subsection 3(1)
Insert:
stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a partner of the person is the stepchild of the person, if he or she would be the person’s stepchild except that the person is not legally married to the partner.

25 Subsection 8A(1)
After “marital”, insert “or couple”.
Note: The heading to section 8A is replaced by the heading “Marital or couple relationship”.

26 Subsection 8A(1)
After “husband or wife”, insert “or partner”.

27 Subsection 8A(2)
After “husband or wife” (wherever occurring), insert “or partner”.

28 Subsection 8A(3)
After “marital”, insert “or couple”.

29 After paragraph 8A(4)(b)
Insert:
(ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901, as a kind of relationship prescribed for the purposes of that section;

30 At the end of paragraph 8A(4)(c)
Add:
or (iii) a child of both of the persons within the meaning of the Family Law Act 1975;

31 Subsections 8B(2) and (3)
After “marital” (wherever occurring), insert “or couple”.

32 Subsections 94(2A), 95(1B) and 96(2A)
After “marital”, insert “or couple”.

33 Subsection 96AB(2) (paragraph (a) of the definition of relevant period)
After “marital”, insert “or couple”.

34 Paragraph 96BA(1)(a)
After “marital”, insert “or couple”.

35 Subsection 96BA(2) (paragraph (a) of the definition of relevant period)
After “marital”, insert “or couple”.

36 Subsection 108A(1)
After “marital”, insert “or couple”.

Note: The heading to section 108A is altered by inserting “or couple” after “marital”.

37 Subsection 108A(5) (subparagraph (a)(i) of the definition of relevant period)
After “marital”, insert “or couple”.

38 Paragraph 109AB(2)(c)
After “marital”, insert “or couple”.

39 Paragraphs 109AB(3B)(b), (3C)(a) and (b), (5)(c), (5A)(b), (5B)(a) and (b)
After “marital”, insert “or couple”.

40 Paragraphs 110(4)(c) and (d) and (5B)(a)
After “marital”, insert “or couple”.

41 Subparagraph 110(5B)(b)(i)
After “marital”, insert “or couple”.

42 After subparagraph 110(5B)(b)(i)
Insert:
(ii) was, within the meaning of the Family Law Act 1975, a child of the pensioner and the person with whom the pensioner had that marital or couple relationship; or

48 Subparagraphs 110(7A)(b)(ii) and (iii)
After “marital”, insert “or couple”.

49 Paragraph 110(7B)(a)
After “marital”, insert “or couple”.

50 Paragraph 110(14)(d)
Omit “an adopted child, an ex-nuptial child, a foster child, a step-child or a ward”, substitute “a child of a kind referred to in subparagraph (b)(i) or (ii) of the definition of child in subsection 3(1)”.

51 Paragraph 136(2B)(ma)
After “marital” (wherever occurring), insert “or couple”.

52 Application of amendments of the Superannuation Act 1976
The amendments of the Superannuation Act 1976 made by this Schedule apply in relation to a benefit payable under that Act in respect of a person who dies on or after the commencement of this Schedule, if, at the time of his or her death, the deceased person was:

(a) an eligible employee (within the meaning of that Act); or

(b) a deferred benefit member (within the meaning of Division 4A of Part V of that Act); or

(c) a retirement pensioner (within the meaning of that Act).

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Bill 2008
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.

Amendment (3) [item 24]
The effect of this amendment is to expand the range of persons in relation to whom reversionary benefits may be paid under the standing appropriation in:

- section 134 of the Superannuation Act 1922; and
- subsection 112(2) of the Superannuation Act 1976.

The amendment is covered by section 53 because it will increase a “proposed charge or burden on the people”.

Senator WONG—This amendment omits the previous schedule 1 to the bill and replaces it with a new schedule. It effects a number of amendments to the content of that schedule, and I can specifically indicate those now. I will not go through all the items, because they are quite numerous, but I can if senators wish me to. A number of items in the schedule now refer to ‘a marital or couple relationship’ rather than ‘a couple relationship’. Items (6), (7), (26) and (27) will adopt the term ‘husband or wife or partner’. Items (9) and (29) will refer to regulations made under the Acts Interpretation Act rather than those made under the Judges’ Pensions Act. Items (10), (12), (13), (14), (18), (30), (42) and (47) will refer to ‘a child’ within the meaning of the Family Law Act rather than the ‘product of the relationship’ definition of

Amendments (3) and (5)
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 reversionary superannuation benefits payable from standing appropriations, it is in accordance with the precedents of the Senate that the amendments be moved as requests.
Further, items (5), (14), (16), (26), (46) and (52) of schedule 1 to the bill as introduced are no longer required as a consequence of the new approach to the definition of ‘a child’ and do not have equivalents in the amended schedule.

Senator BRANDIS (Queensland) (5.29 pm)—The opposition supports these amendments. In fact, most of the amendments to which Senator Wong has just referred arise from recommendations 1 and 2 in the additional comments by Liberal senators in the October 2008 report into the bill of the Senate Standing Committee on Legal and Constitutional Affairs, where Liberal senators recommended firstly, by recommendation 1, that the separate status of marriage be preserved and recognised—the government has conceded that point, and I thank them for doing so, though I regret that the issue was ever raised in the first place—and secondly, by recommendation 2, that the bill be amended to remove references to a child as the product of the person’s relationship. Once again, this is a concession by the government to the recommendations of Liberal senators, and we welcome it.

Might I take the opportunity, now that I am on my feet, Temporary Chairman Barnett, to thank and congratulate you—as the deputy chair of that committee, who was the principal inspiration of those recommendations which the government has now seen fit to adopt—on your success.

The TEMPORARY CHAIRMAN—Thank you, indeed.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.31 pm)—My question is to the minister. I refer the minister to item 24 relating to subsection 3(1), where it says:

partner: a person is the partner of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

I want to know what the definition of ‘relationship’ is as defined by that subsection. What exactly does that term mean?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.31 pm)—Are you referring to the amendments I have just moved or to the current bill?

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.32 pm)—I am referring to the current bill as it refers to the definition of ‘partner’. It is item 24 relating to subsection 3(1) on page 7 of the bill. If 24 subsection 3(1) is still in play, what is defined by the term ‘relationship’?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.32 pm)—On page 7, in the subsection you are referring to, I have a definition of ‘partner’. Is that the section about which you are seeking to ask questions?

Senator Joyce—Yes.

Senator WONG—Item 24 inserts in subsection 3(1) of the bill a definition of a partner:

... a person is the partner of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.33 pm)—In relation to that subsection, what do you define as a relationship?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.33 pm)—On the broader issue, which I assume is the issue raised in your contribution, I again reiterate the government’s position. The government has a clear view that the provisions of the Marriage Act are retained. The government has a clear view—
which was made clear prior to the election—that marriage is a union between a man and a woman. We do not regard the removal of discrimination, as set out in this bill, as in any way undermining the institution of marriage; it is about the removal of discrimination. I am advised that ‘relationship’ in this context is the common understanding of the term, not a statutory definition.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.34 pm)—Can you please inform me what the common understanding of ‘relationship’ is?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.35 pm)—I am not sure that I can assist you much further. I am sure lawyers have a range of views about this but, if the tenor of your proposition relates to marriage, I reiterate what I have previously said.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.35 pm)—I will move on to the next issue. I respect what you said about maintaining the definition of marriage. I am glad that remains on the record. But how long, referring to item 24 relating to subsection 3(1) and the term ‘relationship’, would that relationship have to endure? How long does it have to go before a relationship is a relationship?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.36 pm)—I am advised that there is not a specific time frame in respect of that provision of the bill.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.36 pm)—That being the case, a relationship could be for a day?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.36 pm)—The advice I am given is that the approaches taken by the courts in interpreting notions of ‘de facto relationship’ in various other aspects of law would also apply in these circumstances. Again, I indicate I am not advised that there is any specific statutory definition in relation to this provision.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.37 pm)—So what do I rely on for the definition of a relationship, seeing there is no definitive term for what a relationship is or how long a relationship needs to last? I think this is a crucial part in determining what a ‘partner’ is—and determining what a partner is is a crucial part of determining how this bill operates.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.37 pm)—I think the most helpful thing I can do for you, Senator Joyce, is to refer you to the definition of ‘relationship’ that is included in the Acts Interpretation Act. In the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008, which is the bill we were previously discussing, in the second reading debate, the amendment to the Acts Interpretation Act was discussed. The de facto relationship definition contained in that bill—because of course we are discussing the superannuation bill at the moment—is as follows:

22C De facto relationships

(1) For the purposes of paragraph 22A(b), a person is in a de facto relationship with another person if the persons:

(a) are not legally married to each other; and

(b) are not related by family (see subsection (6)); and

(c) have a relationship as a couple living together on a genuine domestic basis.

(2) In determining for the purposes of paragraph (1)(c) whether 2 persons have a relationship as a couple, all the circumstances of their relationship are to be taken into account, including any or all of the following circumstances:
(a) the duration of the relationship;
(b) the nature and extent of their common residence;
(c) whether a sexual relationship exists;
(d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
(e) the ownership, use and acquisition of their property;
(f) the degree of mutual commitment to a shared life;
(g) the care and support of children;
(h) the reputation and public aspects of the relationship.

In terms of the definition of ‘de facto relationship’, as opposed to the reference which is contained in the superannuation bill, that should give the honourable senator some assistance.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.40 pm)—Can I just confirm that the relationship definition that you just read out then, Minister, and the relationship definition as would be assumed in item 24, the proposed insertion in subsection 3(1), are one and the same definition?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.41 pm)—by leave—I move government amendments (4) and (1) on sheet QH400:

(1) Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedule 2, Parts 1 and 2 At the same time as the provision(s) covered by table item 2.

3A. Schedule 2, Part 3 The day on which this Act receives the Royal Assent.

3B. Schedule 3 At the same time as the provision(s) covered by table item 2.

(4) Schedule 2, page 12 (line 2) to page 17 (line 8), omit the Schedule, substitute:

Schedule 2—Attorney-General’s amendments

Part 1—Amendment of the Acts Interpretation Act 1901

Acts Interpretation Act 1901

1 After section 22

Insert:

22A References to de facto partners

For the purposes of a provision of an Act that is a provision in which de facto partner has the meaning given by this Act, a person is the de facto partner of another person (whether of the same sex or a different sex) if:

(a) the person is in a registered relationship with the other person under section 22B; or

(b) the person is in a de facto relationship with the other person under section 22C.

22B Registered relationships

For the purposes of paragraph 22A(a), a person is in a registered relationship with another person if the relationship between the persons is registered under a prescribed law of a State or Territory as a prescribed kind of relationship.

22C De facto relationships

(1) For the purposes of paragraph 22A(b), a person is in a de facto relationship with another person if the persons:
(a) are not legally married to each other; and
(b) are not related by family (see subsection (6)); and
(c) have a relationship as a couple living together on a genuine domestic basis.

