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SITTING DAYS—2008

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News
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- **CANBERRA** 103.9 FM
- **SYDNEY** 630 AM
- **NEWCASTLE** 1458 AM
- **GOSFORD** 98.1 FM
- **BRISBANE** 936 AM
- **GOLD COAST** 95.7 FM
- **MELBOURNE** 1026 AM
- **ADELAIDE** 972 AM
- **PERTH** 585 AM
- **HOBART** 747 AM
- **NORTHERN TASMANIA** 92.5 FM
- **DARWIN** 102.5 FM
FORTY-SECOND PARLIAMENT
FIRST SESSION—THIRD PERIOD

Governor-General
Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

Senate Officeholders

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

Senate Party Leaders and Whips

Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Leader of the Liberal Party of Australia—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Leader of the Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of the Nationals—Senator Hon. Nigel Gregory Scullion
Leader of the Australian Greens—Senator Robert James Brown
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
Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion
Treasurer
Minister for Immigration and Citizenship and Leader of the Government in the Senate
Special Minister of State, Cabinet Secretary and Vice President of the Executive Council
Minister for Finance and Deregulation
Minister for Trade
Minister for Foreign Affairs
Minister for Defence
Minister for Health and Ageing
Minister for Families, Housing, Community Services and Indigenous Affairs
Minister for Infrastructure, Transport, Regional Development and Local Government and Leader of the House
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate
Minister for Innovation, Industry, Science and Research
Minister for Climate Change and Water
Minister for the Environment, Heritage and the Arts
Attorney-General
Minister for Human Services and Manager of Government Business in the Senate
Minister for Agriculture, Fisheries and Forestry
Minister for Resources and Energy and Minister for Tourism

Hon. Kevin Rudd, MP
Hon. Julia Gillard, MP
Hon. Wayne Swan MP
Senator Hon. Chris Evans
Senator Hon. John Faulkner
Hon. Lindsay Tanner MP
Hon. Simon Crean MP
Hon. Stephen Smith MP
Hon. Joel Fitzgibbon MP
Hon. Nicola Roxon MP
Hon. Jenny Macklin MP
Hon. Anthony Albanese MP
Senator Hon. Stephen Conroy
Senator Hon. Kim Carr
Senator Hon. Penny Wong
Hon. Peter Garrett AM, MP
Hon. Robert McClelland MP
Senator Hon. Joe Ludwig
Hon. Tony Burke MP
Hon. Martin Ferguson AM, MP

[The above ministers constitute the cabinet]
### Rudd Ministry—continued

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<td>Assistant Treasurer and Minister for Competition Policy and Consumer Affairs</td>
<td>Hon. Chris Bowen MP</td>
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<td>Minister for Veterans’ Affairs</td>
<td>Hon. Alan Griffin MP</td>
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<td>Minister for Housing and Minister for the Status of Women</td>
<td>Hon. Tanya Plibersek MP</td>
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<td>Minister for Employment Participation</td>
<td>Hon. Brendan O’Connor MP</td>
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<td>Minister for Defence Science and Personnel</td>
<td>Hon. Warren Snowdon MP</td>
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<td>Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation</td>
<td>Hon. Dr Craig Emerson MP</td>
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<td>Minister for Superannuation and Corporate Law</td>
<td>Senator Hon. Nick Sherry</td>
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<td>Minister for Ageing</td>
<td>Hon. Justine Elliot MP</td>
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<tr>
<td>Minister for Youth and Minister for Sport</td>
<td>Hon. Kate Ellis MP</td>
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<tr>
<td>Parliamentary Secretary for Early Childhood Education and Childcare</td>
<td>Hon. Maxine McKew MP</td>
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<tr>
<td>Parliamentary Secretary for Defence Procurement</td>
<td>Hon. Greg Combet AM, MP</td>
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<td>Parliamentary Secretary for Defence Support</td>
<td>Hon. Dr Mike Kelly AM, MP</td>
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<tr>
<td>Parliamentary Secretary for Regional Development and Northern Australia</td>
<td>Hon. Gary Gray AO, MP</td>
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<td>Parliamentary Secretary for Disabilities and Children’s Services</td>
<td>Hon. Bill Shorten MP</td>
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<td>Parliamentary Secretary for International Development Assistance</td>
<td>Hon. Bob McMullan MP</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>Hon. Duncan Kerr MP</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>Hon. Anthony Byrne MP</td>
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<td>Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion</td>
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<td>Senator the Hon Eric Abetz</td>
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[The above constitute the shadow cabinet]
**SHADOW MINISTRY—continued**

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

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.31 pm)—I seek leave to amend government business notice of motion No. 1 by omitting paragraphs (2) to (5).

Leave granted.

Senator LUDWIG—I move the motion as amended:

That, on Monday, 1 December 2008:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;
(b) the routine of business from 7.30 pm shall be government business only; and
(c) the question for the adjournment of the Senate shall be proposed at 11 pm.

In trying to deal with the workload that we have—which is some 18-odd packages of bills—in the Senate this week, the government’s view was that it was best to lay out the timetable from Monday to Thursday evening so that all senators would understand what the week would bring. There is a view from the opposition—and, probably, the minor parties—that it might be more interesting to deal with it on a daily basis. The government does see some merit in that because we do not know what progress might occur through the week.

Omitting paragraphs (2) to (5) from the motion does not change the timetable for today; it leaves today the same. The hours of sitting shall be from 12.30 to late at night. At 11 o’clock the adjournment will be proposed and then of course there will be the usual 40-minute adjournment debate.

The object will be to get through as much of the program as possible, of course ensuring that everyone gets an opportunity to make their contribution. I remind senators that this follows from the leaders and whips meeting last week, which allowed a range of bills, 40 in all, to be progressed. We have progressed 22 of those, so there is some merit in dealing with the hours on a daily basis this week, based on the progress that has been made so far.

I remind senators that in the two final weeks of sittings we are always required to deal with a significant program before the end of the session. However, it is not as onerous as in the past. In the final two sitting weeks in September last year the Senate considered 50 bills. Numbers of bills considered in the past have ranged from 30 to 40. So there is merit in dealing with the hours on a daily basis, given that we have a smaller number of bills to progress through than in the past.

We understand that senators have had extensive briefings on the relevant bills, as required, through their parties and can request additional information if they so desire. We also understand that a range of the bills have been dealt with through the committee. I enjoin all senators to allow the program to proceed so that we can complete the number of bills required before Thursday evening.

Senator COONAN (New South Wales) (12.34 pm)—I have listened very carefully to Senator Ludwig’s comments. I do not think he meant to infer any criticism as to the level of cooperation that has been extended to the government in getting this program together. The statistics do not lie, and the extra time allowed for government business in the sitting week prior to this alone was nine hours and 42 minutes.

I will not take up the Senate’s time talking about all of the extra time that we have
agreed to to enable the government to progress its program. This is a matter for cooperation. It is the last week. We think there is eminent good sense in looking at the program day by day. That is not in any way to suggest there is any lack of cooperation—just the contrary. All senators need to be able to make the contributions they need to make in relation to these important matters. I think there are something like 17 packages left. We hope that nothing else is going to be introduced—I notice a couple more seem to have snuck in. The government knows we are taking a very responsible approach to this, but there is an end to one’s patience with some of these things. I am sure during this last week all senators will be very keen to ensure that the program can be completed, and we will review it tomorrow.

Senator IAN MACDONALD (Queensland) (12.36 pm)—Can I indicate to the minister that I have something to do with one of the bills that is listed—I will not name it—in a representative capacity on behalf of the opposition, but the shadow minister in the other place indicated to me that this particular package of legislation was not even on the government’s ‘must do’ list for this year. Let me say to Senator Ludwig that the opposition is keen to assist on urgent material that needs to be dealt with before the Christmas break. I do not want to inflame things, but I think it is a matter of record that we have not had a huge amount of legislation in this last 12 months. In many weeks we have struggled to find sufficient bills to have a chat about.

Senator Ferguson interjecting—

Senator IAN MACDONALD—Indeed, Senator Ferguson. We have had a pretty casual year this year because the government have not brought bills to this chamber for debate. It is up to them to bring bills through when they want them. If there are urgent things, as Senator Coonan has said, we of course want to help where it is important, but I say to the minister: if it is not urgent, we are not going to sit here until three o’clock in the morning to do things that could well be done next February.

Question agreed to.

Consideration of Legislation

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.38 pm)—I move government business notice of motion No. 2:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Corporations Amendment (Short Selling) Bill 2008

Question agreed to.

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.38 pm)—I move:

That intervening business be postponed till after consideration of government business orders of the day No. 3 (Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008) and No. 4 (Aged Care Amendment (2008 Measures No. 2) Bill 2008).

Question agreed to.

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (FURTHER 2008 BUDGET AND OTHER MEASURES) BILL 2008

Second Reading

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

That this bill be now read a second time.
Senator SCULLION (Northern Territory) (12.38 pm)—I rise to speak on the second reading of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008. It has three schedules. Schedule 1 and schedule 3, whilst I will make some submissions on them, are fairly non-controversial for us. It is schedule 2 that I will come back to and spend a little time on.

Schedule 1 makes amendments to align the maternity immunisation allowance with the National Immunisation Program by paying the allowance for children who meet the 18-month and four-year-old immunisation requirements in two payments instead of one. Two half-payments of the maternity immunisation allowance will be available for children up to the age of five. An additional eligibility category will allow payment of the MIA for a child between four and five years of age, provided eligibility is met and all immunisation requirements are also met.

The maternity immunisation allowance paid in respect of older, overseas adopted children will be the full rate of the MIA. Overall, no more than two half-payments or one full payment of the MIA will be made in respect of any child. This bill also extends the eligibility for the maternity immunisation allowance to children adopted from overseas who enter Australia before turning 16 and who are immunised appropriately after arrival.

The opposition supports this measure. It builds upon initiatives introduced by the previous government that significantly increase the funding for and the rates of child immunisation. In 1995, immunisation rates for children from birth to six years were as low as 52 per cent. The coalition government’s policies and programs improved that rate to an all-time high of within 90 per cent of all children from 12 to 15 months being fully immunised. We continue to support that aspect of the legislation.

I turn now to schedule 3. This schedule deals with child support and makes minor technical amendments to the child support legislation. It addresses a number of anomalies and clarifies aspects of the child support formula reforms that commenced on 1 July 2008. The schedule is set out in seven parts. I think it is of note that each part has its own commencement date, with some delays to 28 days after royal assent. This is for service delivery reasons and to allow changes to some of the computer systems for delivery aspects and forms and to allow staff to ensure that they are trained appropriately. The opposition again supports these amendments to the child support system as they continue to build on the significant reforms to the child support system introduced by the previous government, and adopted by the Rudd Labor government, that are delivering a strong and fairer system.

I move now to schedule 2 of the bill. We spoke out against this schedule when it was first introduced in the other place. The opposition and others have been pretty forthright in their criticism of particular aspects of this schedule. In the previous budget, the government announced two major changes to veterans entitlements, and they are included in this bill. They relate to the partner service pension.

Firstly, the government announced that, as of 1 January 2009, those who are separated—that is, partners of veterans who are separated but still legally married to a veteran—will cease receiving the partner service pension. It was anticipated that this measure would provide a net saving to the government of $33.9 million over four years. The government then increased their forecast saving on this item to $40.6 million over four
years. Under this measure, eligibility for the partner service pension will cease 12 months after separation or immediately if the veteran enters a marriage-like relationship. The opposition continue to be opposed to this matter, and we are not alone in that matter. The RSL says:

It is the strong belief of the RSL, that the passage of the section of the Bill that relates to the cessation of eligibility for Partner Service Pension for those partners who are separated but not divorced from their Veteran spouse and who have not reached age pension age would cause undue hardship and distress to the separated spouse. It should be noted that the separated spouse is still legally married to the Veteran.

I know that there are many other stakeholders and many individuals across Australia who have provided a voice, not only to the opposition but also to the government and the media, on this matter. I am pleased to see that the government are introducing some amendments across the board in the schedule that hopefully will deal with those matters.

The second aspect of this is that the government announced another measure which further erodes veteran entitlements, and that is an increase in the eligibility age for the partner service pension, which was previously 50 years. What have the government done? In the last budget, they said: ‘As a cost-saving measure, we’re going to increase the eligibility age to 58.5 years for women and 60 years for men.’ That came into effect on 1 July 2008.

The government now proposes to make changes to its own unpopular legislation—and as I have said they have justifiably received significant opposition from many quarters on this matter. During the election campaign so many promises were made but I still recall, as I am sure those on the other side will, Kevin Rudd saying that veterans would not be worse off under a Labor government. That was an absolute commitment. It was another one of those commitments for which, as we look in the rear-view mirror—I am not sure if it is a bit cloudy or there has been a change in temperature—the image does seem to be becoming very misty. This is just another example of how an actual promise to a particular section of our community has been clearly breached.

They said veterans would not be worse off under a Rudd government, but in the first budget—

Senator Stephens interjecting—

Senator SCULLION—We have had an interjection from the other side saying ‘How can they possibly be worse off?’ Well, I will put it to the Australian people to work that out. In the first budget, the government ripped $113 million out of veterans entitlements with those two measures alone. I understand, as I am sure all veterans across Australia do, that if you are $113 million worse off through two entitlements then you are worse off. I do not think it takes a rocket scientist to work that out.

I do not want to verbal the government, but it certainly appears to be intended to shift a veterans entitlement into some sort of a welfare payment. Certainly, in real terms people would, under those circumstances, be shifting from an entitlement that is a very special entitlement that recognises the very special contribution that veterans and their partners have made to this country. Because of the changes, there is the potential that instead of receiving an entitlement after 12 months you suddenly would simply be receiving Newstart. That is something that we think is completely unacceptable. It absolutely ignores the often life-long commitment given and the stress endured by many partners in support of our veterans when they return from serving our country.
The changes to the age eligibility proposed in this bill demonstrate that the government now recognise that veterans are worse off under this government and that they are attempting to rectify bad policy on the run. The coalition strongly believes that veterans are entitled to special entitlements, particularly as a way of recognising the special contribution and sacrifices made not only by the men and women who have served overseas and served our country but also by their partners.

I must also make the point that the changes made by the government after it was elected have attacked the income of veterans. This is from a government that came to office claiming to support veterans. It has been all talk from the government—plenty of headline-grabbing announcements followed up by half-baked policy. They have not even defrosted this pie. Talk about half baked—it is still hard in the middle. I am not surprised about the number of veterans, particularly those who supported the government, who would be looking to get their money back.

We have got policy on the run that is being dictated by a razor gang determined to slash spending. It can only lead to a reduction in pension and entitlement payments. This is what the opposition said would happen. This is what we predicted when these cuts were announced in the budget. We now see the attack on the veterans coming home to bite the government. I have to say that I will always acknowledge good behaviour, and I acknowledge that the amendments the government are putting forward do, to some degree, ameliorate the pain that they have caused the veteran community.