(2) In determining for the purposes of paragraph (1)(c) whether 2 persons have a relationship as a couple, all the circumstances of their relationship are to be taken into account, including any or all of the following circumstances:
(a) the duration of the relationship;
(b) the nature and extent of their common residence;
(c) whether a sexual relationship exists;
(d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
(e) the ownership, use and acquisition of their property;
(f) the degree of mutual commitment to a shared life;
(g) the care and support of children;
(h) the reputation and public aspects of the relationship.

(3) No particular finding in relation to any circumstance mentioned in subsection (2) is necessary in determining whether 2 persons have a relationship as a couple for the purposes of paragraph (1)(c).

(4) For the purposes of paragraph (1)(c), the persons are taken to be living together on a genuine domestic basis if the persons are not living together on a genuine domestic basis only because of:
(a) a temporary absence from each other; or
(b) illness or infirmity of either or both of them.

(5) For the purposes of subsection (1), a de facto relationship can exist even if one of the persons is legally married to someone else or is in a registered relationship (within the meaning of section 22B) with someone else or is in another de facto relationship.

(6) For the purposes of paragraph (1)(b), 2 persons are related by family if:
(a) one is the child (including an adopted child) of the other; or
(b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or
(c) they have a parent in common (who may be an adoptive parent of either or both of them).

For this purpose, disregard whether an adoption is declared void or has ceased to have effect.

(7) For the purposes of subsection (6), adopted means adopted under the law of any place (whether in or out of Australia) relating to the adoption of children.

Part 2—Amendment of other Acts

Federal Magistrates Act 1999

2 Section 5

Insert:
marital or couple relationship has the meaning given by subclause 9E(5) of Schedule 1.

3 Section 5 (definition of marital relationship)

Repeal the definition.

4 Section 5

Insert:
partner: a person is the partner of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

5 Subclauses 9E(2), (3) and (4) of Schedule 1

After “marital” (wherever occurring), insert “or couple”.

CHAMBER
6 Subclause 9E(5) of Schedule 1
After “marital”, insert “or couple”.
Note: The heading to subclause 9E(5) of Schedule 1 is replaced by the heading “Meaning of marital or couple relationship”.

7 Subclause 9E(5) of Schedule 1
After “husband or wife” (wherever occurring), insert “or partner”.

8 Subclause 9E(6) of Schedule 1
After “marital”, insert “or couple”.

9 After paragraph 9E(7)(b) of Schedule 1
Insert:
(ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section;

10 At the end of paragraph 9E(7)(c) of Schedule 1
Add:
or (iii) a child of both of the persons within the meaning of the Family Law Act 1975;

11 After subparagraph 9F(1)(b)(i) of Schedule 1
Insert:
(iia) the person is a child of the Magistrate within the meaning of the Family Law Act 1975;

12 Application of amendments of the Federal Magistrates Act 1999
The amendments of the Federal Magistrates Act 1999 made by this Schedule apply in relation to any payment payable under clause 9D of Schedule 1 to that Act in respect of a person who dies on or after the commencement of this Schedule if, at the time of his or her death, the deceased person:
(a) held office as a Federal Magistrate; or
(b) was a retired disabled Federal Magistrate.

Judges’ Pensions Act 1968
13 Subsection 4(1)
Insert:
child of a marital or couple relationship, in relation to a marital or couple relationship, means:
(a) a child born of the marital or couple relationship; or
(b) a child adopted by the people in the marital or couple relationship during the period of the relationship; or
(c) someone who is, within the meaning of the Family Law Act 1975, a child of both of the people in the marital or couple relationship.

14 Subsection 4(1) (definition of child of a marital relationship)
Repeal the definition.

15 Subsection 4(1)
Insert:
marital or couple relationship has the meaning given by section 4AB.

16 Subsection 4(1)
Insert:
partner: a person is the partner of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

17 Subsection 4(1)
Insert:
spouse has a meaning affected by section 4AC.

18 After paragraph 4AA(a)
Insert:
(aa) the child is a child of the deceased Judge within the meaning of the Family Law Act 1975; or

19 Subsection 4AB(1)
After “marital”, insert “or couple”.

CHAMBER
Note: The heading to section 4AB is replaced by the heading “Marital or couple relationship”.

20 Subsections 4AB(1) and (2)
After “husband or wife” (wherever occurring), insert “or partner”.

21 Subsection 4AB(3)
After “marital”, insert “or couple”.

22 After paragraph 4AB(4)(b)
Insert:

(ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section;

23 At the end of paragraph 4AB(4)(c)
Add:

or (iii) a child of both of the persons within the meaning of the Family Law Act 1975;

24 Subsections 4AC(2) and (3)
After “marital” (wherever occurring), insert “or couple”.

25 Subsections 10(2), 11(3) and 12(3)
After “marital” (wherever occurring), insert “or couple”.

26 Application of amendments of the Judges’ Pensions Act 1968
(1) The amendments of the Judges’ Pensions Act 1968 made by this Schedule apply in relation to any pension payable under that Act in respect of a person who dies on or after the commencement of this Schedule if, at the time of his or her death, the deceased person was or had been the ABC Commissioner.

Law Officers Act 1964

27 Subsection 16(1)
Omit “other than subsection 6(3) (including the provisions relating to widows and children)”, substitute “other than subsection 4(2) (including the provisions relating to spouses and children)”.

28 Application of amendments of the Law Officers Act 1964

The amendments of the Law Officers Act 1964 made by this Schedule apply in relation to any pension payable under section 16 of that Act because of the application of the Judges’ Pensions Act 1968 in respect of a person who:

(a) was appointed as Solicitor-General before 1 January 1998; and

(b) dies on or after the commencement of this Schedule.

Part 3—Regulations

29 Regulations may deal with transitional, saving or application matters

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to amendments and repeals made by this Schedule or any other Schedule to this Act.

Government amendment (4) omits previous schedule 2 to the bill and replaces it with a new schedule 2. Amendment (4) effects a number of amendments to the content of schedule 2. These include the following specifically. Item 1 of schedule 2 will now insert the definition of ‘de facto partner’ into the Acts Interpretation Act. Items 2, 5, 6, 8, 13, 15, 19, 21, 24 and 25 of schedule 2 will refer to a marital or couple relationship rather than a couple relationship. Items 7 and 20 will
adopt the term ‘husband or wife or partner’. Items 9 and 22 will refer to regulations made under the Acts Interpretation Act rather than the Judges’ Pensions Act. Items 10, 11 and 13, 18 and 23 will refer to a child within the meaning of the Family Law Act rather than the ‘product of a relationship’ definition of a child. Item 29 will insert a power for the Governor-General to make regulations of a transitional nature that relate to amendments made by schedule 2 or any other schedule to the act. Further, items 1, 5, 19, 20 and 29 of schedule 2 to the bill, as introduced, are no longer required as a consequence of the new approach to the definition of a child and do not have equivalents in the amended schedule 1.

Senator BRANDIS (Queensland) (5.43 pm)—Minister, can you clarify whether the amendment to clause 1, were it to be passed, would have the effect of reversing the effect of the result of the division we had a few moments ago in relation to the commencement date of schedules 2 and 3?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.44 pm)—Yes, it would.

Senator BRANDIS (Queensland) (5.44 pm)—In that event, the opposition cannot support that amendment. The chamber has just resolved that it wishes the commencement date to be 1 July. Could I ask you, Senator Wong, in view of the chamber’s determination, to reconsider your position.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.44 pm)—I propose to move amendments (1) and (4) separately.

The TEMPORARY CHAIRMAN (Senator Barnett)—The question is that amendment (1) on sheet QH400 be agreed to.

Question negatived.
amount of Commonwealth legislation. Utilisation of the term ‘couple relationship’, such as is proposed in the Greens’ amendment, would require much more extensive amendment to legislation—far more than is proposed now—and would inevitably ensure that this matter is further delayed. The Greens’ amendment notes that the Same Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform Bill) 2008 will require consequential amendment to omit ‘de facto partner’ and to substitute ‘partner of a couple relationship’. Again, this would require extensive amendment of many pieces of government legislation. I am advised that this would create a number of implementation problems, particularly in relation to tax legislation, where the term ‘partner’ is used in another context. I am also advised that using a term other than ‘de facto relationship’ would be inconsistent with the terms used in the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008.

Senator HANSON-YOUNG (South Australia) (5.48 pm)—I thank the minister for clarifying the government’s opposition to this amendment. I would like to point out that all we are doing is amending the current definition proposed in this bill by the minister in the Acts Interpretation Act. It is simply saying that we recognise registered relationships, which is already in another part of the government’s bill anyway. I do not understand why we would not simply tighten it up and ensure that, if we are going to support registered relationships, we give them some type of status next to de facto relationships under the umbrella term of ‘couple relationship’.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.48 pm)—When various pieces of legislation are amended, there are often consequences for a whole range of legislation. We are very happy to provide a briefing on this issue if you wish but I invite you to recognise that amending one act, in and of itself, does not necessarily mean that consequential amendments are not then required for other legislation. In the context where we are amending some 68 pieces of Commonwealth legislation—for example, the general law reform bill—there are obviously consequences for various amendments that may be moved in this chamber. I encourage the Greens to be apprised of those consequences when considering the amendments they are putting to the Senate. In fact, you actually even note the consequential amendments that would be required in your own amendment. I reiterate that the use of the term ‘couple relationship’ would require extensive amendment to legislation. That is, in part, because the term ‘de facto relationship’ has been the key by which this antidiscrimination measure has been put. The advice I have is that the approach you are proposing would create problems in various pieces of legislation. Not only would it require further and more extensive legislative amendments but it would also create specific problems in relation to tax legislation. Also, it is inconsistent with the term used in the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008, so I invite you to reconsider the amendment.

Senator BRANDIS (Queensland) (5.51 pm)—I indicate for the record that the opposition does not support this amendment.

Senator HANSON-YOUNG (South Australia) (5.51 pm)—I ask the minister: is it that you do not support the idea of defining a couple relationship and giving particular recognition to those in registered relationships, even though, alongside de facto relationships, we are still talking about people having the same entitlements? If that is the case, if you do not support that, I understand. If
you do support that, why didn’t the government propose these amendments long ago?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.51 pm)—For the third time, Senator: it would have required a much more extensive rewrite of Commonwealth legislation. Therefore, the government took the approach set out in the bills regarding the amendments to ‘de facto partner’.

Senator HANSON-YOUNG (South Australia) (5.52 pm)—I thank the minister for her response. The Greens do not in any way want to tie up this process. We have been advocating that this legislation be passed as quickly as possible, and we will continue to work with the government on this. We are disappointed, though, that this definition was not taken on board much earlier on.

Question negatived.

Senator HANSON-YOUNG (South Australia) (5.52 pm)—I move amendment (3) on sheet 5615:

(3) Schedule 2, omit section 22B, substitute:

22B Registered relationships

(1) For the purposes of paragraph 22A(a), a person is in a registered relationship with another person if the relationship between the persons is:

(a) registered under a prescribed law of a State or Territory as a prescribed kind of relationship; or

(b) registered in a foreign country where, under the local law, the relationship was, at the time when it was registered, recognised as valid.

(2) To avoid doubt, paragraph 22B(1)(b) does not provide for the recognition of marriages under foreign law which are recognised under Part VA of the Marriage Act 1961.

This amendment is in relation to recognition of overseas formalised relationships. I refer back to the point that the government’s own proposition supports section 22B of the Acts Interpretation Act, which is dedicated to registered relationships in Australia. What we are trying to do in amendment (3) is to say that if we are prepared to recognise those relationships in Australia then we should be prepared to recognise those that are registered overseas as well. This amendment will allow the government to prescribe types of relationships created in a foreign country under local laws as recognised as a type of registered relationship under the Acts Interpretation Act and in other locations.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.53 pm)—It is the case, and I think that I referred to this in my summing up of the second reading debate, that the bill does not explicitly recognise overseas relationship registration and civil unions. As I also said in my summing up, the fact of such a relationship, whether a civil union or registered relationship, will make it easier for a same-sex couple to prove the existence of a de facto relationship. For example, evidence of an overseas civil union or overseas registered relationship may demonstrate a mutual commitment to a shared life for the purposes of section 22C(2)(f) of the Acts Interpretation Act. It would also clearly be relevant to the reputation and public aspects of the relationship for the purposes of section 22C(2)(h). It is the case that government policy in relation to overseas civil unions does have to have regard to the position of the government and to the requirement in the Marriage Act that marriage in Australia is between a man and a woman. Accordingly, overseas same-sex unions will not be recognised under this legislation as marriages in Australia.

Senator BRANDIS (Queensland) (5.54 pm)—The opposition also opposes this amendment. It has been central to the opposition’s position throughout this debate that
our support for this legislation is based, among other things, on the proposition that nothing in it challenges the established status of marriage as an institution between a man and a woman. The amendment proposed by Senator Hanson-Young does challenge that proposition, at least in a limited fashion. For that reason, the opposition is opposed to it.

Senator HANSON-YOUNG (South Australia) (5.55 pm)—I thank the government and the opposition for their comments in relation to their opposition to this amendment. Perhaps the minister could respond as to why we are prepared to recognise registered relationships in Australia but not those from New Zealand?

Senator WONG (South Australia—Minister for Climate Change and Water) (5.56 pm)—As I am advised, the requirements in New Zealand are substantially similar to the requirements under the Marriage Act. So, consistent with my previous contribution, the government has the view that such relationships can be recognised in the sense that I outlined—that is, evidence of the existence of a relationship within the definition of section 22C(2) of the Acts Interpretation Act.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.56 pm)—I want to clearly put on the record that the final move towards the dissolving of the concept of marriage would be just about there if this amendment were to go through. Therefore, I fervently disagree with it. I think that I reflect the views of many of my colleagues in that, although I would not for one moment say that I reflect the views of all of them. However, for the record, I would like to know what the substantive differences are between the term ‘relationship’ as we have now proposed in this bill and what marriage actually is.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.57 pm)—I wonder if what we are now getting in the Senate is an argument that perhaps would be better off in the opposition party rooms. I am happy to respond, but it seems to me that we are having a debate that really is a debate between you and your party colleagues, with respect. The government have made it clear that our view is that marriage is an institution between a man and a woman. We made that clear prior to the election. That is also the way in which marriage is described under the Marriage Act. What we are dealing with here is the removal of discrimination against same-sex couples.

Senator BRANDIS (Queensland) (5.58 pm)—Following from Senator Wong’s remarks: there is no difference of view within the opposition in relation to this matter whatsoever. It has been, as I have said before, central to our support for this legislation that it does not impinge on the status of marriage. Senator Joyce and I and every last member of the opposition are united in that view and in our opposition to this amendment.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.59 pm)—I move government request (5) on sheet QH400:

That the House of Representatives be requested to make the following amendment:

(5) Schedule 3, items 1 to 17, page 18 (line 5) to page 20 (line 12), omit the items, substitute:

1 Subsection 3(1) (subparagraph (a)(ii) of the definition of child)
Omit “and”, substitute “or”.

2 Subsection 3(1) (after subparagraph (a)(ii) of the definition of child)
Insert:

(iii) was, immediately before the member’s death, someone who would have been the stepchild of
the member except that the member was not legally married to a spouse who survives the member; or

(iv) is a child of the member within the meaning of the Family Law Act 1975; and

3 Subsection 3(1) (at the end of the definition of child)
Add:
; and (c) a person who:

(i) is, within the meaning of the Family Law Act 1975, a child of a spouse who survives the member; and

(ii) was wholly or substantially dependent upon the member at the time of the member’s death.

4 Subsection 3(1) (definition of eligible orphan)
After “pension”, insert “or spouse pension”.

5 Subsection 3(1)
Insert:
marital or couple relationship has the meaning given by section 6A.

6 Subsection 3(1)
Insert:
partner: a person is the partner of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

7 Subsection 3(1) (definition of pension benefit)
After “widow’s pension”, insert “spouse pension”.

8 Subsection 3(1)
Insert:
spouse has a meaning affected by section 6B.

9 Subsection 6A(1)
Omit “marital relationship”, substitute “marital or couple relationship”.

Note: The heading to section 6A is replaced by the heading “Marital or couple relationship”.

10 Subsection 6A(1)
After “husband or wife”, insert “or partner”.

11 Subsection 6A(2)
After “husband or wife” (wherever occurring), insert “or partner”.

12 Subsection 6A(3)
After “marital”, insert “or couple”.

13 After paragraph 6A(4)(b)
Insert:
(b) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901, as a kind of relationship prescribed for the purposes of that section;

14 At the end of paragraph 6A(4)(c)
Add:
; or (iii) a child of both of the persons for the purposes of the Family Law Act 1975;

15 Subsections 6B(2) and (3)
After “marital” (wherever occurring), insert “or couple”.

16 Paragraph 6BA(1)(b)
After “marital”, insert “or couple”.

Note: The heading to section 6BA is altered by omitting “marriages” and substituting “marital or couple relationships”.

I will provide some information to the Senate about the nature of that amendment. Government amendment (5) replaces items 1 to 17 of the previous schedule 3 to the act. Amendment (5) effects a number of specific amendments. I will go through these sequentially. Items 5, 9, 12, 15 and 16 of schedule 3 refer to ‘marital or couple relationship’ rather than ‘couple relationship’. Items 10 and 11 adopt the term ‘husband or wife or partner’.
Item 13 refers to regulations made under the Acts Interpretation Act rather than under the Judges’ Pensions Act. Items 2, 3 and 14 refer to a child within the meaning of the Family Law Act rather than the ‘product of the relationship’ definition of a child.

Senator BRANDIS (Queensland) (6.00 pm)—Can I indicate on behalf of the opposition that the opposition supports this amendment. This is, once again, an amendment that was largely inspired by the recommendations of the Liberal senators on the Senate Standing Committee on Legal and Constitutional Affairs inquiry into the bill. It is a beneficial amendment in recognising the status of marriage and appropriately describing children. For those reasons and for the reasons I indicated before, which I will not reiterate, we will support it.

Senator HANSON-YOUNG (South Australia) (6.01 pm)—I indicate that the Australian Greens are supporting this government amendment as well.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.01 pm)—Consistent with the previous decision in the Senate, I do not propose to move government amendment (2) on sheet QH400, which also deals with commencement. I simply move government amendment (6) on sheet QH400, Treasury amendments:

(6) Schedule 4, page 26 (line 2) to page 30 (line 14), omit the Schedule, substitute:

Schedule 4—Treasury amendments

Part 1—Superannuation law

Retirement Savings Accounts Act 1997

1 Subsections 20(2) and (3)

Repeal the subsections, substitute:

(2) The spouse, in relation to a person, includes:

(a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and

(b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.

(3) Any child, in relation to a person, includes:

(a) a stepchild, an ex-nuptial child or an adopted child of the person; and

(b) a child of the person’s spouse; and

(c) someone who is a child of the person within the meaning of the Family Law Act 1975.

2 Application of amendments of the Retirement Savings Accounts Act 1997

The amendments of the Retirement Savings Accounts Act 1997 made by this Schedule apply to the 2008-2009 year of income and later years.

Small Superannuation Accounts Act 1995

3 Section 4

Insert:

child, of a person, means a child of the person within the meaning of the Superannuation Industry (Supervision) Act 1993.

4 Section 4 (definition of spouse)

Repeal the definition (not including the note), substitute:

spouse of a person includes:

(a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relation-
ship prescribed for the purposes of that section; and

(b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.

5 Application of amendments of the Small Superannuation Accounts Act 1995

The amendments of the Small Superannuation Accounts Act 1995 made by this Schedule apply to the 2008-2009 year of income and later years.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003

6 Subsection 54(3) (definition of spouse)

Repeal the definition, substitute:

spouse of a beneficiary of a Government co-contribution includes:

(a) a person (whether of the same sex or a different sex) with whom the beneficiary is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and

(b) a person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.

7 Application of amendments of the Superannuation (Government Co-contribution for Low Income Earners) Act 2003

The amendments of the Superannuation (Government Co-contribution for Low Income Earners) Act 2003 made by this Schedule apply to the 2008-2009 income year and later income years.

Superannuation Industry (Supervision) Act 1993

8 Subsection 10(1) (definition of child)

Repeal the definition, substitute:

child, in relation to a person, includes:

(a) an adopted child, a stepchild or an ex-nuptial child of the person; and

(b) a child of the person’s spouse; and

(c) someone who is a child of the person within the meaning of the Family Law Act 1975.

9 Subsection 10(1)

Insert:

relative of an individual means the following:

(a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the individual or of his or her spouse;

(b) a spouse of the individual or of any other individual referred to in paragraph (a).

Note: Subsection (6) may be relevant to determining relationships for the purposes of paragraph (a) of the definition of relative.

10 Subsection 10(1) (definition of spouse)

Repeal the definition, substitute:

spouse of a person includes:

(a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and

(b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.

11 At the end of section 10
(5) For the purposes of paragraph (a) of the definition of relative in subsection (1), if one individual is the child of another individual because of the definition of child in subsection (1), relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual.

12 Subsection 17A(9) (paragraphs (b) and (c) of the definition of relative)
Repeal the paragraphs, substitute:
(b) a spouse or former spouse of the individual, or of an individual referred to in paragraph (a).

13 After subsection 17A(9)
Insert:
(9A) For the purposes of paragraph (a) of the definition of relative in subsection (9), if one individual is the child of another individual because of the definition of child in subsection 10(1), relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual.

14 Subsection 65(6)
Repeal the subsection.

15 Subsection 70E(4) (definition of relative)
Repeal the definition.

16 Application of amendments of the Superannuation Industry (Supervision) Act 1993
(1) Subject to subitems (2) and (3), the amendments of the Superannuation Industry (Supervision) Act 1993 made by this Schedule apply to the 2008-2009 year of income and later years.