As I alluded to earlier in this speech, we have a number of amendments that we will be moving to this schedule in the legislation because we do not believe that the amendments that will be brought by the government—we have yet to hear them and we will see how they go—will go far enough to ensure that the very special contribution made by the veteran community to this country is acknowledged through their entitlements.

**Senator SIEWERT** (Western Australia) (12.48 pm)—The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008 is an omnibus bill that deals with three very different but important issues for families. Schedule 1 introduces changes to the maternity immunisation allowance, which will see payments to families split into two parts. Each payment will now be timed to coincide with the due date of the immunisation. This measure also extends eligibility to families who have adopted children from overseas. In our view this is a useful amendment to the immunisation allowance.

As Senator Scullion just articulated, schedule 3 introduces changes to child support arrangements. These are relatively minor changes to the Child Support (Assessment) Act 1989 and the Child Support (Registration and Collection) Act 1988. These changes have raised few concerns with those who gave evidence to the Senate inquiry; however, many of the comments that the Senate inquiry received into this bill related to other problems that have emerged from the 2006 reforms, which are only just being put in place now. These problems with child support are significant and we believe they need to be addressed, but we agree that this particular bill is not the vehicle for addressing those concerns. We trust that the government will take on board the concerns raised in the committee of inquiry when reviewing more extensively the implementation of the 2006 changes and the operation of the act.
Schedule 2—I am sure we are going to hear a lot about it today—is the most contentious element of this bill as it introduces amendments that impact on the eligibility for the partner service pension. I would like to address these proposed changes in more detail. On the positive side, the age of eligibility for partner service pension has been lowered from 58.5 years to 50 years, where the veteran is in receipt of certain categories above general rate disability pension. This measure softens the impact of the increase in age eligibility for partner service pension that was passed by the Senate earlier this year. This raised the age of eligibility for partner service pension from age 50 to age 58.5 years. This is part of an overall approach to equalise eligibility for all people—men and women. The changes also reflect a move to ensure that a person is supported not because of their dependency on another, but in their own right. They will no longer receive a pension or income support on the basis of their dependent relationship.

In principle the Greens agree with this aspect of government policy but, like all social changes, it has potentially large impacts and these need to be managed thoughtfully and carefully. We are therefore pleased that in the case of veterans with higher levels of disability their partner will continue to be eligible for the partner service pension at the younger age, and we support this amendment.

There is a second change to eligibility for the partner service pension in schedule 2, and this is much less welcome. Under current legislation, separated partners of veterans remain on the partner service pension unless they enter into another marriage-like relationship. The government bill proposes that separated partners of veterans lose their entitlement to the pension once they have been separated from the veteran for a period of 12 months. The government originally proposed that they would lose their entitlement immediately if the veteran commenced another relationship. Many of these people—and, let’s face it, these are nearly all women that we are talking about—expected to receive their partner pension for the rest of their lives. Many have been out of the workforce for a considerable period and are unlikely to have superannuation or recent employment skills. So, when this amendment was announced, it understandably caused a great deal of concern. My office received many letters, emails and phone calls, and I am sure every other member of parliament in Australia—particularly of the federal parliament—received similar emails, letters and phone calls.

This change has the potential to impact the wellbeing and financial security of a group of people who have, in many cases, faced considerable hardship. These people face the prospect of being advised by the Department of Veterans’ Affairs that they have lost their entitlement to the pension. Prior to the government circulating amendments, which I will get to later, there was the prospect that a certain group of partners, of women, would have had their pensions cancelled from 1 January. I will go on to these amendments shortly.

Many partners—and, again, we are talking about women here—have had to separate from their veteran partner because of physical or mental health issues. We heard evidence during the committee inquiry that some partners have spent a considerable period living with, caring for and supporting a veteran partner suffering from post-traumatic stress disorder, or PTSD, or other significant physical or mental health issues. Largely, these are veterans whose mental health has been recognised by the Department of Veterans’ Affairs. In fact, out of the 580 separated couples affected by this legislation, 390 include a veteran with either a mental illness or post-traumatic stress disorder. Some of the
partners in these relationships have suffered from violence and psychological abuse as a result of living with their veteran. These partners have, in many cases, stayed for many years with their veteran but have finally had to leave the family home due to the threat of violence or psychological abuse.

Some partners have managed to remain in contact with their veteran, and they have maintained a social and public life as a family and as a couple. This has particularly been the case when the veteran’s illness is episodic. During times when the veteran is well, the family is able to reunite, in some sense. Couples who are separated due to physical or mental illness are likely to fall into the category of illness separated couples. An illness separated couple usually refers to a couple who have been separated due to one partner being in hospital, in respite or in aged care. However, as officials from the Department of Veterans’ Affairs explained to the inquiry, a couple who live apart due to the veteran’s psychological condition can also be considered an illness separated couple. This means that the separated partner will retain an entitlement to the partner service pension as long as neither partner commences another relationship and as long as they continue to maintain their relationship as a couple, even while living apart. That is termed a ‘married-like relationship’.

However, there is another group of partners who, for reasons of safety, have not maintained contact or have been unable to maintain contact with the veteran. These are partners who lived with their veteran partner for many years until their mental illness became so threatening that they felt forced to leave for their own safety and/or for the safety of their children. Neither partner has remarried and, in some cases, they have tried unsuccessfully to reconcile, but mental illness suffered by the veteran has made it impossible for the partner to stay without suffering further abuse. The inquiry into this legislation allowed the voices of this particularly vulnerable group of partners to be heard. The Greens were pleased to hear from a number of individuals and organisations that support partners of veterans. We listened very carefully to what they had to say. We particularly thank the organisations for representing the views of their membership in such an effective manner, both to the committee inquiry and also to us individually.

As outlined in our report to the inquiry, the Greens have some concerns about the eligibility of separated partners to receive the partner service pension. We have some concerns around the issues that were raised in the inquiry but we do not reject the change completely, believing that it reflects societal change. The government bill means that a partner of working age who has separated but not yet divorced from their veteran is no longer able to receive a partner service pension for life. If the marriage has ended—for the many reasons that marriages do end—then we accept that the separated partner should no longer have access to the partner service pension because of their dependency. We agree that, in many cases, these people need the support of the community and need some form of income support but not due to their dependency. We agree, as a reflection of societal change, that a person has the right to support as an individual. We agree with the move towards people being eligible for income support in their own right rather than on the basis of a relationship in which they are dependent on another.

However, there were some aspects of the bill that we believe were not fair or just to many of the partners, many of whom are women. They have been caught in the middle because of these changes and because certain aspects of the bill originally did not consider their circumstances.
The evidence to the inquiry clearly indicated consequences of the government's bill, some of which we believed were simply unfair. Since the inquiry, I am pleased that the government has, in fact, taken on board these concerns and is proposing some amendments. A dissenting report to the inquiry focused particularly on the situation facing the most vulnerable group of partners. These are the partners who have been unable to maintain contact with their veteran due to the extreme nature of their mental illness, which has led to domestic violence and a threat to the personal safety of the partner and, in some cases, children. Partners and veterans in this situation are not considered illness separated couples. If you were recognised as an illness separated couple, you would be okay. Because a person's illness has resulted in domestic violence, you cannot maintain contact and you cannot maintain a marriage-like relationship. These people were caught up in these provisions.

We are pleased that the government has agreed to amend the bill so that partners in this situation remain eligible for the partner service pension—that is, they will be regarded as illness separated couples. We support this amendment because it protects a very vulnerable group of people who have already suffered a lot and who stood to face further suffering by elements of this bill.

A very serious concern that was also raised in the inquiry was the lack of a transition period. The inquiry into this legislation was held in November. The legislation is now before the Senate and was due to come into effect on 1 January 2009. We do not believe this is an adequate time frame for people to adjust to the changes in their lives. Those partners who will lose their entitlement to the partner service pension may be eligible for income from Centrelink or they may need to seek at least part-time employment and reorganise their finances. It certainly effects change in their lives, and if we can possibly ameliorate the adverse impacts of change on people's lives we should do that. We believe these women need more time to adjust than the brief period between this legislation passing—by the end of this week—and 1 January, which is less than four weeks away. We are pleased, therefore, that the government has amended the date when this bill will commence and it will now commence on 1 July. This gives those who may lose their entitlement a greater period of time to adjust to the change. We think this transition period is essential to those affected.

The government has suggested another amendment that we support. The bill proposes that on 1 January a person separated from a veteran partner will lose entitlement to the partner service pension immediately if the veteran establishes another relationship. This places the partner at the mercy of the veteran's decision. Now, with the amendments to the bill introduced by the government, as we understand it a person in this situation will also be entitled to a 12-month period of separation that applies to all separated partners before they lose eligibility for the pension. The Greens are pleased the government has responded to concerns with these amendments. These amendments act to protect the most vulnerable group of partners. An area that was particularly pointed out during the Senate inquiry was the issue of domestic violence and of those who have separated and cannot maintain a marriage-like relationship as a direct result of the mental illness suffered by the veteran.

Partners over the pension age will remain on the partner service pension. Partners with dependant children are still entitled to partner service pensions. Partners separated from their veteran due to psychological illness will, in many cases, still be eligible to receive their partner service pension. The
Greens also believe that it is important that the government ensures the Department of Veterans’ Affairs is properly resourced so that it can properly handle the inquiries received and fully respond to people’s concerns while they reorganise their lives and their finances. I must add here that evidence received at the inquiry suggested that the minister’s office and the department had been very responsive and very helpful to those people who had contacted the offices and who were trying to assist the 580 people who are potentially affected by this legislation.

As with any process of social transition, people deserve to be fully informed and consulted. The creation of a special team within the department to administer the change in legislation is a good basis for this. As I said, we are pleased that the government have listened to the concerns expressed, have particularly dealt with the transition period so that people have time to adjust, have provided more time for partners whose veteran partner remarries, and have dealt with that particularly vulnerable group of people who have had to separate from their partner due to mental illness by providing for them and clearly specifying them as illness separated couples.

The Greens support this legislation on the basis of these amendments because we think that it deals with the very significant issues that were raised during the Senate inquiry and makes this bill much fairer on those people who are potentially affected by the changes in this legislation. As I said earlier, the Greens do accept that we are making a societal transition not only to recognise that men and women should be dealt with equally under our social security system but also to recognise that a person has a right to income support or a pension in their own right—not as a dependant on somebody else. This legislation enacts both of those concepts.

Senator MOORE (Queensland) (1.04 pm)—The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008 was referred to the Senate Standing Committee on Community Affairs as a result of a number of concerns that were raised. In particular, those concerns looked at the area of child support. However, when we publicised the committee, what became clearly evident was that there were concerns in the community about schedule 2. We have heard from the people who have already spoken in this debate that it has been schedule 2 that has raised the major focus of the community affairs committee and we have heard the subsequent response from the government.

Again, we have seen the value of the community affairs system and, in fact, the value of the whole committee system in the Senate because what we saw in the discussion around this legislation was this: something was referred to us and a number of key points were particularly looked at and itemised. We looked at minor changes around the immunisation allowance, which seems to have been accepted well, and we refocused the need for families across the board to be taking up the issue of immunisation, and to be doing it and maintaining their process through that activity. That means that the budget changes that came in reflect that and ensure that the payment is made in two parts so that we ensure that families are taking forward the full impact of immunisation. We did not receive any submissions to that element of the legislation in our committee.

The second element was the ongoing concern about changes to child support. Again, there were a number of submissions that came to the community affairs committee, raising ongoing concerns about the impact of the child support arrangements: how the process is continuing to cause concern
amongst the community, and how the legisla-

tion process needs to continue to adapt to

ensure that the full support of the child sup-

port focus is on the children and that people

across the board are aware of their arrange-

ments.

The individual changes in this legislation

have been talked through and we had sub-

missions on those. There was support mainly

for the budget changes but there continues to

be real concern about the legislation itself, its

impact and the process of implementation,

particularly of the Child Support Scheme.

Every time we have discussions around the

whole area of child support, when it is linked
to legislation people come forward and raise

concerns. The message from this process is

that this area needs to continue to be care-

fully scrutinised. The Child Support Agency,

the Social Security Appeals Tribunal and

Centrelink continue to work with people to

ensure that they are aware of their entitle-

ments, and clearly people are working with

the legislation.

However, as I said, during the committee

process on this legislation there was a great
deal of discussion around schedule 2, which

deals with the changes brought in through

the partner’s payment in the DVA process.

Out of that discussion we received a number

of submissions that referred to the impact of

the proposed changes. Again, the clear mes-

sage that came through was that there needs
to be open communication and understand-
ing of entitlement. Again, we had people

whose fears were raised—in many ways,

unnecessarily—about the impact of this leg-
islation. Through the committee process we

were able to investigate the legislation that

was before us, which allowed a process to

then occur of interaction between those who

had raised concerns and the department. We

see the result of that in a range of amend-

ments that are before the chamber today,

which have been directly brought forward by

a need to address concerns that were raised.

We have, as Senator Siewert said, a period

of social change. I take her point that, over a

long period, the process of public policy in

this country has been to ensure that individu-

als are assessed in their own right for enti-

tlement and that pure dependency is not

enough to have an entitlement.

Through the budget process we have tried
to align the entitlement age for payment of

partner pension under the DVA processes

with the wider, accepted processes that have

already taken place in other parts of the

community. This has caused some concern.

During the community affairs committee

inquiry, particular concerns were raised by

people who had been living with a veteran

and who were now in the process of separat-
ing as to whether they should continue to

receive the partner payment for life. The

government’s position is that that is not an

entitlement and that people’s individual cir-

cumstances should be assessed.

During the committee process we heard

that there was deep concern about the reason

for separation. We had considerable discus-

sion with the department, with the RSL and

also with the organisation which supports

partners who are working with veterans

about the difficulties of living with people

who have significant injuries, not just physi-

cal injuries, caused by their service. Most

importantly, there was considerable evidence

about people who had psychiatric conditions

that were caused by or could be linked to

their service for our country. Through the

committee process we heard about particular

concerns that led, in many cases, to years of

caring for partners, about relationships that

were dangerous, about people who had suf-

fered by being in those relationships and that

sometimes the reason for separation could be
directly attributable to the condition of the
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ex-service person. Whilst we are currently looking at changes in our service personnel, through consideration of the legislation before us we were talking about women who were partners of service personnel. Concerns were raised in the evidence that women were forced into terminating relationships by the unsafe nature of their relationship with the ex-service partner.

There was much discussion during the committee hearings about the provisions for illness separation that currently exist under the act. There was discussion during the community affairs committee hearings of whether those processes could be applied more widely than they are currently applied by the department. Following the department’s responses, which, in many cases have been taken up, we now have a greater understanding that there needs to be a response to situations where partnerships have been terminated because of illness, violence or insecurity within a relationship.

There was discussion during the community affairs committee inquiry about proposed amendments, which are before us today. One amendment deals with the proposal that spouses who separate from a veteran who has an accepted psychological and mental health condition will be exempt from the measure, if the spouse and veteran are living separately and apart and if there are indications of an unsafe environment for the partner and/or children of that relationship. That particular acknowledgement responds directly to some of the concerns raised at the inquiry. We understand that, if the relationship has been terminated for that reason, there should be consideration for maintenance of the partner’s payment. We believe that we need to be very clear with how that would be worked through. This gets back to the interrelationship between the department which is making the assessment and also the community members who are coming forward with this rationale. It is particularly important in that case that there is strong confidence that those situations will be understood and that the response will have a sensitivity to and an acknowledgement of the work and the situation in which the partners have found themselves. The point was also raised by a number of people around the committee process that, once a decision has been made about the process, there needs to be more time taken in terms of a transition payment. That has been taken up by the amendments that are before us.

During the committee process we were certainly impressed by the efforts that the department had already made to interact with the people who had already been identified as potentially being impacted by these legislative changes. We had acknowledged that the department had a special point of communication so that anyone who would be caught up in this process would have one area to contact, an area that was already trained and knowledgeable in this area and that would be able to respond directly to the concerns raised by people who, sometimes, are unsure of their future, unsure of their options and are ill at ease in dealing with the department’s situation.

It was consistently stressed by people giving evidence that the special relationship between the department and the people who are already being serviced through DVA is one that must be understood and completely and totally effectively resourced. It was raised on a number of occasions that there was going to be the need for more interaction between people in the department and the community. It was raised that we needed to ensure that the department was resourced effectively to maintain personal contact so that, again, people’s circumstances could be assessed individually and sensitively and so that they could feel as though they had confidence in their options.
It is important that people are able to make a claim for their own circumstances without having any sense that there is undue judgement or undue pressure involved in the process. What we have in the legislation before us is an indication of the entitlement for a partner pension. We need an understanding that there is a partnership. If there is no existing partnership, only in some special circumstances should there be payment for partnership. That brings this legislation in line with the intent of the process.

We acknowledge that there needs to be an open communication network to ensure that people are supported through this process. We have acknowledged by changing the date of implementation that there needs to be further delay so that people have more time to get their own situation clearly understood. There is an important element of equity in how public policy should be implemented. We need to respond to people’s circumstances individually but make sure that they are eligible because of the circumstances in which they find themselves.

This legislation has given the department the opportunity to look again at a number of the cases that have come before us. One of the things that disturbed me in the evidence that the committee heard was that the department had made the effort to write to the 580 women who would be affected by the proposed changes but, by the time the committee reported, there had not been responses from a large number of those people. There had been no contact from people who had had personal communication from the department explaining this process. That had not led to a response from those people asking for an explanation or some further information about how they would be impacted. The department had put in place a process, working with both Centrelink and DVA, to be ready to respond personally to those people who could be impacted. My concern was that a large number of those people, at the time this legislation was being considered, had not taken up the opportunity to have that discussion.

It is important that people understand their entitlements. It is important that they take the opportunity to interact effectively with the department to find out how they may be impacted. Only then will they be clear about exactly how this legislation could impact on them. That will also give them an awareness of the options, a look at what alternatives are available. If information is only available through newspaper coverage or through people talking, it is often the case that the messages are mixed and the true information is not put out there.

We have the legislation before us. The Senate Standing Committee on Community Affairs looked at the legislation, and I think that a number of amendments have been proposed. As a result of that, we think that this particular piece of legislation effectively looks at genuine entitlement and also encourages sensitivity in how we work with people to ensure that they can use the system most effectively for their own entitlement.

Senator BOYCE (Queensland) (1.18 pm)—As a number of speakers have already noted, the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008 is an omnibus bill. When it was initially referred to the Senate Standing Committee on Community Affairs, there was very little comment made about the immunisation allowance or about changes to child support. What was brought to the attention of committee members, through great numbers of letters and emails from the veterans community and from the spouses and partners of veterans, was their concerns about schedule 2 of this bill. I would particularly like to thank the
community affairs committee for taking the late reference of schedule 2 of the bill into consideration. In fact, it became our major focus during our hearing on the subject.

There are two points that I think are of particular relevance, from the number of submissions that we received in this area and the number of letters and emails that I know senators received from people in the veterans community. As Senator Moore has pointed out, from the figures that are available, it would appear that there are 580 separated spouses who are affected by this legislation. That is not by any means a large number, and yet the amount of work that was done by people in the veterans community and in the RSL community I think demonstrates the great strength of their sense of extended family within that community. I think it also underlines the somewhat mean-spirited nature of the government’s intentions with this legislation. If we look at the figures that the government are now putting out to back this bill, they are suggesting that it might save a maximum of $3 million over the financial year, with savings of less than $1½ million over the following three years. It is hardly going to revolutionise the world, but it is potentially going to turn the lives of 580 women—because most of these people are the separated wives of veterans—upside down. I would also like to comment on the efforts of the Greens to ameliorate some of the worst aspects of this bill. We will get into discussions about that during the Committee of the Whole stage.

The evidence that we had in letters and all manner of emails told us over and over that this is a very special cohort within our community. These are not the same people who go through the Family Court in relation to separation at any other time. I have had letters from women who have left their marriage because of the extreme violence involved but have then gone back. Some even divorced their husbands but later remarried them. They love them but they just cannot live with them. Some letters have said that it is not uncommon for a wife to be the carer even though the couple have been separated for years, and some wives who have left their husbands have returned to nurse them when they have become extremely ill. As I said earlier, some women have even divorced the veterans but have gone on caring when they have become very ill.

I think that we really need to concentrate on the reasons for these stop-start relationships, which I do not think the legislation still properly appreciates. It is because of the trauma suffered by these men during their time in war. I will read out the letter that best expressed this, but I will use different names because she asked to keep the names confidential.

My name is Mary. I am now 59. I married a great young man in 1967, and we had a three-year-old son when my husband went to Vietnam in 1970-71. He came home to me a totally different person, and we soon found out he had turned into a violent man. We had two more children and had another 30 years of living with this violence since he returned home. I couldn’t take it anymore after he attacked our daughter and broke her leg. I loved my husband, and I still do, in a strange way, but I had to leave him for my own safety. I have phone calls from him even now, and he still visits. We are not divorced. If he is ill, I go to see him. The decision to take the service pension away from women who had to leave due to their husband’s illness will affect me greatly.

I think that we could quite easily assume that, if we change the legislation so that the partners of people who are recognised as having post-traumatic stress disorder are excluded from the pension, we fix it, but in fact we do not. If you look through the evidence that has been given over and over, in emails and letters, and if you look at the information from the Partners of Veterans Association, it tells us that in virtually all cases these men
will not seek assistance or assessment. They will often refuse to see that they are the ones with the illness and they refuse to be treated. We could say, ‘That is a big problem for the people involved, isn’t it?’ But it is the wives who, over and over, have for 20, 30 or 40 years cared for these people who are punished for the fact that their veteran husbands may not be well enough to even recognise that they need assistance, assessment or help. We have to work harder, in my view, to find a solution that assists these people.

I think we also need to have a look at the numbers involved. I have spoken a little bit about the miserable million dollars or so that would be saved if the amendments that are now proposed by the government were to go through. If we look at the numbers who would be affected by the changes, there are, as Senator Moore pointed out, 580 separated wives who are caught up in this. Of those women, 265 are between 58½ and 63 years, 240 are between 50 and 58½ years, and 75 are under 50 years. Of greatest concern is that, out of those 580 women, 362 are married to veterans who have an accepted diagnosis of post-traumatic stress disorder. So 362 of the 580 might be covered by the proposed amendments. That leaves 218 who are not covered. This is a very big, very mean stick to be wielding at 218 women who are separated from their veteran husbands who are not diagnosed as having post-traumatic stress disorder. From the information that we have received, these are men who, in the main, will not agree to accept the diagnosis of post-traumatic stress disorder. How much do we save by wiping those 218 women off the bill? We save $56.40 a week for each one of them. As I said, this seems like a very big and very blunt instrument to be using.

We have heard some comments today that this is an excellent move in a social sense, because it saves these women from receiving any entitlement simply because they are the partner of someone. It assesses them as an individual. The problem, of course, is that the reason that they need this support is because of that partnership and because—I do not think this is drawing too long a bow—of the service that they have given in supporting their veteran husbands in very trying, very violent and very difficult circumstances. Let us turn this around and look at it from the point of view of the RSL, who are very concerned, as are the partners involved, at what they perceive to be the civilianisation of their benefits. Service personnel do not receive pensions because they need them. They receive them because, as a country, we have the view that we owe veterans and their families a pension or an entitlement because of the service they have done for us. It is about a debt that we need to repay. It is not about a welfare assistance, as the Centrelink benefits such as Newstart would be. That is where we would be sending these women who are perhaps in their mid-50s and have cared for husbands who were extremely unwell and have raised children in households that were sometimes very difficult. We would be sending these women off to go onto Newstart. In my view, that is an appalling travesty, given the service that they have done for us and for Australia.

It would be lovely to be able to say, ‘We are doing this for the good of these women.’ If we are, they are not very pleased about it. Let us look behind the reasoning that is there and genuinely understand their views on this issue. The Partners of Veterans Association of Australia has commented that these changes to the service pension for partners are a ridiculous exercise in futility with very little financial gain for the government, with additional cost of administration, turning on its head the whole issue of moving veterans’ entitlements to welfare status. There is in the veteran community an extraordinary upswelling of support for these women, but there is
also the concern that this is the Labor government’s thin end of the wedge. If these sorts of entitlements can be twisted into being seen as welfare entitlements, what will happen over time as the government chips away—as we have seen here, not even for a major degree of savings—at the rights of the veteran community and those who support them? As Senator Scullion has pointed out, we will be opposing parts of schedule 2 in this bill.

Senator HUMPHRIES (Australian Capital Territory) (1.32 pm)—I want to make a brief contribution to this debate not only because the Senate has plenty on its plate this week but also because previous senators have so well demonstrated in their comments the reasons we should be concerned about the direction of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008. I particularly refer to Senator Scullion and Senator Boyce’s excellent contributions. This legislation attempts to civilianise the arrangements for the separated partners of veterans. I think it is extremely clear that we do this in a way which fails to acknowledge the very clear and exceptional circumstances in which these partners so often find themselves.

It has been said by the government that we should not treat partners in these circumstances any differently from anybody else in the community who happens to be separated from a person with an entitlement to a pension. I think that the evidence before the Australian community today suggests that there are very good reasons for treating these people in a different fashion from other potential recipients of welfare payments from government. My attention has in recent years been drawn—and I would be surprised if other senators were not also well aware of this—to the Vietnam Veterans Family Study program, a very ambitious program to analyse the health and social needs of those who served in Vietnam between 1962 and 1975. The study has a cohort of 20,000 people: 10,000 Vietnam veterans and a control group of 10,000 Army personnel who served between those years but did not serve in Vietnam. It demonstrates that there is a great deal that we need to understand about the various health and social needs of those people and their families. The study includes the veterans themselves and their families—that is, their partners, ex-partners, children and step-children, as well as the veterans’ siblings and their families.

The physical effects on these people of things such as Agent Orange and other hazardous materials are better understood than they once were and are still being explored, but the psychological impact on veterans and their families is an issue which remains substantially a mystery to the Australian community, particularly the Australian government. The psychological pressures on veterans and their families need to be better understood before changes of the kind which are put forward in this legislation are proceeded with. I would be surprised if anybody in this chamber had not had some contact with the Vietnam veteran community around the country. My contact in this territory as a territory senator suggests that there are a number of problems and issues associated with that service to veterans and the impact of that service on their families which the community and its representatives work through.

It is absolutely wrong, in my view, to assume that a partner of a veteran who separates from that veteran should be treated like any other woman—they are generally women—and simply be required to go out into the workforce, obtain employment and obtain a Newstart allowance as if they were somebody who simply had not been in the
workforce for some period of time and were now required to seek work. These people are in a different position. They have been affected by their veteran partners’ service, their needs are very different and the work that many of these people have done to support the veterans and the children and dependents of those veterans over a period of time puts them in a very different position from other people in apparently analogous situations. To require these generally older women to be seeking employment when, despite their separation, they might still have responsibilities to the veteran and the veteran’s family is, in my view, an obnoxious concept, and I call on the government to reconsider the direction it takes with this legislation.

I welcome the amendments the government has put forward, and I think they are valuable in mitigating the effect of this legislation. But, as Senator Boyce has clearly indicated, in a sense the amendments the government is going to move in this place make the legislation itself, with respect to the partner service pension, even more objectionable. The number of people we are talking about is very small—perhaps only 200 or 300 people, mainly women. They have separated from their veteran partner and there is no identifiable psychological condition which can bring them into the category of an ‘illness separated partner’. These people are not great in number and, therefore, the saving that the government hopes to make by effecting these amendments will not be significant. We cannot say with certainty in the case of these 200 or 300 women just what the background for the separation is and, therefore, whether that separation may not be attributable to the service concerned and whether it would still be unreasonable in these circumstances to require them to seek employment as if they were persons who had simply chosen to be out of the workforce for 10, 20 or 30 years. These people still face significant burdens of responsibility. These people may still have a range of other issues to deal with in the context of their family responsibilities which I believe warrant different treatment. Given the amount the government proposes to save by effecting these amendments, we should ask ourselves whether these amendments really are a manifestation of good public policy. Frankly, I sincerely doubt it.

We are left in a position where the government has realised it has gone too far in its original concept of these amendments. The government is pulling back to some degree from the original effects so that some of these women are being pulled back into an entitlement to a partner service pension. But the question remains: are we really certain that the people who are not caught by these amendments should be treated like people who are simply entering the workforce after a period of being outside the workforce? If we cannot answer that question satisfactorily, we should err on the side of caution and leave them within the net that we have created as an acknowledgement for the service of their partners or ex-partners. These people have given service in exceptional circumstances, particularly where they have been involved in a theatre of war. We know they will come back with potentially a number of conditions of a psychological nature which we will not and cannot fully understand. If we do not understand the nature of the burden which these people bear, which they have incurred in the name of the nation, then we owe it to them to give them some leniency and acknowledge the pressure on them and their families and protect them to some extent from the pressures which other people might face in analogous circumstances.

I welcome the government’s amendments. I am sorry they do not acknowledge that the amendment to reduce any entitlement to a pension at all is unwarranted. I hope the Sen-
ate will consider seriously the amendments which are going to being moved by the coalition to maintain the entitlement of these wives to a pension even if they cannot establish a psychological condition which warrants their separation from their partner.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.42 pm)—The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008 will address certain further budget and other measures within the Families, Housing, Community Services and Indigenous Affairs and Veterans' Affairs portfolios. The first schedule to the bill is about maternity immunisation allowance. This is a lump sum payment of $243.30 from 20 September that encourages families to protect their young children by having them immunised. Under current legislation the allowance is paid for children aged between 18 months and two years who are immunised to the recommended level or have a formal exemption. The bill will now provide for a restructuring of the allowance to align it more closely with the National Immunisation Program. The amendments will give parents an incentive to have their four-year-olds given their recommended boosters before they begin school. To achieve this the allowance will be paid in two payments for children who meet the requirements for immunisation at 18 months and four years old.