Amendments affecting section 65
(2) The amendments of the Superannuation Industry (Supervision) Act 1993 made by this Schedule apply for the purposes of the operation of section 65 of that Act in relation to:
(a) money lent on or after the day on which this Act receives the Royal Assent; and
(b) any other financial assistance commenced to be given on or after the day on which this Act receives the Royal Assent.

Amendments affecting section 66
(3) The amendments of the Superannuation Industry (Supervision) Act 1993 made by this Schedule apply for the purposes of the operation of section 66 of that Act in relation to assets acquired on or after the day on which this Act receives the Royal Assent.

17 Transitional provision—in-house assets
(1) If:
(a) an asset of a superannuation fund consists of:
(i) a loan or an investment made before the day on which this Act receives the Royal Assent; or
(ii) a loan or an investment made after that day under a contract entered into before that day; or
(iii) an asset that becomes subject to a lease or a lease arrangement before that day; and
(b) apart from this item, the asset would be an in-house asset of the fund at any time after the commencement of this Schedule; and
(c) the asset would be an in-house asset of the fund only because of the amendments of the Superannuation Industry (Supervision) Act 1993 (the SIS Act) made by this Schedule;
then, for the purposes of the operation of Part 8 of the SIS Act on or after the commencement of this Schedule, the asset is not an in-house asset of the fund.
(2) For the purposes of subparagraph (1)(a)(iii), if:
(a) a lease or a lease arrangement, enforceable by legal proceedings, in respect of an asset was entered into before the day on which this Act receives the Royal Assent; and
(b) the lease or lease arrangement came into force on or after that day;
the asset is taken to have become subject to the lease or lease arrangement before that day.

Part 2—Taxation law


18 After section 295-465
Insert:

295-485A Meaning of spouse and child for 2008-2009 income year
(1) This section applies only for the 2008-2009 income year.
(2) For the purposes of section 295-485 of the Income Tax Assessment Act 1997, paragraph 295-485(1)(a) of that Act applies as if:
(a) the reference to a spouse or former spouse of the deceased were a reference to:
(i) a spouse of the deceased within the meaning of the Superannuation Industry (Supervision) Act 1993 as in force immediately after the commencement of Schedule 4 to the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008; or
(ii) an individual who was formerly such a spouse; and
(b) the reference to a child of the deceased were a reference to a child of the deceased within the meaning of the Superannuation Industry (Supervision) Act 1993 as in force immediately after the commencement of Schedule 4 to the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008.

19 At the end of Division 302
Add:

302-195A Meaning of death benefits dependant for 2008-2009 income year
(1) This section applies only for the 2008-2009 income year.
(2) For the purposes of Subdivision 82-B of Division 82, Division 302 and section 303-5 of the Income Tax Assessment Act 1997, the definition of death benefits dependant in section 302-195 of that Act applies as if paragraphs (a) and (b) of the definition were replaced with the following paragraphs:
(a) a spouse of the deceased within the meaning of the Superannuation Industry (Supervision) Act 1993 as in force immediately after the commencement of Schedule 4 to the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008 or a person who was formerly such a spouse; or
(b) a child of the deceased within the meaning of the Superannuation Industry (Supervision) Act 1993 as in force immediately after the commencement of Schedule 4 to the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008, who is aged less than 18.

Part 3—Application of amendments of the Family Law Act 1975

20 Application of amendments of the Family Law Act 1975
For the purposes of an amendment made by this Schedule that refers to the Family Law Act 1975:
(a) the amendments of that Act made by items 5 and 21 of Schedule 1, and Schedule 3A, to the Family Law Amendment (De Facto Financial
The TEMPORARY CHAIRMAN (Senator Parry)—The question is that government amendment (6) on sheet QH400 be agreed to. Senator Hanson-Young, I understand that you have amendments to amendment (6), being Australian Greens amendments (4) and (5).

Senator HANSON-YOUNG (South Australia) (6.04 pm)—I move:

(4) After proposed item 13, insert:

13A At the end of Part 4 Add:

36A Information on discrimination (private superannuation funds)

(1) A private sector fund must, within 60 days of the commencement of Schedule 4 of the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008, provide to APRA a report containing the following information:

(a) whether the trust deed by which the entity is constituted recognises members of the opposite sex as a couple (however defined); and
(b) whether the trust deed by which the entity is constituted recognises members of the same sex as a couple (however defined); and

c) any differences in the way the trust deed recognises as a couple (however defined) members of the opposite sex, as compared with members of the same sex.

(2) APRA must place a copy of any report made under this section on the Internet with public access through APRA’s home page.

(3) If there is any material change to the information published by an entity under this Division, the entity must provide an up-to-date report within 7 days.

This amendment relates to how the current bill only mandates that same-sex couples are given the same entitlements in public Commonwealth superannuation funds. This is something that has been raised numerous times throughout the committee process. The Greens have been quite upfront about our concern that, despite the fact that almost 90 per cent of Australians have their superannuation tied up in private or commercial superannuation funds, this bill does not mandate that those funds adopt the new definition of a de facto relationship and thereby recognise the rights and entitlements of same-sex couples as equal to those of opposite-sex couples. Amendment (4) asks the private sector funds to, within 60 days of the commencement of schedule 4, provide a report as to whether they will adopt the new definition of de facto relationship, which would involve giving the same entitlements to same-sex couples as to opposite-sex couples. It is simply about allowing individuals and punters the information so they can vote with their feet.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.06 pm)—The government is not support-

Section 36A(1) as proposed by the amendment requires private sector funds to report within 60 days of the commencement of schedule 4. As parts 1 to 3 of the bill generally commence on 1 July 2008, particularly in the light of the amendment that Senator Hanson-Young supports, 60 days would take us to 29 August 2008, which is clearly not possible.

Section 36A(1) refers to an entity constituted by a trust deed. It is certainly possible that some funds may not be constituted by a trust deed but by governing rules; therefore the sections would not apply to them.

Section 36A(1) refers to recognising members, whether opposite-sex or same-sex, as a couple. Funds do not generally recognise couples; they provide benefits to individual members or, in the event of a member’s death, to the member’s dependants or to the member’s legal personal representative. So our advice is that funds would have difficulty complying with the proposed amendment as currently drafted.
What funds may also do is limit the dependants to whom death benefits, and in particular reversionary benefits, are paid. Dependants are defined in the SI(S) Act and will now include same-sex spouses. Whilst most funds will probably recognise the definition of spouse in the SI(S) Act, they may still restrict the payment of a reversionary pension to an opposite-sex spouse.

Section 36A(2) as proposed by the Greens amendment requires APRA to place all reports on its website. As there are currently approximately 400,000—I understand 388—thousand—self-managed superannuation funds, this would cause significant logistical problems for APRA. Further, while section 36A imposes obligations on both funds and on APRA, there are no sanctions for not meeting these obligations.

Senator HANSON-YOUNG (South Australia) (6.09 pm)—Given the government’s opposition to this amendment—and I take the minister’s comments on board—will the minister declare in the chamber for the public record that this bill does not guarantee rights to all same-sex couples in Australia?

Senator WONG (South Australia—Minister for Climate Change and Water) (6.11 pm)—Senator Hanson-Young, obviously there are discretions of the trustees in the context of superannuation laws which are retained, whether in relation to opposite-sex or same-sex couples. But I think all of us understand the political game that is being played here. I want to be very clear. This government went to the election with a very clear election commitment to give same-sex couples the same rights as de facto heterosexual couples. That is the intention of this legislation. It is the first time in history the Commonwealth government has been prepared to do so. We are amending 68 pieces of legislation under the general law reform bill, and a range of other acts under this bill, in order to provide same-sex couples with the same rights—equal rights—as those which are provided for heterosexual de facto couples.

Senator HANSON-YOUNG (South Australia) (6.12 pm)—I thank the minister for her response. I want to make it very clear that, unfortunately, because we are not able to mandate private commercial funds to adopt these definitions—I would like to think that most of them will, but we cannot mandate them—and the government and the opposition are now not supporting an amendment to allow people to know, publicly, on the record, which funds do support that definition and which do not, we need to be very careful about how we report the entitlements being handed over today to same-sex couples. I think that this suite of bills is long overdue, and I welcome it. What I would like to have been able to do today is say that all same-sex couples in Australia, regardless of whether they work in the public or private sector, were guaranteed these enti-
lements. Unfortunately, we are not able to do that.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.13 pm)—I just make the point that heterosexual de facto couples would not be subject to the same guarantee that you are seeking now. So a minister could not give the same guarantee, as I am advised, in relation to heterosexual de facto couples. I reiterate that the approach we are taking is to seek to ensure that gay and lesbian couples receive the same rights as heterosexual de facto couples in this as in other legislation.

The TEMPORARY CHAIRMAN (Senator Parry)—The question is that Australian Greens amendment (4) on sheet 5615 amending government amendment (6) be agreed to.

Question put. The committee divided. [6.18 pm]

(The Chairman—Senator the Hon. AB Ferguson)

Ayes…………… 5
Noes…………… 34
Majority……… 29

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

NOES
Adams, J. * Arbib, M.V.
Bilyk, C.L. Boyce, S.
Brandis, G.H. Brown, C.L.
Cameron, D.N. Colbeck, R.
Collins, J. Crossin, P.M.
Farrell, D.E. Feeney, D.
Ferguson, A.B. Fielding, S.
Fifield, M.P. Furner, M.L.
Johnston, D. Joyce, B.
Marshall, G. Mason, B.J.
McEwen, A. Moore, C.
Parry, S. Payne, M.A.
Polley, H. Pratt, L.C.
Ronaldson, M. Ryan, S.M.
Scullion, N.G. Stephens, U.
Troeth, J.M. Trood, R.B.
Wong, P. Wortley, D.

* denotes teller

Question negatived.

Senator HANSON-YOUNG (South Australia) (6.22 pm)—I move Australian Greens amendment (5) on sheet 5615:

(5) After proposed item 13, insert:

13B After section 40 Insert:

40A Complying funds must not discriminate in couple definitions

Despite any other provision in this Part, a private sector fund is not a complying fund unless, within 60 days of the commencement of Schedule 4 of the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008:

(a) the trust deed by which the entity is constituted adopts the definition of spouse contained in this Act; or

(b) to the extent that the trust deed by which the entity is constituted recognises members of the opposite sex as a couple (however defined), the deed also recognises members of the same sex as a couple.

Amendment (5) deals with the same issue that we have just spoken about, which is the fact that there is no guarantee under this bill for same-sex couples to have the same entitlements recognised by private superannuation funds, and this amendment is proposing to define whether a fund is complying based on whether it adopts the definition itself or refers directly to the government’s own act, which, of course, includes the definition because we have just agreed to that.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.22 pm)—For similar reasons to those which I outlined in relation to section 36A, I
indicate that the government is not supporting amendment (5). I have a couple of points about it. There is the retrospection issue, which applied in relation to the previous amendment, that I raised with the Senate. I would also make the point that the proposal to make a fund non-complying, particularly given the 60 days of commencement, given that the amendment that the Greens and the opposition supported has actually passed, is an extremely harsh penalty. Senator Hanson-Young may be aware that when a fund is made non-complying all of its assets plus the income for the current year are taxed at the top marginal rate, which is currently 45 per cent. I also indicate that part 5 of the SI(S) Act sets out relevant provisions in relation to noncompliance. Broadly, a fund must knowingly breach a specified provision in the SI(S) Act, and there is a culpability test which the fund must fail. I have also been advised that the practical effect of making a fund non-complying could be that the relevant fund would become insolvent, which is obviously a significant negative policy consequence. I am happy to provide more information to Senator Hanson-Young, if she wishes, about the government’s position, but I indicate that we are opposing this amendment.

Senator HANSON-YOUNG (South Australia) (6.24 pm)—Thank you, Minister, for the response. I think it is unfortunate that, despite how important this legislation is in ensuring that we go some way to ensuring that same-sex couples are given the same entitlements as opposite-sex couples in de facto relationships, we cannot guarantee this for people who have their superannuation tied up in private funds. I remind the Senate that that is almost 90 per cent of the Australian population.

Senator BRANDIS (Queensland) (6.25 pm)—I indicate to the Senate that the opposition will be opposing this amendment.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Parry)—The question is that government amendment (6) on sheet QH400 be agreed to.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.26 pm)—I move government amendment (7) on sheet QH400:

Schedule 5, page 31 (line 2) to page 32 (line 16), omit the Schedule, substitute:

Schedule 5—Prime Minister and Cabinet amendments

Governor-General Act 1974

1 Subsection 2A(2)
   Insert:
   marital or couple relationship has the meaning given by section 2B.

2 Subsection 2A(2)
   Insert:
   spouse has a meaning affected by section 2C.

3 Subsection 2B(2)
   After “marital”, insert “or couple”.
   Note: The heading to section 2B is replaced by the heading “Marital or couple relationship”.

4 Subsections 2B(2) and (3)
   After “husband or wife” (wherever occurring), insert “or partner”.

5 After paragraph 2B(4)(b)
   Insert:
   (ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section;

6 At the end of paragraph 2B(4)(c)
   Add:
or (iii) a child of both of the persons
within the meaning of the Family
Law Act 1975;

7 At the end of section 2B
Add:

(6) For the purposes of this section, a per-
son is the partner of another person if
the two persons have a relationship as a
couple (whether the persons are the
same sex or different sexes).

8 Section 2C
After “marital” (wherever occurring),
insert “or couple”.

9 Application of amendments of the
Governor-General Act 1974
The amendments of the Governor-
General Act 1974 made by this
Schedule apply in relation to a person
who is appointed as Governor-General
on or after the commencement of this
Schedule.

Government amendment (7) on sheet QH400
omits the previous schedule 5 to the bill and
replaces it with a new schedule 5. I will go
through the various specific amendments in
that context. Items 1, 3 and 8 of schedule 5
will refer to a ‘marital or couple relationship’
rather than ‘couple relationship’. Item 4 will
adopt the term ‘husband or wife or partner’.
Item 5 will refer to regulations made under
the Acts Interpretation Act rather than the
Judges’ Pensions Act and items 6 and 7 will
refer to a child within the meaning of the
Family Law Act rather than a ‘product of a
relationship’ definition of a child. I commend
this amendment to the Senate.

Senator BRANDIS (Queensland) (6.27
pm)—The opposition supports these
amendments. Once again these are amend-
ments inspired by the recommendations
of the Liberal senators on the inquiry by the
Senate Standing Committee on Legal and
Constitutional Affairs into the bill. They pro-
tect, by recognition, explicitly the status of
marriage and they abandon the clinical de-
scription of children as products of a rela-
tionship. But for the work of those Liberal
senators, these amendments would not be
being moved this evening, which indicates,
as I said earlier, the significance and benefit
of the process of committee hearings on
which the Senate resolves.

Senator HANSON-YOUNG (South Aus-
tralia) (6.27 pm)—I indicate the Australian
Greens support for this government amend-
ment.

Question agreed to.

The TEMPORARY CHAIRMAN
(Senator Parry)—Senator Hanson-Young, I
assume now that you will not be moving the
Australian Greens amendment.

Senator Hanson-Young—I withdraw that
amendment.

The TEMPORARY CHAIRMAN—
That is 3A to 3J.

Bill, as amended, agreed to, subject to re-
quests.

Bill reported with amendments and re-
quests; report adopted.

SAME-SEX RELATIONSHIPS (EQUAL
TREATMENT IN COMMONWEALTH
LAWS—GENERAL LAW REFORM)
BILL 2008

Consideration resumed.

In Committee

Bill—by leave—taken as a whole.

Senator WONG (South Australia—
Minister for Climate Change and Water)
(6.30 pm)—I table a supplementary explana-
tory memorandum relating to government
amendments and requests for amendments to
be moved to this bill. This memorandum was
circulated in the chamber on 11 November
2008.

Senator HANSON-YOUNG (South Aus-
tralia) (6.30 pm)—The first amendments that
the Australian Greens had to this bill,
amendments (1) and (2) on sheet 5634, reflected the second amendment that we moved in the superannuation entitlements bill. Given the fact that that did not get support, I will withdraw these amendments. But I would like to point out that I think it is disappointing that, despite various parts of this legislation referring to registered relationships, we are not prepared to put that into a definition of couple relationships and therefore give same-sex couples who have entered into and committed to a registered relationship the respect and significance due to the fact that this relationship is simply one that is only a de facto relationship but they have committed to something more than that, and that is registering their relationship. I am disappointed that this amendment was not supported in the superannuation bill and I am disappointed that I am withdrawing it now because it will not get support.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.31 pm)—The government opposes schedule 2 in the following terms:

(7) Schedule 2, Part 1, page 8 (line 3) to page 9 (line 36), to be opposed.

I understand it would be expeditious if I also move government amendment (1) on sheet QH401 amending item 3:

(1) Clause 2, page 2 (table item 3), omit the table item.

The TEMPORARY CHAIRMAN (Senator Parry)—The first question is that part 1 of schedule 2 stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN—The other question is that government amendment (1) on sheet QH401 be agreed to.

Question agreed to.

Senator HANSON-YOUNG (South Australia) (6.33 pm)—by leave—I move Greens amendments (3) to (6) on sheet 5634:

(3) Schedule 2, page 24 (before line 20), before item 76, insert:

75A Title
After ‘marital’, insert ‘or couple’.

75B Preamble
After ‘marital’ (twice occurring), insert ‘or couple’.

75C Subsection 3(b)
After ‘marital’, insert ‘or couple’.

75D Subsection 4(1) (definition of de facto spouse)
Repeal the definition.

75E Subsection 4(1) (definition of marital status)
Repeal the definition, substitute:
marital or couple status means the status or condition of being:
(a) single; or
(b) married; or
(c) married but living separately and apart from one’s spouse; or
(d) divorced; or
(e) widowed; or
(f) in a registered relationship, in accordance with section 22B of the Acts Interpretation Act 1901; or
(g) in a de facto relationship, in accordance with section 22C of the Acts Interpretation Act 1901.

75F Subsection 4(1) (definition of near relative)
Omit paragraph (b), substitute:

(b) the spouse of the first-mentioned person or of a person referred to in paragraph (a); or

c) a person who is a partner of the first-mentioned person or of a person referred to in paragraph (a):

(i) in a registered relationship, in accordance with section 22B of the Acts Interpretation Act 1901, or
(ii) in a de facto relationship, in accordance with section 22C of the Acts Interpretation Act 1901.

(4) Schedule 2, page 25 (after line 25), after item 81, insert:

**81A Section 6**
After “marital” (wherever occurring), insert “or couple”.

Note: The heading to section 6 is altered by omitting “marital status” and substituting “marital or couple status”.

**81B Paragraph 7D(b)**
After “marital”, insert “or couple”.

(5) Schedule 2, page 26 (after line 20), after item 83, insert:

**83A Subsection 11(2)**
After “marital”, insert “or couple”.

(6) Schedule 2, page 27 (after line 27), after item 84, insert:

**84A Sections 14 to 27, 35, 38, 39, 41A, 41B, 42 and 48**
After “marital” (wherever occurring), insert “or couple”.

These amendments relate to amending the definitions of a couple relationship in the Sex Discrimination Act, ensuring that when we talk about relationships we ensure that 'or couple' is inserted so that we encapsulate that this particular act will look after both same-sex and opposite-sex couples. It would read ‘marital or couple’, and obviously couple relates to same-sex or opposite-sex couples.

Question negatived.

**Senator HANSON-YOUNG** (South Australia) (6.35 pm)—I move Australian Greens amendment (1) on sheet 5614:

(1) Schedule 2, page 21 (after line 16), after item 60, insert:

**Marriage Act 1961**

**60A Section 5 (definition of marriage)**

Omit “a man and a woman”, substitute “two persons, regardless of their sexuality or gender identity”.

**60B Subsection 47(1)**
Omit “a man and a woman”, substitute “two persons, regardless of their sexuality or gender identity”.

This amendment deals with amending the Marriage Act to ensure that in this particular bill, which is the general law reform bill, we enable same-sex couples and opposite-sex couples to have the same rights and entitlements as each other. There is one glaring omission from this particular bill, and that is the Marriage Act. I have flagged this numerous times. The Greens have been talking about the need for gay marriage law reform for a long time and this is the appropriate place to do this.

I have also called, as has the Australian Greens leader, Senator Bob Brown, for all sides of politics to allow for a conscience vote on this issue. It is an important issue for us to discuss. It is an important issue for us to have a decision on. When we look at the dialogue, the debate, the discussion among the Australian public, this is something that I believe people are prepared to continue talking about and would like some leadership from their parliamentarians on. There have been several polls over the last couple of years that talk about there being enormous support from the Australian public to allow gay marriage. What we are simply saying here is that if we are going to pass a suite of legislation that takes discrimination out of federal law, we have to be talking about removing discrimination in the Marriage Act as well.

**Senator BRANDIS** (Queensland) (6.37 pm)—I have said this before but now I think is the point in the debate to say it again and emphatically: the opposition utterly oppose this proposition and we utterly oppose the logic that underlies it. It is not discrimination
against gay couples or gay people to say that marriage is an institution between a man and a woman. There has never been a culture in the whole of human history that has recognised a gay relationship as a form of marriage, until very recently when there have been changes to the law in some states of North America and some European countries. To say that an institution sanctified by centuries—indeed, millennia—of custom and practice is an institution between a man and a woman is not to say that people whose sexual orientation is other than heterosexual are being discriminated against; it is merely to describe an institution for what it is.