The first payment will be paid when the child is aged between 18 months and two years and the second will be paid when the child is aged between four and five years. The change will apply from January 2009 to eligible families who have not already been paid the full allowance. The new half-payment rate, which will initially be $121.65, will increase as the full rate of the allowance continues to be indexed twice a year. This means that the second payment may be higher than the first because of the flow-through effects of any intervening indexation. The National Immunisation Program currently recommends several important immunisations for four-year-olds, including diphtheria, tetanus, whooping cough, measles, mumps, german measles and polio. The changes in the bill emphasise the benefit of those immunisations and should lead to many Australians having a better overall level of immunisation.

The second maternity immunisation allowance measure in the bill will extend eligibility for the allowance to children adopted from outside Australia who enter Australia before turning 16. Older adopted children will need to be immunised between 18 months and two years after arrival. To get the allowance at present, families have to claim it within two years of the child’s birth and meet the recommended immunisation levels before the child turns two. Clearly, this requirement does not work well for older children adopted from overseas. In extending the allowance for those older children, the bill reinforces the message provided by this payment in support of immunisation for children in the Australian community. The measure also provides the government’s response to recommendation 10 of the 2005 House of Representatives Standing Committee on Family and Human Services inquiry into overseas adoption in Australia. That inquiry recommended, on an equity basis, that the Minister for Family and Community Services amend the eligibility criteria for the maternity immunisation allowance in the case of children adopted from overseas so the eligibility period is two years after the child’s entry to Australia. The government agrees with that approach.

The bill includes amendments to the Veterans’ Entitlements Act in relation to partner service pension. The veterans entitlements
amendments will set the eligible age for partner service pension at 50 years for certain partners. This will apply to the partner of a veteran who is receiving the equivalent of or less than special rate but above general rate disability pension, or who has at least 80 impairment points under the Military Rehabilitation and Compensation Act. Partners of veterans affected by this measure under the Veterans' Entitlements Act are those where the veteran is in receipt of general rate disability pension that is increased by an amount specified in any of items 1 to 6 of the table in subsection 27(1); extreme disablement adjustment disability pension; intermediate rate disability pension; and temporary special rate disability pension.

In relation to the measure affecting eligibility for partner service pension for separated partners, the government has heard the concerns of the community and of the members of both houses of parliament. In saying this, I again thank the Senate Standing Committee on Community Affairs for its inquiry into and report on the legislation. As Senator Moore said earlier, the work of this committee on this particular piece of legislation is a reminder to us all of the value of the Senate committee system to explore legislation and to make recommendations on amendments. In response to these concerns, the government will shortly be moving amendments to the bill to modify the measure. The amendments will change the commencement date for the measure from 1 January 2009 to 1 July 2009, to give affected partners more time to make alternative financial arrangements.

The previous measure proposed that partner service pension would cease immediately if the person was under age pension age and the veteran entered into a new marriage-like relationship. The amendments will now enable a person who is under age pension age to retain partner service pension if the veteran enters into a new marriage-like relationship within 12 months of the date of separation. This will ensure that, following separation, the partner will have the benefit of a full 12-month period to make alternative financial arrangements. Finally, the amendments will enable a person who is under age pension age to retain partner service pension after the 12-month separation period if, at the date of separation, the person is the partner of a veteran who has an accepted psychological or mental health condition, the person is not living with the veteran and there is supporting information of an unsafe domestic environment. This modified measure creates a balance between providing appropriately targeted assistance and rationalising income support so that it reflects community standards and is suited to an individual's current circumstances. A spouse who is a member of an illness separated couple will not be affected because he or she remains the partner of a veteran and therefore does not lose eligibility for partner service pension. A couple who are illness separated must be unable to live together in the matrimonial home because of the illness or infirmity of either or both of them. Certain assessment criteria must be met.

The last schedule to the bill introduces some minor amendments to the child support legislation, particularly to address some minor anomalies regarding the child support formula reforms that commenced on 1 July 2008. One such anomaly relates to Child Support Agency decisions about care. The amendments will make sure, in all situations where parents agree on the level of care for a child, that level of care will be reflected accurately in the assessment. One further child support amendment will ensure that the CSA can make departure prohibition orders in certain cases. DPOs prevent parents with a child support debt from leaving the country without paying, or making arrangements to
pay, those outstanding amounts. Recent amendments moved certain overseas related provisions from regulations into primary legislation, but unintentionally removed the ability for the CSA to issue a DPO for certain registrable overseas maintenance liabilities. The amendment in this bill would allow the CSA to issue a DPO for international parents on a similar basis as for domestic parents. I thank the senators who made a contribution to the second reading debate. I imagine we will now go into committee, where we will have the opportunity to further explore the bill, in particular schedule 2.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.51 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008. The memorandum was circulated in the chamber earlier today.

Senator XENOPHON (South Australia) (1.51 pm)—I wish to make some short comments in relation to the issue of vaccination. I know we will be dealing with the more contentious parts of this legislation in relation to veterans entitlements later. On the issue of vaccination, I think it needs to be said that, whilst there is an obvious and clear public benefit from and compelling public health reasons for vaccination, it is also clear that there are some instances—and I emphasise that they are rare—where individuals have sustained an injury as a result of vaccination.

I think we ought to consider what occurs in some other jurisdictions, particularly in Quebec in Canada, where a child injured through vaccination is able to obtain compensation through a no-fault scheme. You need to show a causal link between the vaccination and the injury, and it must be grave and permanent mental or physical damage caused by any vaccine to a child or an adult. This scheme arose after the Lapierre case in Quebec and in response to the general failure of the tort system to compensate victims of immunisation. That was enacted in 1985 in Quebec. This needs to be considered and I think it is inevitable that it will eventually need to be considered in this country. There is an overwhelming public benefit from vaccinations, but I think we may be able to learn from the experiences in Canada, particularly in Quebec, with respect to their compensation system in the very rare cases where there has been an injury that is linked to vaccination.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.53 pm)—by leave—I move government amendments (1) to (7) together:

(1) Clause 2, page 2 (table item 6), omit “1 January 2009” (wherever occurring), substitute “1 July 2009”.

(2) Clause 2, page 2 (table item 7), omit the table item.

(3) Schedule 2, heading to Part 2, page 18 (lines 2 and 3), omit “1 January 2009”, substitute “1 July 2009”.

(4) Schedule 2, item 5, page 18 (lines 9 to 18), omit subsection 38(2AA).

(5) Schedule 2, item 5, page 18 (lines 23 to 26), omit subsection 38(2AC), substitute:

(2AC) A person’s eligibility under paragraph (1)(b) or (g) does not cease under subsection (2AB) if:

(a) the person has reached pension age; or
(b) the circumstances specified under subsection (2AD) exist in relation to
the person.

Note: For pension age see section 5Q.

(2AD) The Commission may, by legislative instrument, specify circumstances for
the purposes of paragraph (2AC)(b).

(6) Schedule 2, item 6, page 18 (line 28), omit “, (2AA)”.

(7) Schedule 2, item 7, page 19 (lines 9 and 10), omit “if the person has reached pension
age”, substitute “in certain circumstances”.

Essentially, these first seven amendments, and also amendment (8), are putting into ef-
tect the amendments I outlined in the sum-
ing-up speech of the second reading de-
bate. I think they are well understood by eve-
ryone in the chamber and I commend them
to the chamber.

Senator SCULLION (Northern Territory)
(1.54 pm)—As the minister has indicated, the reasons for these amendments are well
known. We have certainly had a suite of submissions from stakeholders in this area,
and I am quite sure there is not a member of parliament in this place or that other place
who has not received some very passionate and well thought out submissions effectively
criticising the government’s initial position. As I said, in this place I always commend
good work, and I have to congratulate the government on coming to their new position.
I do not think it is a situation of too little too late. But this is of course what happens
when you have a bit of policy on the run: you send out the razor gang and you say, ‘Who’s
next?’ and everybody has their little area that they have got to have a cut out of. But veter-
ans’ affairs is a very sophisticated matter. You cannot just make an arbitrary decision to
cut a particular area without having a very clear understanding of the consequences of
those issues. Consultations with stakeholders are a pretty good start but clearly, judging by
the outcome from the government, that was obviously not something that was extended
to a large degree.

I have a number of questions with regard to the government exemptions provided in
proposed sections 38(2AB) and 38(2AD). Would the minister be able to tell me ap-
proximately how many people will not actually be caught by the exemptions? In other
words, how many people do you think will still now move to Newstart?

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.56 pm)—I understand
that 87 people will be exempted in the first year. I do not know that that particularly an-
swers your question.

Senator SCULLION (Northern Territory)
(1.56 pm)—Eighty-seven?

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.56 pm)—Eighty-
seven will be exempt in the first year.

Senator SCULLION (Northern Territory)
(1.56 pm)—I want to get that clear: out of the total number of those people who would
have originally been forced onto Newstart—and now that the government have brought
amendments forward—we only have 87 who will remain on their existing circumstances
rather than being moved onto Newstart? That was the answer I was looking for. I just want
to make sure that that is right.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.57 pm)—In answer to
your question, that does not also include illness separated people. I think that during
question time we may be able to take some time to get some very clear answers to your
questions. Question time being close, if there are other questions that you would like us to
give specific answers to, now might be an opportune time to ask them.
Senator SCULLION (Northern Territory) (1.58 pm)—Perhaps the minister could include in those investigations the total number of people. Whilst you have brought these amendments into this place to ameliorate the circumstances that both the opposition and the stakeholders have said very clearly are going to happen, I just want some calculations about what the effect of the amendments will be terms of those people on the exemptions. If you are going to include those people with illness, as you have said you are, there may well be some other areas or demographics within that, so perhaps while you are there you could address those as well. Some of the material may be somewhat dated, and I know that there are some new amendments and some material which came on only last Thursday. Perhaps the senator would also be able to have a close look at the impact of the amendments—specifically, what savings can you indicate and in what area are they? In other words, the minister has quite rightly identified some demographics within those exemptions, and I wonder if the minister would be able to provide, by the time we get back to this matter, the amount of savings that have been allocated to each of those demographics.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.59 pm)—I will certainly take that question and provide an answer in due course. By way of assistance, can I point Senator Scullion to the additional explanatory memorandum; that may be able to provide some of those answers to the questions that he is asking.

Progress reported.

QUESTIONS WITHOUT NOTICE

Border Protection

Senator ELLISON (2.00 pm)—My question is to the Minister for Immigration and Citizenship, Senator Evans. I ask the minister: is the International Organisation for Migration wrong when it says the Labor Party’s relaxation of border protection policies has resulted in a dramatic surge in people smuggling into Australia?

Senator CHRIS EVANS—I thank the senator for the question. I suppose I start by saying that it is based on a wrong premise. There has been no relaxation of border security measures. What the Labor Party has done is continue and enhance border protection measures. We have maintained the patrolling of the Navy, Customs and other agencies in our northern waters. We have maintained the policy of excision of offshore islands, and we have maintained a system where mandatory detention of unauthorised arrivals is in place and unauthorised arrivals are processed on Christmas Island. The border security measures that were used under the Howard government remain firmly in place. In fact, we have taken a range of measures to increase our capacity to provide strong border security.

I think the senator’s question goes to changes in policy which saw the ending of the Pacific solution and the ending of temporary protection visas. They were two measures that operated under the Howard government that were highly controversial and were regarded internationally as a stain on Australia’s reputation. We campaigned on the basis of abolishing them, and we have met our election promises to do so. I note that the Liberal Party has not opposed those changes and has not promised to reintroduce either the Pacific solution or TPVs. I would be interested if Senator Ellison is suggesting that, because that is certainly not what the current spokesperson has said. I do not think IOM’s analysis of changes in Australian policy reflects issues of border security; it reflects issues to do with the treatment of asylum seekers when in this country. (Time expired)
Senator ELLISON—Mr President, I ask a supplementary question. I note the minister’s comments in relation to Navy and Customs. Given revelations last week that the Navy has cut its patrol boat fleet to half over the Christmas period and that the number of personnel on active duty will be around only 320, what assurances has the minister sought from the Australian Customs Service that they will not be standing down any of their fleet or personnel over the Christmas period? I ask this in view of the minister’s comments and the fact that he announced that he would be having an investigation into the latest arrival off the coast of Western Australia over the weekend.

Senator CHRIS EVANS—I do not have details on Customs staffing over the Christmas period, but I have no indication that there is any change to their arrangements. But I will take that part of the question on notice. Certainly, in terms of the Navy, I have been assured by senior Defence personnel that the arrangements they are putting in place for stand-down in the Navy over the Christmas period to provide some relief to Navy personnel who have been working at a very high tempo for a very long period of time are that there will be no diminution of border patrol activity over that period. There will be no reduction in our capacity for border protection over the period in which there is some stand-down of Navy personnel. I have received that assurance from Defence. I assume and am confident Customs will continue their normal operations, but I will take on notice the exact question because I have not specifically got information in answer to that question. (Time expired)

Senator ELLISON—Mr President, I ask a further supplementary question. I refer to the fact that the most recent suspected illegal boat arrival into Western Australia on the weekend came so close to Australia that the boat was actually first spotted by campers and then intercepted by state, not Commonwealth, authorities. Doesn’t this confirm that Labor’s new immigration policy, mixed with its diminished border protection, is an open invitation to people smugglers and it is sending them a green light?

Senator CHRIS EVANS—I thank the senator for the question and notice that he did not address my invitation to tell me what current Liberal Party policy was. I await that with anticipation. What we know is that there was an unauthorised arrival off the Western Australian coast a couple of days ago, and we will obviously be getting further information. It is assumed at the moment that they were of Sri Lankan nationality. I would remind the senator, who is a former minister in the Howard government, that there have been two arrivals of Sri Lankans direct from Sri Lanka in recent times. This is the third arrival. It is not a usual occurrence, but it is not the first occurrence of Sri Lankans arriving on the Western Australian coast undetected. As I said, we have had two previously. But it is obviously of serious concern. I have asked for a report as to why they were not spotted or located earlier, and I am very keen to receive that information. (Time expired)

Council of Australian Governments

Senator BILYK (2.06 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Can the minister update the Senate on the outcome of the COAG meeting chaired by the Prime Minister in Canberra last weekend and what it means for the provision of government services to the community?

Senator CHRIS EVANS—I thank the senator for her question. The government went to the last election with a very strong commitment to ending the blame game that so much represented the conflict between the states and the Commonwealth over the pro-
vision of services. I think the Australian public understand that that had been a very negative influence on our capacity to deliver services.