Senator Hanson-Young, the opposition accept the government’s good faith in this and the opposition have striven to reach a position where we have bipartisanship on the principle underlying this legislation. That principle, as was stated by the minister before, is the principal of nondiscrimination against people in homosexual relationships which resemble de facto heterosexual relationships. The way in which that has been approached has been to equate, for all practical purposes and in relation to all of the consequences, a relationship between a gay couple and a relationship between an unmarried or de facto heterosexual couple. That is the relevant equivalence. That is where we establish equality of treatment. It is not a denial of equality of treatment to say that marriage, historically a religious custom as well as a civil status, is an institution which exists between a man and a woman. The opposition utterly reject the suggestion that the position we take is a discriminatory position. We utterly reject that it is socially desirable or useful to alter in a fundamental way the character and status of marriage, which is why the previous Howard government amended the Marriage Act with the support of the then opposition, if my memory serves me correctly. That is why to intrude this issue into this legislation is really to be diverted from the non-discriminatory intent or purport of the legislation itself.

Senator HANSON-YOUNG (South Australia) (6.37 pm)—The Greens commend the government for staying true to its election promise to remove same-sex discrimination from Commonwealth law. But we believe that if we do not amend the Marriage Act to remove discrimination against same-sex couples then we will continue to see same-sex couples—who are engaged in a loving and committed relationship, voluntarily entered into for life—denied basic rights offered to married heterosexual couples. This is a discussion about whether we honestly, truly and wholly want to give same-sex couples the same entitlements and the same rights as heterosexual couples. The Australian Greens believe that discrimination such as that espoused by the Marriage Amendment Act must be overturned because freedom of sexuality and gender identity are fundamental human rights. The acceptance and celebration of diversity are essential for genuine social justice and equality. I would like all parties in the chamber to take on board the differing opinions in each of their ranks on this issue and grant senators the opportunity to vote with their conscience and vote with their feet.

Senator BRANDIS (Queensland) (6.42 pm)—Could I invite Senator Hanson-Young to tell the Senate what rights homosexual people are being denied? The whole purpose of this legislation is to cover the field to remove every area in which they are discriminated against, unless you have in mind, Senator Hanson-Young, the right to marry itself. But if that is all you are saying, your argument is completely circular.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (6.42 pm)—The one thing I can say about Senator Hanson-
Young’s amendment is that it finally bells the cat on where the issue will ultimately end up—that is, the diminution of marriage and the movement of marriage to something that explicitly says nothing at all. When marriage becomes something that means nothing then it starts to assert itself on the whole structure and formulation of society. You can believe that you live in a society without rules and without process. You can believe that marriage is a completely amorphous concept that can be in any form or substance that you wish. You can believe that the primary drivers in your life are your own personal desires, that nothing in your life needs to be subjugated by a greater principle so that the rights of children who come into a relationship are protected. The whole point about marriage is that it is not about you; it is about the children and it is about that which follows after you. It is about putting behind you what you might deem to be your greatest wishes and realise that your wishes are actually secondary, and that in life there have to be certain disciplines. Although you might have a personal desire to go beyond that to encompass everything you wish, you take society to a lower level not a better level in doing so.

There is a concern that, as things by degrees and by incursion come in as to the definition of marriage so that it is encroached upon piece by piece, in the end we move to a position where marriage fails to mean very much at all and in the end it is just a word that lacks any meaning. As to this amendment by Senator Hanson-Young, at least I give credence to her being sincere but I believe that this is the path that we are moving down by degree with some of the legislation that has gone through to date.

Obviously, I fervently disagree with Senator Hanson-Young’s amendment. I would like to explicitly state that I know members both within the National Party and within the Liberal Party see this as a titanic issue. If this battle—and it will indeed be a battle—is not joined and if our position in the Senate is not maintained, then we will do our nation a huge disservice as we move the nation to being one of an amorphous, nebulous type of society which has no form or structure. It might be one that explicitly allows us every one of our own personal desires but does not reflect the fact that the nature of life is more than all that. It is a discipline to a wider cause and the wider cause brings protection to the greater number of people who live within it. So given that process, I firmly stand against this. As I said, and I say this as representing the views of others, just because we do not vote against these things you must not take that for one moment as recognition that we are voting for them.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.46 pm)—I indicate that the government will not be supporting the Australian Greens amendment moved by Senator Hanson-Young, consistent with the position that the Labor Party have indicated quite clearly for many years in the context of this debate. We made very clear prior to the election our election commitment to removing discrimination against same-sex couples. We will deliver on that if the passage of the legislation can be assured, and certainly we have put legislation before the parliament to deliver on that election commitment. We have also said consistently, when this issue has been debated on a number of occasions in this parliament, that we regard marriage as a union between a man and a woman. We support the definition of marriage that exists within the Marriage Act.

In relation to the points made by Senator Joyce, if I might perhaps respond very briefly, this is not an issue about personal desires or discipline, Senator Joyce; this is an issue about the removal of discrimination
from a particular category of relationships in Australia. We on this side of the chamber—the government—do not believe that the removal of discrimination against same-sex couples undermines marriage. We do believe that it is time that this nation stopped treating people differently under Commonwealth laws or programs as a result of the nature of their relationship or the sex of their partner. We have previously made our view clear, and we continue to make it clear, of marriage as being a union between a man and a woman. We do not see, nor do we believe, that removal of discrimination against same-sex couples undermines marriage in any way. Hopefully the chamber can proceed with this amendment prior to moving on to consideration of government documents.

The CHAIRMAN—The question is that Australian Greens amendment (1) on sheet 5614 be agreed to.

The committee divided. [6.53 pm]
(The Chairman—Senator the Hon. AB Ferguson)

Ayes............. 5
Noes............  30
Majority........ 25

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

NOES
Adams, J. *  Arbib, M.V.
Bilyk, C.L.   Brandis, G.H.
Brown, C.L.   Cameron, D.N.
Colbeck, R.   Collins, J.
Crossin, P.M.  Farrell, D.E.
Feeley, D.    Ferguson, A.B.
Fielding, S.  Flanagan, M.L.
Hogg, J.J.    Hurley, A.
Hutcheson, S.P.  Joyce, B.
Marshall, G.  McEwen, A.
McLucas, J.E.  Moore, C.
Parry, S.     Polley, H.
Pratt, L.C.    Scullion, N.G.
Stephens, U.  Williams, J.R.
Wong, P. *   Wortley, D.

* denotes teller

Question negatived.

Progress reported.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Parry)—Order! It being 6.55 pm, the Senate will proceed to the consideration of government documents.

Consideration

The following government documents were considered:


ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Parry)—Order! It being 6.57 pm, I propose the question:

That the Senate do now adjourn.
Tonight I want to talk about one of the greatest issues facing our nation—the ongoing drought and the resulting critical water shortage in some parts of Australia. In particular, I want to talk about the dire situation of our greatest river system, the Murray-Darling Basin.

It may seem unusual that as a senator from Melbourne I would want to speak on an issue which is mostly affecting people in regional areas and mostly affecting the environment outside of metropolitan Melbourne. But I am speaking on this issue because it affects the vital interests of my state. The Murray River forms the northern border of Victoria, and the communities of northern Victoria depend very heavily on the Murray River and its tributaries for drinking water and for the irrigation water that supports the agricultural industries of that area. These communities and industries are vital for the Victorian economy, and their future is a matter of concern for all Victorians.

Under the very able leadership of the Minister for Climate Change and Water, Senator Wong, the Rudd government is now moving to tackle the issue of climate change, after years of neglect by the Howard government. But of course the states also have a vital role to play in meeting the challenge of prolonged drought. New South Wales, Victoria, Queensland and South Australia all share a degree of responsibility for the future health of the Murray-Darling Basin.

I was born in Adelaide, I went to school in Adelaide and I have a great affection for South Australia. As I think senators know, I recently had the privilege of serving as campaign director for the Premier of South Australia, my good friend Mike Rann. Hence no-one can accuse me of having an anti-South-Australian agenda. But it is a fact that some South Australians, including Senator Xenophon in this place, have quite unfairly criticised Victoria’s record in reforming its water use policies. They have accused Victoria of not pulling its weight in the battle to save the Murray-Darling Basin. Indeed, they have accused Victoria of putting South Australia at a disadvantage in relation to water. These allegations have no basis in fact. Victoria, under the leadership of Steve Bracks and John Brumby, has been a leader in trying to solve the problems besetting the Murray.

It is true that South Australia, as the state at the end of the Murray-Darling river system, has big problems with its water supply and environment. At the moment we have a crisis in trying to save the Lower Lakes of South Australia. Their water levels are at record lows. But it is quite wrong to blame these problems on Victoria. Australia’s water problems, let us remember, are ultimately caused by the drought, although they have been exacerbated by the inaction of the Howard government, which refused to accept climate change as a reality. There is a lot that governments should be doing to respond to this crisis, and the Victorian government has been doing its part in the nation’s response.

For a start, governments should be reducing urban water consumption. Here Victoria has done an outstanding job. Melbourne now has the lowest annual per capita water consumption rate of any of the state capitals. Adelaide has the second highest, after Brisbane. Since 2001, Melbourne has cut its per capita annual water consumption from 134.7 gigalitres to 110.3 gigalitres, or 81.9 per cent of the 2001 figure. In the same period, Adelaide has cut its per capita annual water consumption from 163.7 gigalitres to 145.6 gigalitres, or 88.9 per cent of the 2001 figure. These figures mean that not only does Melbourne use less water per capita than Ade-
laide but it is reducing its consumption more quickly than Adelaide.

Secondly, governments can modernise their irrigation systems, because irrigated farming is much the biggest user of water from the Murray. Victoria uses 2,100 gigalitres of water every year for irrigation. Indeed, irrigated agriculture accounts for 65 per cent of water use in Australia. Victoria has begun a $2 billion program, the Northern Victoria Irrigation Renewal Project, NVIRP, formerly known as the Food Bowl Modernisation Project, to modernise and upgrade Victoria’s irrigation infrastructure, most of which is a century old. The project will save 425 gigalitres of water per year.

This project is in addition to Victoria’s plans to spend $3.1 billion building a desalination plant. That is a very significant investment, but the plant will pay for itself by supplying up to 150 gigalitres of water per year to Melbourne, Geelong and, via other connections, South Gippsland and the Western Port towns. It will provide a third of Melbourne’s annual water supply from a source that is independent of rainfall.

I should also mention the Victorian government’s $700 million Wimmera-Mallee pipeline project, which involves the construction of some 9,000 kilometres of covered pipeline to replace the existing, highly inefficient open channels. This project will supply stock and domestic water to approximately 6,000 rural customers and 36 towns across a region that covers 10 per cent of the total land area of Victoria, from the Grampians to the Murray.

The Liberal-National opposition in Victoria has accused John Brumby of planning to take water out of the Murray system and send it to Melbourne via the Sugarloaf Pipeline, the so-called ‘north-south pipeline’. This is a serious misrepresentation. The pipeline will use only water saved through the NVIRP, and only one-third of it. The remaining two-thirds will be returned to the irrigators or to the river system. The federal Minister for the Environment, Heritage and the Arts, Peter Garrett, has approved the pipeline only on the condition that it takes no water directly from the Murray.

The NVIRP, the desal plant and the Sugarloaf Pipeline together will achieve three vital objectives. They will secure Melbourne’s water supplies, they will secure the future of Victoria’s irrigated farming industry and they will return 140 gigalitres of water per year to the Murray system.