The outcome of last weekend’s meeting will deliver better services to Australian families and will be funded from the existing budget surpluses. The historic agreement reached over the weekend also has a strong emphasis on reviving our flagging productivity growth, especially in education and infrastructure investment, which will boost Australia’s economic capacity. The meeting also marked a new beginning in federal-state relations, with governments from across the political divide working together to strengthen the economy, protect jobs and deliver better services to Australian people.

The COAG national reform package will help create 133,000 jobs, it will invest $15.1 billion to stimulate the economy and it will drive significant reform in health, education, housing, business deregulation and the government’s aim of closing the Indigenous life expectancy gap. Through the COAG processes, the Australian government will invest $15.1 billion in a national reform package focused on some of the key challenges in delivering services to Australians. They are looking to focus on those key challenges of improving schools and hospitals and the need to train more quality teachers, nurses and doctors and looking to improve those services that are most important for families in Australia to help provide assurance for them about an education for their kids and their health. (Time expired)

Senator BILYK—Mr President, I ask a supplementary question. Can the minister please advise the Senate of further details of how the COAG national reform package will improve Australia’s schools?

Senator CHRIS EVANS—The government has committed to funding $42.4 billion over the four years from 2009 for government and non-government schools. This will form the foundation for delivering our government’s education revolution to all of Australia’s schools. The schools funding will be complemented by over $2.2 billion in national partnerships payments to improve literacy and numeracy, to improve principals’ leadership development, to improve teacher quality and to improve educational outcomes in low-socioeconomic school communities. It will lead to greater transparency in our schools and help lift the most disadvantaged schools of the nation. This will deliver for kids the quality education that we all wish for them, allow our teachers to provide the leadership we know they can provide and improve the quality of teaching available to our students. (Time expired)

Senator BILYK—Mr President, I ask a further supplementary question. Can the minister please explain what was done to address concerns about meeting the additional on-costs associated with implementing the government’s computers in schools program?

Senator CHRIS EVANS—The federal government will offer states and territories an additional $807 million to meet the legitimate and additional costs of the new computers purchased through the National Secondary School Computer Fund, bringing the total commitment to $2 billion over five years. The additional funding will be paid before the end of the 2008-09 financial year and will cover the legitimate on-costs incurred for computers purchased through round 1 and future on-costs associated with subsequent rounds. Computers provided under the fund, which are replacing those aged four years or older, will continue to attract funding of $1,000 per unit, as the infrastructure is already in place. Schools which have not applied in the first or second rounds for funding will be given an opportunity to apply
for the on-costs under a supplementary round 2 process. This program is delivering for Australian kids. (Time expired)

Broadband

Senator MINCHIN (2.11 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy. I refer the minister to his failure to answer a question from Senator Birmingham last Thursday on the NBN tender process. I ask: did the minister at any stage amend the RFP for the national broadband network to enable non-compliant bids to be accepted, as the Australian National Audit Office has clearly stated would be required?

Senator CONROY—I thank Senator Minchin for that question. As I have repeatedly stated, consideration of proposals against the RFP will be undertaken by the panel of experts. It is up to the panel of experts—

Senator Ian Macdonald interjecting—

Senator CONROY—Perhaps if you chose to read the RFP, Senator Macdonald, you would not need to make a moronic interjection. It is up to the panel to consider all the proposals received. Its consideration will be informed by legal advice. The panel will consider all of the proposals received under the government’s NBN process. In its consideration of proposals the panel will take into account a number of factors as set out in the RFP. I again invite those opposite to actually read the RFP, so you can gain some understanding—as opposed to the ill-informed comment that those opposite have continued to make. Read the RFP and understand what the minimum legal obligations to comply with the documents are.

The panel will inform me at key stages in its process as decisions or recommendations are made. I will not be having day-to-day discussions with the panel about its progress. I will not be providing a running commen-

tary on the evaluation process. Nor am I in a position to speculate on the panel’s decision making. I am aware that some proponents have discussed the potential to take legal action depending on the outcome of the panel’s review of the proposals— (Time expired)

Senator MINCHIN—Mr President, I ask a supplementary question. I note the minister has again refused to say whether or not he amended the request for proposals, as recommended by the ANAO. So I ask the minister: how can the government’s expert panel formally consider and accept Telstra’s non-compliant bid—which Telstra itself has said is not a bid—if the RFP was not amended, as advised by the ANAO?

Senator CONROY—Thank you, Senator Minchin. As I have repeated, I can only invite you, or perhaps your staff, to read the RFP. It is a lengthy document. They should go to the section which sets out quite clearly the minimum legal requirements to comply with the process. Given the process that we have been following, on legal advice and following probity advice, any amendments to the process are required to be notified to all proponents and listed on the department’s website. There are no amendments that have been recently put up. There have been a string of clarifications that have been put up, but none— (Time expired)

Senator MINCHIN—Mr President, I ask a further supplementary question. I note that the minister has finally confessed that the RFP was not amended and I ask him: why is he acting in complete defiance of the clearly stated position set out by the Australian National Audit Office that for any non-compliant bids to be accepted the RFP would need to be amended?

Senator CONROY—Again, the lack of understanding of the legal requirements in the RFP being demonstrated by those oppo-
site should not come as a surprise. The question is based on a false premise, because the requirements are clearly stated in the RFP. There has been no notification because there has been no change. Those who seek to continually pre-empt the work of the expert panel should understand that this has been set down clearly. Unlike your government, Senator Minchin—through you, Mr President—we are not going to change the goalposts midway through the process, like Senator Coonan did when she changed the entire bidding process halfway through the process, put 50 per cent more money on the table and told only one company. Surprisingly, that company won the bid. (Time expired)

**Health Funding**

Senator FORSHAW (2.16 pm)—My question is directed to Senator Ludwig, the Minister representing the Minister for Health and Ageing. I note that more than $100 billion worth of new funding deals was agreed to by the Commonwealth, states and territories at the weekend meeting of the Council of Australian Governments. Can the minister inform the Senate how a $64.4 billion investment to boost health and hospital funding demonstrates the Rudd government’s determination to work with the states and territories to end the blame game and help rebuild our public hospitals?

Senator LUDWIG—I thank Senator Forshaw for his question. I know he has a long-standing interest in health issues. In relation to the funds delivered to the area of health during a historic Council of Australian Governments meeting at the weekend—

**Opposition senators interjecting—**

Senator LUDWIG—It is a shame that the opposition do not want to hear the good news. The Rudd government is delivering $64.4 billion to boost health and hospital funding and drive reform, including through a historic new national healthcare agreement—one that the opposition have not been able to do. This is an increase of more than $20 billion, or 50 per cent, over the funding provided by the Howard government in the last agreement.

In 2003, $1 billion was cut from the public hospital system by the Howard government. After 12 years of neglect, we are giving hospitals money to tackle key pressure points and improve the health system for all Australians. The $64.4 billion investment consists of an extra $4.8 billion for public hospitals; $1.1 billion to train more doctors, nurses and other health professionals; $750 million to take the pressure off emergency departments and $500 million in measures to provide additional subacute care; $450 million in the Preventative Health National Partnership and $800 million in the Indigenous Health National Partnership.

The additional $4.8 billion for public hospitals comprises an increase to base funding of $500 million and an annual indexation rate of 7.3 per cent into the future. This growth rate will help the Commonwealth funding contribution on a sustainable long-term basis, unlike the miserly indexation of 5.3 per cent provided under the last agreement by those opposite. Looking at how the additional funding will relate to people on the ground in health, it will be 350,000 additional emergency department presentations—(Time expired)

Senator FORSHAW—Mr President, I ask a supplementary question. Thank you, Minister, for acknowledging my longstanding interest. I am sure that you have read the many reports of committees that I have served on, such as those on mental health, Medicare, aged care and—I have a particular interest at the moment—obesity. Minister, of the $64.4 billion funding in health, how will the $1.1 billion investment to train more doctors, nurses and other health professionals be
reflected in increased services for patients Australia wide?

Senator LUDWIG—I thank the senator for his question. This $1.1 billion injection is the single biggest investment in the health workforce ever made by an Australian government. The Rudd government understands the community need for more money to be put into the health system and will be demanding better health outcomes as a result. This funding—

Opposition senators interjecting—

Senator LUDWIG—It is a shame that those opposite mock the proposal. The Rudd government is doing what those opposite never did in government, which is to make a huge investment in the health system. This funding will support a massive expansion in undergraduate clinical-training places in public hospitals and other health settings. With student numbers rising and hospitals under pressure after years of underfunding by those opposite when they were in government, there have not been enough training places. Without this funding, many doctors would emerge from university with no training places to go to. The Rudd government—

(Time expired)

Senator FORSHAW—Mr President, I ask a further supplementary question on this extremely important area of health funding—something I know that opposition senators would like to hear about. Can the minister confirm to the Senate that the government’s $64.4 billion boost to health funding will provide investment to help close the gap in life expectancy between Indigenous and non-Indigenous people?

Senator LUDWIG—The Australian government has set a target to close the life expectancy gap between Aboriginal and Torres Strait Islander people and other Australians within a generation. Achieving this goal will of course not be easy. That is why the government is investing $800 million over the next five years as part of a $1.6 billion national partnership on Indigenous health. This funding will deliver more health professionals to Indigenous communities, expand health services and help tackle key risk factors like chronic disease and smoking. Chronic disease is the largest contributor to the current life expectancy gap. About $470 million will be provided to improve chronic disease management. That includes incentives and support for general practice to manage the coordination of care of Indigenous patients, additional support for Indigenous patients with chronic diseases who access specialist and allied healthcare services and the expansion of the Medical Specialist Outreach Assistance Program. (Time expired)

National Secondary School Computer Fund

Senator MASON (2.22 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. I refer to the Prime Minister’s pre-election pledge that his so-called ‘computer for every student’ election promise was ‘fully costed and funded’. Can the minister confirm that this was not the case and that there has been a 66 per cent blow-out in the cost of the so-called ‘computers in schools’ program from $1.2 billion to $2 billion?

Senator CONROY—I thank Senator Mason for that question. It would perhaps have been better directed at Senator Carr, but I am happy to deal with the question. For the first time there is a capital program dedicated to ensuring that, when a student in years 9 to 12 needs a computer for their education, it will be available. The Australian government has always recognised there are additional associated costs with the implementation of the National Secondary School Computer Fund. Only through COAG could these costs be agreed. A review to determine legitimate and
additional funding implications of the National Secondary School Computer Fund was first completed with the full cooperation of all education jurisdictions. The report was then considered at the COAG meeting in conjunction with a range of Commonwealth-state financial reforms.

The funding package provides funding to meet the costs of installation and maintenance of the new computers purchased through the fund. In January 2008 the government conducted a nationwide preliminary survey of computers in schools, with 97 per cent of Australian secondary schools participating in the survey. The national audit asked schools to tell us how many computers they had that were under four years old, and specifically for students in years 9 to 12. The national audit revealed that the national average is one computer to every five students, despite claims—(Time expired)

**Senator MASON**—Mr President, I ask a supplementary question. Is it a fact that as well as a 66 per cent blow-out in the cost there has been a 50 per cent reduction in the number of computers to be made available, from a ratio of one to one to one to two? Aren’t Australian students now getting half the promised computers for almost double the promised price?

Honourable senators interjecting—

**The PRESIDENT**—Order! I am waiting for order so that I can call Senator Conroy.

**Senator CONROY**—As I was mentioning, the national audit revealed that the national average is one computer to every five students, despite claims from the then Minister for Education, Science and Training that she had ‘yet to see a school that is not well served with computers’. One to five! That was the attitude of those opposite—everything was just fine. In round 1 of the program 946 schools from across Australia were invited to submit an application. These were schools with a student to computer ratio of one to eight. One to eight? You should be ashamed after 12 years in government. And worse was identified through the national audit. Round 1 provided funding of over $116 million to 896 secondary schools across Australia for 116,820 computers to take these schools to a ratio of one to two. (Time expired)

**Senator MASON**—Mr President, I ask a further supplementary question. Given that the computers in schools program was a major election commitment, why did it take the government until 3 September this year to formulate its own estimates of costs and until 4.55 pm last Thursday before those estimates were finally made public? Secondly, given that the government received friendly advice in the February Senate estimates that the program’s true cost was over $2 billion, will the government save time in the future by simply going to the opposition for the costing of its policies?

**Senator CONROY**—I guess this is a drawback of the new system. Not everyone is quite used to it yet, because, when you get the answer to the question that you are going to ask third in the first answer, you have to be a little bit more nimble. Let me repeat: the Australian government has always recognised that there are additional costs associated with the implementation of the National Secondary School Computer Fund. Only through COAG could these costs be agreed. A review to determine legitimate and additional funding implications of the National Secondary School Computer Fund was first completed with the full cooperation of all education jurisdictions. I do not know how you can be more relevant or more direct in answer to the questions that have been asked than to actually repeat what you have already—(Time expired)
Climate Change

Senator BOB BROWN (2.29 pm)—My question without notice is to the Minister for Climate Change and Water, Senator Wong. I ask why, having snubbed the Senate last week on a question about the announcement of mid-term emissions trading targets, the minister announced at 4.22 pm on Friday that she would be announcing that target the day after she returns from Poznan. I also ask the minister: on the business of pursuing a global agreement to stabilise emissions, will the Australian government’s position going to Poznan be 350 parts per million carbon dioxide equivalent in the atmosphere, which is safe; a dangerous 450 parts per million; or a known catastrophic potential of 550 parts per million?

Senator WONG—Thank you to Senator Brown for the question. In relation to the first aspect of the question, Senator Brown asked me, I think on Thursday, about when the government would be announcing its mid-term targets. I indicated to him that we would be announcing those very soon, and we did so announce the following day. That was the government’s announcement. Just to be clear about what the government was announcing: the government was giving two weeks notice of its intention to make an announcement on 15 December, which will be an announcement of both the white paper and the medium-term target range. So we have put that out very clearly and given people two weeks notice of what will be a very substantial government announcement.

The second aspect of the question relates to a global parts-per-million goal. Senator Brown has asked me similar questions on previous occasions, and I think on previous occasions I have reiterated the fact that a parts-per-million atmospheric goal is essentially a goal that must be signed up to or delivered by all nations of the globe and that how these targets, these goals, are to be communicated and set is precisely one of the issues that will be the subject of negotiations in Poznan and over the period leading up to Copenhagen.