Senator Xenophon should indeed be very careful in setting about creating an alliance with the Liberal and National parties in Victoria to attack the Brumby government because, if the Liberals and Nationals were in power in Victoria, even less water would be reaching South Australia. The parochial politicians of the Victorian opposition have opposed all the government’s modernisation projects, just as they have opposed all the transformational projects of the Victorian government since 1999.

Saving the lower Murray requires leadership at the national level, which is why the Rudd government is spending $9 billion over the next decade on irrigation modernisation projects. But it also requires policy leadership in the states. To save the Lower Lakes, between 1,000 and 1,200 gigalitres of water is needed right now, and there simply is not that much water currently in the system. I note that 30 per cent of all the water taken out of the Murray-Darling system, some 2,300 gigalitres per year, is taken by New South Wales to grow rice and cotton in the Riverina. That water alone would be more than enough to save the Lower Lakes. In normal times New South Wales takes 4,500 gigalitres out of the system every year—more than twice as much as Victoria.
Of course, water saved in South Australia is more valuable than water saved in Victoria or New South Wales because less of it is lost through evaporation and more of it reaches the lower Murray. Bringing water from the northern part of the system is not feasible because 70 to 80 per cent of that water is lost through evaporation. If South Australia were to make the same commitment that Victoria has made to saving water from both irrigation and urban consumption, that water would flow directly into the Lower Lakes. But I must acknowledge that South Australia is working very hard to make an important contribution in these areas. In July, Premier Mike Rann announced a $100 million project to modernise South Australia’s irrigation systems.

Senator Wong has quite rightly said that there are no easy solutions to Australia’s water problems. We are paying the price not only for the world’s failure to prevent climate change but also for many decades of overuse of the water resources of the Murray-Darling Basin by past governments. Dealing with this crisis requires action by state and federal governments, which must work together intelligently and cooperatively. The federal government knows that, and the Victorian and South Australian state governments also know that. Only a handful of sceptics and obstructionists in the coalition parties seem not to know it and to continue to peddle falsifications and misrepresentations of what is transpiring in the system. It is silly for senators to play cheap, parochial politics on this issue, pitting one state against another, when what is needed is effective cooperation between all the states and the federal government. That is what the Rudd government is doing and that is what the Brumby government in Victoria is doing.

**Inpex Browse Basin Gas Project**

**Senator CASH** (Western Australia) (7.06 pm)—My comments today relate to how an incompetent former state Labor government in Western Australia managed to effectively destroy an LNG export project that would have brought massive economic and social benefits to the people of Western Australia. I refer to what is known as the Inpex Browse Basin gas project—what was to be the development of an offshore gas recovery facility and an onshore gas-processing facility in the north-west of Western Australia. The project had an estimated construction value of about $23 billion, an economic life of 40 years and would have generated significant royalties to the Western Australian community and the wider Australian community over the life of the project.

Inpex’s Ichthys gas and condensate field comprises an estimated volume of 12.8 trillion cubic feet of natural gas and more than 500 million barrels of condensate and represents one of the biggest gas and condensate discoveries in waters off the Western Australian coast. Inpex was keen to develop its Ichthys gas and condensate reserves and indicated to the then Labor government that it had to deliver its first shipment of LNG product by 2012. To achieve this it was necessary to begin the construction phase in early 2009.

In early 2007 the then WA Labor Minister for the Environment issued permits to Inpex for the clearing of vegetation and various
other works on the Maret Islands. Notwithstanding the permission granted for Inpex to conduct investigation studies on the Maret Islands, a number of organisations worked to effectively frustrate the project. For instance, the Conservation Council of Western Australia, which opposed the project, demanded, in a media statement dated 6 February 2007, that the Minister for the Environment, Heritage and the Arts, Peter Garrett:

… use his powers to get INPEX and Total off the Maret Islands now, and … to engage in the new hub process.

And in a media statement dated 26 April 2007, the Kimberley Land Council stated it had:

… lodged an appeal with the Minister for the Environment in relation to a permit issued to gas development proponent Inpex to clear native vegetation on Maret Island.

Notwithstanding that the then WA Labor government was aware of the time lines that Inpex had to meet, in June 2007 the then Minister for State Development, Eric Ripper, was sufficiently panicked by the vociferous opponents of the project that he created a body known as the Northern Development Taskforce. This body was established to coordinate the issues relating to the selection and development of a suitable gas hub location, or locations, for the processing of the Browse Basin gas reserves.

I should indicate that I strongly believe there is a legitimate public interest in ensuring that proper consideration is given to balancing the economic development, wilderness, environmental, tourism and heritage values of the area, and these issues formed part of the terms of reference for the task force. However, the wider interests of the state, and indeed the people of Australia, should not be abrogated in favour of a vocal minority. Further, the public interest demands that there be both transparency and public accountability for the actions of those involved in the negotiation process.

As usual, the Labor media spin surrounding the task force creation, and its role, was premeditated and aimed at taking the pressure off the Labor government. It was designed, in part, to placate and appease the opponents of the Inpex project. Minister Ripper was keen to trumpet the terms of reference for the task force but failed to tell the people of Western Australia the special role he had planned for the Kimberley Land Council, including giving them a right of veto over the project. In particular, he failed to tell the people of my state that the then WA government intended to pay the Kimberley Land Council more than $7 million for their involvement and advice on a potential site for the project.

Given the publicly stated negative attitude and comments of the KLC in respect of this project, why then would Minister Ripper give the KLC a right of veto over the site chosen by the company to process one of the biggest gas discoveries off the WA coast? Why did the former Labor government of Western Australia abrogate its decision-making power to a publicly identified opponent of this huge gas project? Was this right of veto designed as a form of appeasement to the KLC, or was it intended to strengthen the KLC’s hand on the question of compensation from a perceived affluent and successful international oil and gas conglomerate?

Nobody, not even an incompetent state Labor government, could deny that the KLC had previously announced publicly to the world that they were vehemently opposed to the project being located on the Maret Islands, and they were unquestionably biased in their approach to finding a suitable processing site, despite the proper and legitimate interest in the project of the public at large. Given the KLC’s admitted actual bias, the
people of Western Australia are entitled to ask why the state Labor government acted in such an underhand manner to ensure there was no semblance of equity or natural justice when it came to the KLC deciding the fate of the Inpex proposal as it related to my home state of Western Australia.

The real reason that Inpex was forced to move the site of its gas-processing plant from WA to Darwin was that both the WA Labor government and the KLC had a hidden agenda. That hidden agenda was all about pushing Inpex into a corner so that they would have to pay massive compensation, either in the form of direct monetary compensation or by giving the KLC an ongoing interest in the project, in return for the sanction by the KLC for Inpex to operate in the Kimberley. No wonder Inpex fled to the Northern Territory.

To indicate the purpose and intent of the KLC in their alleged negotiations for suitable gas hub sites in the vast Kimberley region, I refer to an article published in the Age newspaper on 10 September 2008, and the reported comments of the KLC executive director, Wayne Bergmann. The article states:

Kimberley Land Council executive director Wayne Bergmann said the indigenous people were seeking “multi billions” in compensation and a community development package.

And further on Mr Bergmann said:

A successful negotiation would mean “more than a one-off compensation deal. It will mean ongoing economic benefits and continuing control by traditional owners of how development will proceed.”

As senators would be aware, as a consequence of the incompetence of the WA Labor government and the extortionate demands of the KLC, Inpex abandoned its proposed use of the Maret Islands for Blaydin Point, Middle Arm, Darwin. The distance from the Ichthys gas field to the Maret Islands is only 200 kilometres, and the cost of a subsea pipeline is estimated at $200 million. The Blaydin Point processing plant will require an 850-kilometre subsea pipeline to be constructed, at a cost of $850 million, to deliver the same gas to Darwin. But those are the lengths Inpex is prepared to go to in order to get its project off the ground. The significant royalties and enormous economic and social benefits to Western Australia over the life of the project are now lost to Western Australia because of the incompetence of the former state Labor government.

Because of the loss of this project to Western Australia, it is clearly in the public interest and in the interest of accountability that the current state government publicly review the decisions made by the previous Labor government in respect of this project. Such a review could ensure that the greed of a few is not in future allowed to jeopardise the benefits that should have flowed to the wider Western Australian community. I hope that such a review will also provide an opportunity for Inpex to reconsider locating its onshore gas processing facilities back to the Kimberley region.

I am a strong supporter of the Inpex Browse gas processing plant being located in Western Australia. It is a project that will bring both revenue and royalties to the Western Australian government and will benefit the people of my state. However, any agreement by the Commonwealth to allow gas located off the Western Australian coast to be transported 850 kilometres to the Northern Territory for processing may set an undesirable precedent for future gas discoveries off the Western Australia coastline. Such a decision could have major economic and employment ramifications for my state.

I encourage and urge the current Western Australian Liberal government to work towards overcoming the disastrous bungling
and mismanagement of the Inpex project by the former state Labor government and to seek to convince Inpex of the benefits of locating their onshore facilities at a suitable site in the Kimberley region of Western Australia.

Tasmania: Multiculturalism

Senator CAROL BROWN (Tasmania) (7.16 pm)—For most, mention of my home state of Tasmania invokes a sense of rolling hills, a rugged coastline and pristine water. Indeed, Tasmania is renowned most for its landscape, its beautiful physical features and its wonderful produce. However, our island also harbours another wonderful yet less acclaimed asset—its people. There are many social benefits to be gained from living and working in such a diverse and welcoming place. One such benefit is the way in which it invites and encourages multiplicity. Indeed, Tasmania is a truly multicultural society. One only has to venture down to one of Tasmania’s premier tourist attractions, Salamanca Market, on a crisp Saturday morning to experience firsthand the alluring cultural diversity that has come to define our island state. Indeed, the sights, the sounds and the smells that create the atmosphere for which Salamanca Market is most famous are, in fact, a wonderful representation of what can be achieved by the harmonious amalgamation of different cultures.

I do not want to spoil the experience for those of you that have not yet been—and why haven’t you?—but, just to give you a taste, the market regularly features a vibrant mix of locally produced Asian, Middle Eastern, German and Dutch food, including the famous bratwurst sausages and, of course, the Dutch Oliebollen, to which an entire cultural festival is dedicated in the Franklin electorate each year. The market also regularly features the sounds of the Latin American band Arauna Libre—or ‘Freedom to the Arauncians’—comprising a group of Chilean refugees who fled the Pinochet regime and sought sanctuary in Tasmania. The band formed in 1987 and has performed live at the market every Saturday since.

Indeed, the experience of the Salamanca Market provides the perfect illustration of the role multiculturalism has come to play in not only enriching Tasmania’s fluid social fabric but also defining it. According to the 2006 census, there are 170 different countries represented in Tasmania, 155 of which are non-English-speaking. Further, there are about 150 languages spoken among the 80 or so different migrant groups in Tasmania. As is the case with most other states in Australia, Tasmania’s largest migrant communities originate from Italy, Greece, the UK and Germany. However, an ever-increasing number come from a more diverse range of backgrounds. A growing number of humanitarian entrants have come from the African continent, including from the Congo, Ethiopia and Sierra Leone, and have further added to the unique cultural mix in Tasmania.