In relation to burden sharing, which is often an aspect of Senator Brown’s questions in this context, again I reiterate that any global goal also will require a negotiation in relation to burden sharing, as outlined in the Bali roadmap. (Time expired)

Senator BOB BROWN—Mr President, I ask a supplementary question. Exactly as the minister says, the world is seeking at Poznan to establish a stabilisation of emissions which is globally accepted. I ask: is the Australian government’s position 350 parts per million carbon dioxide equivalent, which is safe; 450 parts per million, which is at best dangerously unknown in its outcome; or 550 parts per million, which even Professor Garnaut said will lose us the Barrier Reef, the winter snow on the Alps and much of the productivity of the Murray-Darling Basin, Ningaloo et cetera? What is the government’s position, if it is going to have leadership on this matter, going to Poznan, and will the minister rule out the 550-parts-per-million option? (Time expired)

Senator WONG—The Australian government’s position, as articulated prior to the election, is that we are committed to a 60 per cent reduction by 2050. The parts-per-million goals that Senator Brown describes are, of themselves, one of the ways in which a global goal could be articulated. It is not the only way, Senator Brown, and, as you know, there have been different formulations floated in different international contexts. These are all issues that are to be negotiated in the lead-up to Copenhagen, which includes the negotiations in Poznan next year.

What we can talk about very clearly is the election commitment that we made prior to
the election, which we remain committed to, which is a 60 per cent reduction by 2050. As I made clear in my previous answer, the Australian government will announce a mid-term target range on 15 December, along with the announcement of the white paper. *(Time expired)*

**Senator BOB BROWN**—Mr President, I ask a further supplementary question. That is an extraordinary position—the minister is going to go to a global conference in which other countries, including the EU, have announced their targets, and she is going to not tell the conference and then fly home and announce it when she gets back here.

Part of the aim of the Poznan conference is also to reduce emissions from deforestation. I ask the minister: in Australia, where deforestation—logging and burning of forests and woodlands—creates 17 to 20 per cent of the gross national pollution of the atmosphere with greenhouse gases, what is the minister’s proposal to reduce greenhouse gas emissions from that extraordinarily polluting sector at Poznan?

**Senator WONG**—Can I make a few points very briefly. The first is that few other countries will be bringing binding target commitments to Poznan, and Senator Brown, I think, knows that.

_Opposition senators interjecting—*

**Senator WONG**—I would like to also make the point, if I can—

**The PRESIDENT**—Order! Resume your seat, Senator Wong. There are too many interjections on my left.

**Senator WONG**—I make the point, if I can, that there is one political party in this chamber which has no political commitment to targets of any sort, and that is the opposition. We are very clear about which political party in this place—

_Opposition Bob Brown interjecting—*

**Senator WONG**—Senator Brown, if you are going to point at me—

_Opposition senators interjecting—*

**Senator WONG**—which political party in this place is committed to climate change—

**The PRESIDENT**—Senator Wong, resume your seat. Senator Wong, you should address your comments to the chair. Order on my left! You have 26 seconds in which to complete the answer.

**Senator WONG**—In relation to deforestation, I would ask you to note, Mr President, that it does seem to be a different topic in the third supplementary, but I am happy to address it—

_Opposition Bob Brown interjecting—*

**Senator WONG**—I am wondering if Senator Brown wants a response to his question or if he just wants to ask more questions while I am answering it.

**The PRESIDENT**—Senator Wong, continue with your answer.

**Senator WONG**—As we have previously indicated, we are committed to action on deforestation. We have a $200 million commitment— *(Time expired)*

**Carbon Pollution Reduction Scheme**

**Senator IAN MACDONALD** *(2.37 pm)*—My question is also to Senator Wong as Minister for Climate Change and Water. I hope I have more success than Senator Brown had in getting an answer. Are the government considering putting in place a third level of free permits for emissions-intensive trade-exposed industries under your Carbon Pollution Reduction Scheme, and will this, as reported, be set at 30 per cent?

**Senator WONG**—As I answered in response to Senator Brown, the government’s decisions on design aspects of the Carbon
Pollution Reduction Scheme will be made clear in the announcement on 15 December in the white paper. We have, as I have previously said in this place, undergone extensive consultation with the Australian community, both business and non-government organisations and members of the community, in relation to the design propositions which were put out in the green paper in July. Those propositions were put out for consultation for the precise purpose of ensuring we could have detailed consultation on what is a very substantial and significant economic reform—an economic reform I note those opposite have yet to indicate a position on.

In relation to aspects of what may or may not be in the white paper, those details will become clear when the government announces the design decisions and makes public those decisions through the publication of the white paper on the date that I have outlined. We are committed to ensuring that we progress this reform in an economically responsible way. That is what we have said consistently and that what we are doing.

Senator IAN MACDONALD—Mr President, I ask a supplementary question. The green paper spoke of permits being assessed based on emissions per dollar of revenue. The minister would be aware that the Australian Bureau of Statistics in their submission to the green paper said:

... value added is considered a superior measure to revenue for an emissions intensity measure (albeit more difficult to measure) and should be used.

Will the government actually be following this advice from the Australian Bureau of Statistics?

Senator WONG—Senator Macdonald is a few months late with that question. That question really deals with what is known as the metric for assessing whether a company is emissions intensive trade exposed. I previously indicated publicly, and in my consultation at ministerial as well as departmental level with business, that the government was open to consideration of what was the most appropriate measure. Let us recall what the policy reason is for permits being given to emissions-intensive trade-exposed companies. It is to deal with the recognition that some of these firms trade on world markets and have an inability to pass on the price and therefore that has to be recognised in terms of the cost impact on those companies. The green paper proposes a way of dealing with that. (Time expired)

Senator IAN MACDONALD—Mr President, I ask a further supplementary question. How can the minister legitimately claim to be consulting over CPRS when the minister refuses to answer quite legitimate questions about possible changes to the CPRS? Here is an easier one for you perhaps. With the free permits being spoken of and the suggested targets which you are refusing to tell Senator Brown about, can you just explain to the Senate exactly what impact Australia’s Carbon Pollution Reduction Scheme will actually have on the changing climate of the world?

Senator WONG—Yet again what we see from the other side is the climate change sceptics who ensured you did nothing for 12 years. This scheme is about reducing Australia’s contribution to global warming. It is about reducing the carbon pollution and other emissions that this country produces, and that question demonstrates yet again—

Opposition senators interjecting—

The PRESIDENT—Order! Senator Wong, your comments should be addressed to the chair. Those on my left should cease interjecting. It will help the passage of question time.

Senator WONG—As I said, through you, Mr President, what that question demon-
strates is that those opposite have no will, no desire, no interest in acting on climate change. If they cannot see that fundamental to responding to climate change is ensuring that Australia reduces its own greenhouse gas emissions, its own contribution to carbon pollution, if they cannot see that is required in the interest of our children and our grandchildren, in the interests of economic responsibility, then those opposite stand condemned. They have demonstrated yet again that they are not up to the hard challenges of the future. (Time expired)

Thailand

Senator MARK BISHOP (2.43 pm)—My question is to the Minister representing the Minister for Foreign Affairs in this place, Senator Faulkner. Could the minister outline to the Senate the situation that has developed in Thailand and the reaction of the government to this situation and explain what the Australian government is doing to facilitate the travel arrangements for Australians trapped by the closure of the airports in Bangkok?

Senator FAULKNER—I thank Senator Bishop for his interest and concern in relation to this matter. Over the weekend the government asked Qantas to operate special flights for Australians stranded in Bangkok who wanted to come home. Obviously we appreciate the fact that Qantas has agreed to assist Australians, and a Qantas Airbus will leave Phuket early tomorrow morning. The flight will carry around 300 passengers, both Qantas passengers and other Australians holding tickets from other carriers. I can inform the Senate that arrangements are continuing with Qantas on the possibility of a further flight. This is part of the considerable consular and logistic plan the government has in place to assist Australians during the unfolding political tensions in Thailand. It goes without saying that our primary concern is for Australians’ safety and welfare, both for those who want to leave Thailand and for those Australians who remain in Thailand itself.

I can say that we are increasingly frustrated with the situation in Thailand and recognise that it is also very frustrating for the hundreds of stranded and, I think it is fair to say, distressed Australians. Our embassy in Bangkok has set up a call centre and has spoken to over 3,000 people so far to provide advice and to respond to the concerns and difficulties that Australian tourists are facing. We have deployed consular officials on the ground who are assisting Australians by helping those who need medical assistance, helping elderly passengers who have particular difficulties and assisting parents in distress with young children. (Time expired)

Senator MARK BISHOP—Mr President, I ask a supplementary question. In his response the minister indicated some numbers but, given the numbers of Australians affected, can the minister indicate the volume of work being handled by consular officials trying to assist Australians trapped in Thailand?

Senator FAULKNER—I can inform the Senate that the Australian ambassador and Australian diplomats have met and spoken with over 400 Australians at 15 hotels around Bangkok. The ambassador has personally put pressure on Thai Airways and the Thai tourism authority to get some Thai airlines flights out, and embassy officials continue to provide accommodation assistance for Australians. Suvarnabhumi international airport and Don Muang domestic airport in Bangkok remain closed because of the ongoing demonstrations and political unrest. It is uncertain when these airports will reopen. I can also say that embassy officials are stationed on 24-hour duty at Thailand’s three operating...
airports, including at U-Tapao military air-base. *(Time expired)*

**Senator MARK BISHOP**—Mr President, I ask a further supplementary question. Can the minister inform the Senate what advice is being provided by DFAT to prospective travellers to Thailand or to travellers in Thailand? What is the current travel advisory for Thailand and has that changed in light of the current problems?

**Senator Faulkner**—The government is advising all Australians to keep themselves informed of developments, to remain in close contact with their airlines and travel operators, to follow any instructions issued by local authorities and to monitor our travel advice for any updates. I can advise the Senate in response to Senator Bishop’s supplementary question that the travel advice for Thailand has been reviewed and reissued. The overall level of the advice has not changed but we have upgraded the level of advice for Bangkok. We are now advising Australians to reconsider their need to travel to Bangkok at this time due to the continued closure of the main airports and, of course, the fact that there is very limited availability of flights. The situation does remain very uncertain, and I repeat that our uppermost concern is for the safety and welfare of Australians. *(Time expired)*

### Economy

**Senator Eggleston** (2.48 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. I refer to today’s Australian Performance of Manufacturing Index, which has collapsed to minus 17.3 compared to plus three when the Rudd government took office a year ago. Doesn’t this 20-point decline after only 12 months of the Rudd Labor government show that the Prime Minister’s and the minister’s claim that they want Australia to be a country that makes things is just another broken election promise?

**Senator Carr**—I thank the senator for the question. The Australian Industry Group’s Australian Performance of Manufacturing Index has now fallen for six consecutive months. In November it fell 7.7 points to 32.7. An index below 50 per cent indicates a contraction of the sector. This is in line with similar indexes on a worldwide basis. In October the United States index eased to 38.9, the Euro zone index fell to 41.1, the Japanese index fell to 42.2 and the Chinese index was down to 45.2. The subdued activity is as a result of, amongst other things, higher input costs and falling demand, which are to be expected in the context of a slowing global economy. There is no disputing the underlying strength of Australian manufacturing. In 2007-08 new records were set in terms of industry value-adding, which is at $104.7 billion, company profits before income tax at $29.4 billion and exports at $88.4 billion.

It is a pity that the opposition does not have more regard for the jobs and welfare of Australian working families, instead of trying to denigrate the efforts of Australian workers. You would have expected that the opposition would have a better understanding of Australia’s place within the global economic environment. You would have also expected the opposition to actually do something to support Australian manufacturing and to support the maintenance of confidence in Australian jobs. *(Time expired)*

**Senator Eggleston**—Mr President, I ask a supplementary question. Given that today’s index also says:

… manufacturing employment fell for the ninth consecutive month. The rate of decline strengthened slightly in November …

my question to the minister is: exactly how many more jobs do you think the Australian
Senator CARR—I am sure that the senator would be aware and appreciate, given his sudden interest in manufacturing, that the Australian manufacturing sector is and remains a significant employer, a significant contributor to economic growth and a major export earner. Manufacturing is also the largest business spender on research and development, accounting for some 31.4 per cent of the sector’s R&D expenditure in the 2006-07 period. The Australian manufacturing sector has proved remarkably resilient over time despite the tough international conditions, and it has adjusted well to the changing circumstances. I am confident it will continue to do so even in these tough times. Again, I would expect the opposition to show a little more regard for the welfare of the Australian people. *(Time expired)*

Senator EGGLESTON—Mr President, I ask a further supplementary question. Given that the last time that the manufacturing sector recorded such a low figure was when Australia was struggling to recover from Paul Keating’s ‘recession we had to have’ and given that the index has now been in contraction for seven months in a row, does the minister believe that the Australian manufacturing sector is in a technical recession?

Senator CARR—We have here an amalgam of the opposition. On the one hand, we have Madam Xerox, the world’s greatest copier. We have others who are now seeking to misrepresent the situation in regard to the importance of Australian manufacturing to the Australian economy; I am disappointed. I am very disappointed that the opposition maintains such a callous disregard for the welfare of working people in this country. Of course, you would expect that after 12 years of Work Choices.

Senator Abetz—Mr President, I rise on a point of order on direct relevance. In your consideration at the end of this trial period, I would invite you to have a look at Senator Carr’s answers today, as they were absolutely irrelevant to the questions asked.

Senator Ludwig—Mr President, on the point of order, this is the second time that Senator Abetz has stood up and taken a point of order. The first was about Senator Conroy. He asked ‘directly relevant’ to be reviewed by yourself. Now he is asking again. On both occasions, including this occasion, in respect of the question asked, Senator Carr was answering the question and was directly relevant. One of the difficulties is that Senator Abetz does not raise the reason why he says the answer is not relevant. He simply invites you to look at it, without an argument to ground the reasons behind why he says it is not relevant. Therefore, it is very difficult, I would submit, for you to be able to rule that way or to reflect upon it as part of the review process without Senator Abetz at least putting forward a direct reason as to why. I would ask you to determine that it is not a point of order.

The PRESIDENT—I draw the minister’s attention to the question and to the fact that he has 24 seconds in which to respond.

Senator CARR—Thank you. We have seen from this government a range of measures being taken, including a $10.4 billion economic security package to maintain a stronger level of public demand. What we are seeing in these new survey results is, of course, that employment is under pressure as a direct result of the fall-off in new orders which is a direct result of the fall-off in confidence. What we are seeing from the opposition is an attempt— *(Time expired)*

Budget

Senator CAMERON *(2.57 pm)*—I might just take a second to compose myself after
that tidal wave of hypocrisy from the other side.

The President—Senator Cameron, ask the question.

Senator Cameron—My question is to the Minister for Superannuation and Corporate Law, Senator Sherry. In a time of significant strain on the Commonwealth budget, due to the impacts of the global financial crisis on the economy, and on revenues, is the minister aware of any major new threats to the Rudd government’s budget? How significant are these threats and who might be the main beneficiaries of any such action should they succeed?

Senator Sherry—As the 2008-09 Mid-Year Economic and Fiscal Outlook showed, the impact of the global financial crisis on the budget has been very, very significant. The main impact has been on revenue, which has been revised downwards by some $40 billion over the years 2008-09 to 2001-12. In addition, the government has put in place an economic stimulus package—the Economic Security Strategy—of some $10.4 billion. But I just want to go back briefly to the budget of 2008-09, which was delivered in May. The intention of the government and the commitment of the government was to address inflation and some longer term challenges—a significant slowing in real expenditure growth and reprioritisation of spending to invest in Australia’s future—and, in particular, to deliver a strong budget surplus as a buffer for the future, putting the budget in a good position to help Australia weather the financial turmoil.

Senator Ian Macdonald interjecting—

Senator Sherry—Funnily enough, I do want to go to the previous government, Senator Macdonald. I actually want to praise the previous government. The previous government, the Liberal government, announced an important revenue measure that would have seen some $1.2 billion flow to the budget by ensuring that the tax expenditures are spent more appropriately on Australians rather than on foreign workers.

Senator McGauran interjecting—

Senator Sherry—I praise the previous Liberal government, Senator McGauran, for ensuring and promising before the election that this $1.2 billion would be delivered. Indeed they started work on legislation and of course the Labor opposition committed itself to supporting this particular proposal. But what we saw last week was that the Liberal Party in opposition have taken a new turn. They have decided to gut this measure—to remove a large part of the $1.2 billion that they had promised themselves before the last election. (Time expired)

Senator Cameron—Mr President, I ask a supplementary question. Can the minister also outline to the Senate why the Rudd Labor government is taking action to reduce the number of lost accounts in the Australian superannuation system indefinitely, and will this important measure stand to make our whole superannuation system more efficient and cost effective for all Australians?

Senator Sherry—As I was saying, I want to praise the former Liberal government and I want to praise Senator Minchin, the former finance minister. Senator Minchin, being so responsible, signed up to this revenue measure that was going to produce $1.2 billion for the budget. He and the Liberal Party both signed up to it before the last election. Now, they do not want to deliver. We have got the height of irresponsibility when the former Liberal government say, ‘We want to deliver a $1.2 billion saving to the budget.’ But now they want to gut it of some $860 million, which is what they want to remove from their own savings measure. We did not get a peep of this until last week when they decided to so significantly amend
their own revenue measure, which they had
gone to the trouble to draft— *(Time expired)*

**Senator Cameron**—Mr President, I
ask a further supplementary question. Sena-
tor Sherry, I am going to ask you one more
question as long as you do not praise Senator
Abetz for his tactical genius. Can the minis-
ter explain to the Senate how the serious
threat he has informed the Senate of may still
be averted and why this is a critical test of
who is best placed to manage Australia dur-
ing these tough financial and economic
times?

**Senator Sherry**—It is the height of ir-
responsibility and hypocrisy, particularly
given the current pressures on the budget, for
the former Liberal government to come into
this place and indicate that they are going to
gut a $1.2 billion revenue measure—a meas-
ure which they designed and started to com-
pile into law, and indeed that Senator
Minchin, to whom I pay credit, helped to
design—when there is such significant pres-
sure on the budget. They are going to gut that
$1.2 billion revenue measure and deliver tax
preferment to foreigners, at the expense of
Australian taxpayers, via the superannuation
system. Quite rightly, former Minister
Minchin recognised that this was wrong. We
needed to ensure that tax preferment in su-
perannuation went to Australians and not to
foreigners. And we needed to ensure— *(Time
expired)*

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

**QUESTIONS WITHOUT NOTICE:**
**ADDITIONAL ANSWERS**

**Broadband**

**Senator Conroy** (Victoria—Minister
for Broadband, Communications and the
Digital Economy) *(3.04 pm)*—I would like
to add to an answer I gave earlier. I indicated
that amendments to the RFP were notified
both to proponents and on the departmental
website. I understand that they are not placed
on the departmental website. There have still
been no amendments but they are notified
directly to the proponents.

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

**Border Protection**

**Senator Ellison** (Western Australia)
*(3.04 pm)*—I move:

That the Senate take note of the answer given
by the Minister for Immigration and Citizenship
(Senator Evans) to a question without notice
asked by Senator Ellison today relating to border
protection.

In July this year the government released a
new policy in relation to mandatory deten-
tion and I know that the government has
been trying to downplay it ever since by say-
ing that there has been no real change. Of
course, that is not the fact at all. In fact, at
estimates this year I questioned Senator Ev-
ans and he started by saying:

Just to correct the record, there was no change
in the policy on mandatory detention.

He then went on to say:

There were some changes to the values to be ap-
plied in detention centres. I am not trying to say
there was not a change.

Now which is it? Is there a change or is there
not a change?

Close examination of the government’s
changes shows that there is the potential to
release from detention someone who has
arrived here unlawfully if they pose ‘no dan-
ger to the community’. That was contained in
a press release on 29 July by Senator Evans.
To quote directly, he stated:

A person who poses no danger to the community
will be able to remain in the community while
their visa status is resolved. The department will
have to justify why a person should be detained.
So what we have is a distinct relaxation of the policy in relation to mandatory detention—that is, after health checks, security checks and other initial checks are carried out, the person can then be released. This is the clear message that is being received.

In today’s press we have a report about International Organisation for Migration chief Steve Cook. He told the Australian that:

… smugglers had tracked the policy changes and there had been a dramatic surge in smuggling in the past 12 months.

In fact, he said:

People smugglers have clearly noted that there has been a change in policy and they’re testing the envelope.

Similarly, the Deputy Commissioner of Criminal Investigation of the Indonesian National Police said that there was a problem with people smuggling. He said:

… the number of boat crossings to Australia had increased, particularly in recent months.

When you look at the statistics over the past few years, they tell a dramatic story indeed. In fact, in 2000-01 and 2001-02 we had some 4,137 people arrive illegally in the first year and 1,212 in the second year. As a result of strong border protection by the Howard government, that went to zero in the next year.

It is interesting to average the arrivals we have had since 2002. If you do the figures from 2002-03 through to 2007-08, we have an average of around two boats or the equivalent of 47 people per year. What have we seen since July this year when the Rudd government announced its relaxation of mandatory detention? We have seen four boats arriving in Australia and some 55 arrivals. That is a clear increase, in five months, on the total of the previous year and a clear increase of that average I mentioned over previous years. Of course we have had not only a change to policy but also funding cuts to Navy, to Border Protection Command and to Customs. Across the board we have had a funding cut to the border protection of this country so that we have a double-pronged initiative diminishing the border protection of this country. We have a change in the immigration policy of this country and we have a logistical diminution of border protection.

I mentioned that in the questions to Senator Evans and he said that he was going to carry out an investigation as a result of the recent arrival in Shark Bay. That is why I asked him what he has done to seek assurances from Customs that they have not cut their patrols and that Border Protection Command has not diminished its surveillance of our coastline? It is very interesting to see—and I put the government on notice in relation to this—what has happened to their coastguard policy that they have championed so loudly over the last few years. Where has their commitment to border protection gone? It has gone nowhere because they have cut border protection and changed our strong immigration policy, thus sending a green light and a message to potential people smugglers in the region that Australia’s borders are now ‘open for business’.

Senator LUNDY (Australian Capital Territory) (3.09 pm)—I can see only one senator who is sending a message to Indonesia about a green light on border patrols and people smugglers and that is Senator Ellison. I have never heard a more disturbing attempt to misrepresent federal Labor’s policy with respect to border control. He stands here and speaks to this issue today as though he blocked his ears when the Minister for Immigration and Citizenship, Senator Evans, responded, thoughtfully, to his questions earlier in question time.

I would like to reiterate some of Senator Evans’s answers as well as include the snide and misleading attempt by Senator Ellison to
somehow describe the stand-down of Navy as affecting the ability of border controls over Christmas. Senator Evans clearly said that was not the case and the Navy’s preparedness will not be affected by the plan to stand down non-essential personnel in order to give them and their families the rest and respite they have earned, which Senator Ellison well heard, as did everyone in this chamber. I think the comment by Senator Ellison was an extremely poor effort and not reflective at all of the answers that Minister Evans clearly gave the chamber this afternoon.

I would also like to go to the substance of the point that the opposition tries to make here, that somehow our border protection arrangements have been weakened. They have been weakened mostly by the presentation just given by Senator Ellison and his obviously earnest exercise to undermine our border control policies. Senator Ellison clearly knows that there has been no weakening, that we have remained strongly committed to border security arrangements and that we have appropriate management in place to deal with the perpetrators of people smuggling, which we all know puts lives at risk. Indeed we know that lives have been lost in the effort to smuggle people.

Labor has retained, as senators know, the excision of offshore islands and mandatory detention and processing on Christmas Island for unauthorised boat arrivals. Senator Evans said that we are not continuing with the Pacific solution, which is one element of the former government’s plan that was highly controversial and absolutely ineffective in its application to this problem. Labor has also maintained the extensive patrolling of our borders undertaken by Border Protection Command, and again Senator Evans was clear today that he is confident that Customs is not diminishing this in any way. Indeed, Senator Ellison, Senator Evans undertook to get you further information on and clarification of that.

Unfortunately, we can all see that there is continuing activity from people smugglers in the region. I am proud to say that Labor’s approach is consistent, it has principle and it has taken away the ineffective elements and unwholesome rhetoric that was associated with the former government’s policies and applied some principles to managing this in a fair and effective way—more effective indeed than we could ever do under the former government because they were so keen on tangling up the rhetoric and were far less focused on making it a practical solution.

Senator Ellison also made reference to some five boats arriving last year with 148 people on board and six boats arriving in the previous year with 60 people on board. So, under the previous government, there were more arrivals in each of the last two years than there has been in this year to date. I put to you, Mr Deputy President, that the facts speak for themselves and Labor’s ongoing commitment to border protection stays solid. I am extremely disappointed to witness in the chamber today Senator Ellison’s attempt to have a last-ditch effort to glory grab on his previous role in these related portfolios with regard to border protection.

Finally, I think anyone concerned about these issues can take comfort from the assurances given by the minister in the chamber today. I am extremely surprised, with the range of issues that was put forward through the course of question time, that it was this issue that the coalition decided to pluck out and beat up in the way that they have. I think that speaks volumes for the aptitude and quality of the opposition we are now dealing with.

Senator JOHNSTON (Western Australia) (3.13 pm)—The one undeniable fact, the one salient feature that everybody knows about
this government is that they are utterly soft on border protection. They are just completely removed from this item, this issue of public policy, this important area for all Australians. They have a group of ministers who are utterly asleep at the wheel. There have been seven incidents since August of this year. Firstly, on 13 August, police in Indonesia arrested nine Afghan asylum seekers and their Indonesian organisers on the island of Flores. They were coming to Australia in a fishing boat. Secondly, on 13 September, the Royal Australian Navy intercepted 14 people—12 passengers and two crew, including a woman—on a boat near Ashmore Reef. Thirdly, on 7 October, a boat carrying 17 people was intercepted by the Navy after it arrived at an offshore oil production and storage facility. That is a very frightening reality for all of us. Fourthly, on 20 October, authorities in East Timor detained 16 Sri Lankans and four Indonesians trying to make their way to Australia illegally by boat. Fifthly, on 11 November, Indonesian authorities found and detained 40 Iraqis, including nine children, stranded on the remote Sumbawa Island after attempting to reach Australia. Sixthly, on 19 November, HMAS Ararat plucked 12 people from a sinking boat 80 nautical miles off Ashmore Reef. Lastly, at Shark Bay, at a latitude below that of Brisbane, Customs and fisheries officers intercepted a boat carrying 12 Sri Lankan men after campers at False Entrance in Western Australia called the police.

So now we are reduced to having fishermen who are living out of camping trailers, with fishing tackle, defending our borders. They are the ones ringing the police. They are the ones reporting and providing the intelligence. This is what we have come to under Labor. It is a wonderful, wonderful reality! After all of this, we have the Navy then saying that they are going to have two months off over Christmas. The message from this is: ‘Come on down! The going is absolutely good for you to sail your boats down to Australia, because we’re asleep at the wheel. We have ministers who do not really care, and we have other, more important, things to worry about.’

I want to talk about the Boulder Cartel Fishing Club. As a former resident of Kalgoorlie, I am sure that these fishermen have great acumen, and I hope and trust that they enjoyed their holiday. It could have been a very unhappy event for them. These boat people may well have been carrying animals with goodness knows what diseases. They may even have been violent. They may have had firearms. There could have been all manner of chaos. And this is at Shark Bay—as I said, lower than Brisbane in latitude. I am very thankful that these right-minded citizens did everything right. They rang the authorities. They alerted them. Heaven knows what these ministers were doing while these boat people sailed their boat down.

Of course, the minister says, ‘I’ve called for a report.’ If I had been the minister, I would have wanted to know on the very day they were discovered how they got there, whether there was a mother ship, how they got through Coastwatch, how they got through the Navy. I would want to know, and I would report to the Senate. This is an outrageous scandal to be brushed aside by these people who do not care about the protection of Australia’s agriculture, protection of Australia’s borders, protection against insurgents and terrorists. The government do not give a fig. For the minister to be here today four days later and say, ‘I’ve called for a report,’ is an absolute disgrace. The government are utterly soft on border protection. They are asleep at the wheel, and it is about time the public woke up to these people who are running these very important ministries and demand more.
Senator FARRELL (South Australia) (3.18 pm)—Senator Johnston told us what he would do if he were the minister. Of course, he is not the minister, because the Australian people rejected the border protection policies of the previous government. What did the Australian people do on 24 November last year? They turned to the Australian Labor Party because they preferred the border protection policies of the Australian Labor Party. Just like they preferred our policies on WorkChoices to the inhumane way that you treated Australian workers, they rejected your policy on the issue of border protection. They turned to us. They knew that your policy was not working. Your policies were not fixing the problem of border protection, so they turned to us.

What are we doing? We are fixing the problem. The Rudd Labor government is, of course, committed to strong border protection, and we are determined to operate it effectively and appropriately, particularly in ensuring that people who are acting to introduce people smuggling do not succeed in achieving that. Labor has retained the excising of the offshore islands. Labor has retained mandatory detention and processing on Christmas Island for unauthorised boat arrivals. Labor has also retained the patrolling of our borders, which is undertaken by Border Protection Command.

Senator Cormann—Do you actually believe what you are saying?

Senator FARRELL—Yes, I believe exactly what I am saying, because I know that the Australian people rejected your policies on border protection. They turned to Labor. Just like in the current economic crisis, just like with WorkChoices, the Australian people know that the only government in Australia that is going to be serious about border protection is the Australian Labor government. We saw that during the Second World War. Who did the Australian people turn to to protect our borders during the Second World War? They turned to Labor. When there is a serious issue confronting the Australian people, they turn to the Australian Labor Party. It is abundantly clear that there is a continuing and constant activity from people smugglers in our region. That is not a problem that has occurred overnight. It has been there for a long time, and we are doing something about it.

As we know, five boats arrived last year with 148 people on board. There were six the previous year with 60 people on board. Under the previous government—your government—there were more arrivals in each of the last two years than there have been this year to date. It is important to remember that people smuggling is an ongoing issue in the region. It has been an issue for many years and it is going to continue to be an issue into the future.