Tasmania has, in the past, also provided temporary accommodation for persons displaced by war. In 1999, during the height of the Bosnian-Serbian conflict, the Tasmanian community opened its arms to 500 Kosovars that had been displaced during the conflict. The state offered them a temporary safe haven in accommodation at the Tasmanian Haven Centre at Brighton. This proved a rich and rewarding experience for the Tasmanian community, with many lifelong friendships made. The same kinds of friendships are also being established between the Tasmanian community and the warm and friendly African migrant community.

A recent success story attributable to this and the ever-growing vibrant Ethiopian migrant community in Tasmania is that of Axum Ethiopian Restaurant. The restaurant,
which opened in Liverpool Street in Hobart in May this year, was run, with the assistance of a Tasmanian business, by members of the Ethiopian community. These were mainly women, most of whom spoke little English and had limited employment options. However, their lease ran out a few months ago, which left those involved with the project in need of new premises. With the assistance of a fellow business owner, who offered to co-locate with the restaurant and assist in running it, Axum reopened just recently in a new premises right in the middle of Hobart’s CBD. Testament to the role such communities play in enriching the social fabric in Tasmania, the reopening of the restaurant has seen a number of Ethiopian refugees and migrants go from being unemployed to being CBD business managers. It has offered many other members of the vibrant community, including children, the opportunity to engage with the wider community and develop their language skills by working front of house. Axum’s story is just one of the many positive projects taking place in the state aimed at supporting refugees and migrants and fostering greater cultural diversity and understanding. It is also illustrative of the reciprocal benefits to be had by migrants and refugees themselves, as well as by the wider community in assisting in the process of relocation.

Another wonderful story of the contribution migrants have made to enriching and strengthening the Tasmanian community is that of Mr Alojzy—Alex—Dziendziel. I recently joined members of the Polish Senior Citizens Club to celebrate the International Day of Older Persons, at which I took the opportunity to present Alex with a Recognition Award in acknowledgement of his long-standing contribution to the Polish and wider Glenorchy communities. Since arriving in Australia, Alex’s commitment to the Tasmanian community has been outstanding. He is the founding member of the Polish Senior Citizens Club and has been president of the club for the past 14 years. Over a number of years he has also been actively involved in a number of other community based organisations, including the Glenorchy Cultural Diversity Advisory Committee, the Red Cross and the RSL. Alex has been contributing to his local community for over 50 years and is representative of the wonderful and lasting contribution that the migrant community make to building a stronger and socially diverse society.

The International Wall of Friendship is a Tasmanian project which celebrates this contribution. The idea for the wall was first conceived by the noted Tasmanian historian Mr Basil Rait MBE. The project, which was officially opened in 1992, is believed to be the first project of its kind in the world. The wall was conceived as a lasting memorial to reflect the bonds of friendship of the various groups of people from many nations who have made Tasmania their home and represents their contribution and commitment to the progress and wellbeing of the state. The wall features plaques donated by various multicultural groups living in Tasmania. Each plaque is inscribed with the same message in the national language of the contributing group. The wall now features over 50 plaques, some notably reflecting the distinctive historical connections with their countries of origin. For example, the material used to make the plaque from Greece came from the same quarry which supplied the stones to build the Parthenon and, most impressively, the Dutch plaque features the original bricks used to build Abel Tasman’s cottage.

I also recently had the great pleasure of attending the 10th annual Filipino Community Council of Australia national conference, which was held in Hobart, along with the member for Denison, Mr Duncan Kerr, and Senator Catryna Bilyk. The theme of the
10th Filipino National Conference was building capacity, connections and community strength, and I was indeed encouraged by the determination and effort of those represented at the conference in contributing to the future prosperity of Filipinos in Australia, as demonstrated by the discussions which took place at the various workshops and forums held over the two days. The 2006 census estimated the rate of Australian citizenship for the Philippines-born in Australia to be 92.1 per cent. This figure demonstrates the community’s commitment to also contributing to the future prosperity of all Australians. Indeed, the Filipino community represents one of the more significant and active migrant groups in Tasmania.

According to the 2006 census, 1,293 people residing in Tasmania declared themselves to be of Filipino ancestry, and this number continues to grow. As such, the contribution the Filipino community makes in Tasmania also continues to grow, especially through the auspices of the Filipino Communities Council of Tasmania, which was responsible for organising the national conference in Hobart this year. The organisation acts as an umbrella organisation for around six Filipino groups around the state. The council, which has only been established for a little over five years, brings together Filipinos from all around the state, holding quarterly meetings and providing links to crucial support networks for Filipino migrants. The council also holds an annual Filipino cultural festival to showcase the best of Filipino food, dance and culture. Through the Filipino Women’s Support Group, the council also provides essential assistance and ongoing support for female Filipino migrants when they first arrive in Tasmania. I wish to thank Florence Talbo Parker, the president of the Tasmanian council, and her committee for hosting such a great conference. I also wish to congratulate Florence, who, during the course of the conference, was elected as the national president for the coming year.

These reflections of the migrant experience in Tasmania highlight the fact that the Tasmanian story is largely founded on the various experiences of human migration to the island. Tasmania, after all, is largely a state of migrants. Indeed, from our rich traditional Aboriginal heritage to our British convict history and more recently our growing humanitarian refugee population, the Tasmanian community is not unlike the bustling stalls at Salamanca market and represents a diverse yet harmonious mix of old and new, of native and imported cultures, of innovation and tradition. Like the alluring appeal of the Salamanca market, it is this mixture that creates the appeal.

It was recently amidst all the colour and flair of the Filipino gala night that I came to reflect on what a wonderful, enriching and vibrant society we Australians are lucky enough to live in. Indeed, the Australian government is committed to providing leadership and support to ensure that Australia remains a cohesive, multicultural society. As my colleague, the Parliamentary Secretary for Multicultural Affairs and Settlement Services, Mr Laurie Ferguson, said in Sydney earlier this year:

Living in a multicultural country is about recognising, accommodating and celebrating differences of culture, ethnicity, language and faith within an overall sense of shared identity and purpose.

Indeed, in Tasmania it is arguably our diverse physical setting that accommodates and encourages cultural harmony, social fluidity and an appreciation of all that is particular and unique. We embrace the broadening of our horizons and benefit from the multiplicity of human experience. As the Tasmanian example demonstrates, there is much to be learned and much to be gained from the bringing together of a diverse range of cul-
tures and experiences. Indeed, it is the combination of this diverse range of cultures and experiences that enlivens and enriches the island and makes it such a fantastic place to live and work.

Senate adjourned at 7.28 pm

DOCUMENTS

Tabling

The following government documents were tabled:

Cotton Research and Development Corporation—Report for 2007-08.

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Appropriation (Northern Territory National Emergency Response) Act (No. 1)—Determination to reduce appropriations upon request (No. 6 of 2008-2009) [F2008L04293]*.
Appropriation (Northern Territory National Emergency Response) Act (No. 2)—Determination to reduce appropriations upon request (No. 7 of 2008-2009) [F2008L04294]*.
Banking Act—Declaration of covered financial products [F2008L04298]*.
Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part—
105—
AD/A330/93—Spoiler Servo Maintenance Cover [F2008L03970]*.
AD/B717/31—Elevator Standby Cable [F2008L03974]*.
AD/B747/384 Amdt 1—Number 3 Main Entry Doors [F2008L04307]*.
AD/BELL 206/9 Amdt 1—Tail Rotor Control Tube – Inspection [F2008L03981]*.
AD/BELL 206/36 Amdt 1—Emergency Flotation Solenoid Valve – Inspection [F2008L03983]*.
AD/BELL 206/47 Amdt 1—Hydraulic Servo Actuator Piston P/N41000005 – Inspection and Replacement [F2008L04008]*.
AD/CESSNA 150/49—BRS-150 Parachute System [F2008L04306]*.
AD/DH 104/2—Siebe Gorman Safety Belt – Modification [F2008L04010]*.
AD/DH 104/8 Amdt 1—Fin Attachment Brackets – Inspection [F2008L04011]*.
AD/DH 104/9—Aileron, Rudder and Elevator Hinge Links and Brackets and Tailplane Upper Attachment Fittings – Inspection [F2008L04012]*.
AD/DHC-6/2—Fuel System Crossfeed Thermal Relief – Modification [F2008L04045]*.
AD/DHC-6/3—Airstair Door Safety Guard – Modification [F2008L04046]*.
AD/DHC-6/4—Nose Landing Gear – Modification [F2008L04047]*.
AD/DHC-6/5—Fuselage Frame and Wing Strut – Modification [F2008L04049]*.
AD/DHC-6/19—Propeller and Power Control Lever Interlock – Modification [F2008L04056]*.
AD/DHC-6/28—Engine Compressor Inlet Screens – Icing Restrictions [F2008L04069]*.
AD/DHC-6/29—Airframe De-Icing System – Modification [F2008L04070]*.
AD/DHC-6/42—Inboard Trailing Flap – Inspection and Modification [F2008L04071]*.
AD/DHC-6/44—Lower Wing Skin to Spar Rivets – Inspection [F2008L04132]*.
AD/DHC-6/55—Fuel Boost Pumps – Inspection, Replacement, Modification [F2008L04072]*.
AD/ERJ-170/18—Electrical Wiring and ARINC 429 Data Bus [F2008L04112]*.
AD/P68/32 Amdt 1—Longitudinal Trim System [F2008L04074]*.
AD/P A-25/1—Fin Post – Modification [F2008L04075]*.
AD/P A-25/11 Amdt 2—Wing Forward Spar – Inspection [F2008L04109]*.
AD/P A-25/29—Wing Strut – Inspection [F2008L04106]*.
AD/P A-25/30—Primary Control Cable Turnbuckles – Inspection [F2008L04107]*.
AD/P A-25/31—Rapid Throttle Movement – Warning Placard [F2008L04120]*.
AD/P A-25/33 Amdt 2—Wing Forward Spar – Modification – Placard and Spray Equipment [F2008L04121]*.
AD/P A-25/35—Fuel System [F2008L04126]*.
AD/P A-25/39 Amdt 1—Fuel Tank [F2008L04127]*.
AD/P A-25/43—Exhaust System and Related Areas – Inspection [F2008L04128]*.
AD/ROCK-114/14 Amdt 1—Rudder Spar [F2008L04110]*.
AD/P A-25/35 Amdt 2—Modification – Placard and Spray Equipment [F2008L04121]*.
AD/P A-25/35—Fuel System [F2008L04126]*.
Defence Act—Determination under section 58B—Defence Determination 2008/58—Member with dependants (unaccompanied) – amendment.

National Health Act—Instruments Nos PB—
108 of 2008—Amendment declaration and determination – drugs and medicinal preparations [F2008L04300]*.
109 of 2008—Amendment determination – pharmaceutical benefits [F2008L04301]*.


* Explanatory statement tabled with legislative instrument.