Senator McGauran—You bet.

Senator FARRELL—What matters, Senator McGauran, is how we respond. The Rudd government’s response will be calm and measured. In addition to strong border security measures to deter and detect unauthorised boat arrivals, the Rudd government regularly engages in the region to address people-smuggling issues. Last month we met with the Indonesian minister for law and human rights for the third time this year. None of the former ministers from the previous government managed this many meetings with such an important neighbour over the last three years of the coalition government, when the numbers of unauthorised boat arrivals were much greater than they are today. In those discussions we agreed on a number of proposals. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (3.23 pm)—Thank goodness for the happy campers—the new front line in
our border protection. The headlines today say it all: ‘Security scramble after boat people reach Shark Bay’. You can almost see it. They are coming ashore and they say, ‘Excuse me, where can I moor my boat?’ and they are told, ‘Just go down the road.’ It is absolutely appalling that we are now at the point where we have to rely on campers who happen to be there as the front line of our border security. The reports in today’s *Australian* validate our grave concerns that the Rudd Labor government is sending the wrong message to the people smugglers.

Senator Johnston gave an outline of the seven arrivals. Why have we had seven arrivals since the Rudd government came to power? It has been very clear that people smugglers are back in business, and they are back in business because the Rudd government has softened its approach to border protection. In today’s *Australian* a number of comments were made, and one in particular summarises it well when it quotes former minister Philip Ruddock:

> “I think it is well known that smugglers have been again looking at whether or not it is possible to reopen traffic,” …

He says that whilst he does not want to mention specifics:

> “… it is well known that smugglers have been anxious to get into the business again and I think the evidence is that it is occurring.”

It is very clear that the people smugglers are now testing the waters. Under the coalition, the number of boat arrivals had trickled to just a few. Why? Because we were tough on border security and we were tough on illegal arrivals. The number of unlawful entrants had decreased from 12,000 in the 30 months to January 2002 down to 250 in the years since then. Labor cannot walk both sides of the fence. You cannot go out there and talk tough on border protection and, at the same time, give effect to a change in policy by weakening detention. By changing the policy regarding temporary entry visas and by closing detention areas, you have sent a very, very clear message to the people smugglers.

At estimates, Senator Ellison talked about the questions that were put to the department. I want to take you to those, because it is very clear from the evidence that was given that the department are changing 26 programs ‘spanning across compliance work, detention work, our border security areas and our humanitarian programs’. If that is not a decisive shift in the way that you guys are doing business—

**Senator Cormann**—Of course it is.

**Senator FIERRAVANTI-WELLS**—Of course it is, Senator Cormann.

**The DEPUTY PRESIDENT**—Order! Senator Fierravanti-Wells, address the chair, please.

**Senator FIERRAVANTI-WELLS**—If this is not a decisive change in the direction of this government, clearly you have it in the words of your own public servants, who are clearly answering my questions and the questions of Senator Ellison: yes, they are changing and they are changing their position decisively. Of course, the minister was desperately trying to say at estimates that it has not really changed, but the reality is that those opposite have changed it. Once identity, health and character checks are undertaken, people will potentially be put out into the community whilst their visas are being processed. This is the clear message that the people smugglers are getting, because they know, and they are probably telling their clients, ‘Look, you’ll spend a little bit of time in detention but, after that, you will be out in the community.’ One only has to look at the experiences around the world to see that once illegals go out into the community it is always a very difficult situation for them to meet their immigration obligations.
It is all very well to talk tough, but the proof is in what you are actually doing. Senator Farrell, what the Australian people want to hear from you is that you have not changed your position and you are still tough. But you are walking both sides of the fence, and you have to be truthful with the Australian public.

The DEPUTY PRESIDENT—Order! Senator Fierravanti-Wells, you must address the chair.

Question agreed to.

Climate Change

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.28 pm)—I move:

That the Senate take note of the answer given by the Minister for Climate Change and Water (Senator Wong) to a question without notice asked by Senator Bob Brown today relating to emission trading targets.

I would like to take note of the answer Senator Wong did not give to the question I asked about the Poznan conference which she will be attending next week as Australian’s representative at this global conference on climate change. It was more than passing strange last week when the minister refused to answer my question. It was Tuesday, after I had asked the question three times of the minister as to when she would be announcing the Rudd government’s interim climate change targets, the targets for 2020 in reducing greenhouse gas emissions. The minister refused to answer my question. It was Tuesday, after I had asked the question three times of the minister as to when she would be announcing the Rudd government’s interim climate change targets, the targets for 2020 in reducing greenhouse gas emissions. The minister refused to answer. Then on Friday, at the end of business—4.22 pm, when it was too late for most of the media outlets—out comes a press release from the minister’s office saying that she will announce the government’s targets the day after she gets home, on 15 December.

One can only read into Minister Wong’s actions that we are headed for a weak, Howard-like response from the Rudd government to the growing global contention about climate change. The embarrassment factor is such that the minister could not answer the question in the Senate last week. She does not want to tell the global community what Australia’s 2020 targets will be because the global acclaim that she and Prime Minister Rudd received for ratifying the Kyoto protocol in Bali would turn to global derision if, indeed, that target is going to be five, 10 or 15 per cent. The minister should have answered that question because she knows the answer.

My question this time was: is the government going to push for a global limit of pollution of the atmosphere at 350 parts per million carbon dioxide equivalent, which is considered safe—it is way above historic levels of pre-industrial human history; or 450 parts per million, which we are now rapidly approaching and which is considered dangerous by many scientists as it will heat the planet by more than two degrees and tip us into potentially catastrophic consequences; or 550 parts per million, which everybody and their dog recognises is going to lead to much higher levels and which Professor Ross Garnaut said would lead to the loss of the Great Barrier Reef, Kakadu, Ningaloo and much of the productivity of the Murray-Darling Basin and which would also cause massive sea level rises. Senator Wong herself has said that, with the current predictions, such sea level rises will affect 700,000 households on the eastern seaboard of Australia.

It was with some of those households in mind that I accepted an invitation to go to Bermagui on Friday night, where there was a packed meeting of people concerned about logging on the doorsteps of the town. I asked Senator Wong today what the government’s proposal to reduce greenhouse gas emissions from logging of forests and woodlands in Australia will be when she goes to Poznan,
because that is specifically on the agenda, and she again ducked answering that question. At Bermagui there is a magnificent forest which should be an extension of this tourist town’s future economy, but its biggest trees—the biggest carbon resource in that forest—are being logged, some to go woodchips, some to veneer and some to sawlog. All of this is needless because we have 1½ million hectares of plantation in Australia which can meet all of our wood needs. This is irresponsible behaviour by the New South Wales and federal governments. This is knocking down the biggest carbon banks, the biggest hedge against climate change, that we have in this country. And of course there is broadscale and clear-fell logging in Tasmania and parts of East Gippsland. The government will to have to address this problem, because with logging and the destruction of our forests and woodlands comes 17 to 20 per cent of Australia’s emissions. That could be stopped overnight, but the minister responsible, Senator Wong, ducked that question. (Time expired)

Question agreed to.

CONDOLENCES

Lieutenant Michael Kenneth Housdan Fussell

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (3:34 pm)—by leave—I move:

That the Senate record its deep regret at the death, on 27 November 2008, of Lieutenant Michael Kenneth Housdan Fussell, killed while on combat operations in Afghanistan, and place on record its appreciation of his service to his country, and tender its profound sympathy to his family in their bereavement.

I know all senators and I think all Australians were saddened by the report of the death of Lieutenant Fussell and the injuries to two of his colleagues. We express our deep condolences to his family, who have lost a fine young man—a man who was very well respected by his colleagues and who had a reputation as a courageous and loyal soldier. His death saddens us all and I think highlights again the dangers of our mission in Afghanistan.

This brings to seven the Australian soldiers we have lost in operations in Afghanistan, and I think it very much brings home to us the seriousness and danger and the commitment we have made to Afghanistan. While we acknowledge the need for the efforts that we are making there and for the international efforts to bring peace and stability to Afghanistan, it is also becoming clearer that that comes at a very high price for the Australian defence forces and for the other forces engaged in those efforts in Afghanistan.

But it is important that we signal our renewed commitment to that international effort to bring some peace to Afghanistan and to provide for a democratic government to rule Afghanistan in peace and stability. I know this parliament has been as one in supporting our troops in Afghanistan, and I know there has been a bipartisan approach from this government and the former government to the responsibility and commitment we make there, but I think it is true that we all accept the burden of the decisions we have taken in this regard. While it may be easy sometimes for politicians to commit to such things, it has very much brought home to me the fact that that commitment has now seen the loss of seven Australian soldiers, and it is they and their families who bear the cost of the commitment we make. But we hope that their efforts will not be in vain and that we will have success in Afghanistan.

The signs of renewed international commitment to the strategy in Afghanistan are, I think, encouraging. At the moment our focus is, as it should be, on the death of this Aus-
Australian soldier and on the contribution he has made to Australia and to the interests of peace and stability in Afghanistan. Our condolences and thoughts are with his family, and, of course, our thoughts are also with his ADF colleagues, who have suffered another tragic loss.

Senator MINCHIN (South Australia) (3.37 pm)—by leave—I rise on behalf of the coalition to strongly support the motion moved by Senator Evans in relation to the tragic death of Lieutenant Michael Fussell. The coalition, like the government, is deeply saddened by Lieutenant Fussell’s death last week as the result of the detonation of an improvised explosive device in Afghanistan. Lieutenant Fussell was killed serving his nation. His courage and dedication are admired and respected, and his sacrifice will not be forgotten.

We are again reminded of the extreme danger which Australian personnel face every day in Afghanistan, and the task at hand must never be underestimated. In a week where terrorist attacks also killed hundreds of people in India, it is a further reminder of the importance of the struggle in Afghanistan and the threat terrorists pose to our freedoms and our way of life. Indeed, Lieutenant Fussell’s tragic death was somewhat overshadowed by the outrageous and unacceptable terrorist attack in Mumbai.

We do not underestimate the importance of our nation’s role in Afghanistan, nor do we underestimate the sacrifice made by our service personnel, willingly and voluntarily, and their families. So it is with profound regret and sadness that we record our sorrow at the death of Lieutenant Fussell. But, as Senator Evans indicated, the continued bipartisan commitment to our just cause in Afghanistan means that his death must not and will not be in vain. Our thoughts and prayers are with his family and indeed all the families of personnel serving in Afghanistan at this very difficult time.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.39 pm)—by leave—I join with the condolences to Lieutenant Michael Fussell’s family, friends and colleagues, including ADF colleagues, on behalf of the Australian Greens. It does strike home when an individual Australian is killed in the service of the country what an extraordinary sacrifice has been given by Lieutenant Fussell and indeed his family. His brother is in the services as well. Lieutenant Fussell grew up on the North Coast of New South Wales and went to the Armidale School, which is extremely proud of him. But now he has been killed in active service, and it is a matter of extraordinary regret that that has happened.

The Greens are part of the bipartisan support for our Defence Force personnel wherever they may serve. That said, we recognise that the danger to our personnel in Afghanistan is much greater because of the mismanagement of this conflict by the Bush administration from the outset. Had it not occurred that President Bush decided to go to Iraq, we would not have our personnel in the dangerous circumstances that are now pertaining in southern Afghanistan.

Our heart goes out to all those families who are aware of those dangers, because good Australian service personnel are in south Afghanistan. There have been two further casualties since Lieutenant Michael Fussell died. We also think of those who were injured with him and have been injured since. We wish them a speedy recovery and hope there will be no further casualties—and not just before Christmas—but, again, knowing that that hope flies in the face of reality.

Vale Lieutenant Fussell. You have served your nation, and we are all proud of that service and sorry you are no longer with us.
Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (3.41 pm)—by leave—I rise on behalf of the National Party to support others in this chamber regarding the tragic death of Lieutenant Fussell. Our thoughts and prayers go out to his family. We acknowledge the great sacrifice that has been made not only by Lieutenant Fussell’s family but also by other families of personnel who remain over there. We acknowledge also the distance, the loneliness and the fear that these people have to deal with. We acknowledge that they are there because they believe it is right, and it is right and proper that today, in a small gesture, we rise in the Senate to make sure that these people know that they have our full support.

Their job is not one of politics; their job is to follow orders. And those orders at times can cost them their lives. This is an exemplary attribute of the human being that was obviously Lieutenant Fussell. Our hopes and prayers are not only with the family of Lieutenant Fussell but also with all those who remain and are currently facing a threat to their life for the benefit of our nation.

Senator FIELDING (Victoria—Leader of the Family First Party) (3.42 pm)—by leave—On behalf of Family First, it is with great sadness that I acknowledge the death of Lieutenant Michael Fussell, who was killed last week serving his country in Afghanistan, and express condolences to his family and friends. Lieutenant Fussell was just 25 years old and, by all accounts, was a gifted and talented young man who had a lot to live for. He was the seventh Australian to die serving in Afghanistan. It is important that the Senate notes Lieutenant Fussell’s death and the death of each and every one of the military people killed serving their country. Each life lost in Afghanistan, whether an Australian or not, is one of immeasurable value.

Family First does think that Australia has an important contribution to make to bringing stability and peace to Afghanistan’s citizens and to cutting the risk of terrorism being exported from that country. When we speak about the war against terror, it can seem like a conflict with a very vague and undefinable enemy. But, really, this is a war against the Taliban, against Al-Qaeda and against other relatively small but very dangerous groups. We only have to look to recent events in Mumbai to see that terrorism, even though it is in another country, is a very real threat to Australians. It is important that extremism of this violent minority is not allowed to succeed. Lieutenant Fussell’s life was not lost in vain. Family First’s thoughts and prayers are with his family at this very difficult time.

Question agreed to, honourable senators standing in their places.

NOTICES

Presentation

Senator McEwen to move on the next day of sitting:

That the time for the presentation of the report of the Environment, Communications and the Arts Committee on the Commonwealth Radioactive Waste Management (Repeal and Consequential Amendment) Bill 2008 be extended to 18 December 2008.

Senator Cormann to move on the next day of sitting:

That the Select Committee on Fuel and Energy be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on 2 December 2008, from 4 pm.

Senator Humphries to move on the next day of sitting:

That the time for the presentation of the report of the Finance and Public Administration Committee on residential and community aged care in Australia be extended to 29 April 2009.
Senator Hutchins to move on the next day of sitting:

That the Senate—

(a) notes:

(i) with sadness, the passing of the architect of the Sydney Opera House, Mr Joern Utzon, on 29 November 2008, and

(ii) the immense contribution that he made to Australia’s architecture and international image;

(b) commends the reconciliation between Mr Utzon and the New South Wales Government following their 1966 fallout;

(c) calls on all levels of government to commit to the remaining work that needs to be done on the Sydney Opera House to complete Mr Utzon’s vision; and

(d) offers its condolences to his family, including his wife, children and grandchildren.

Senator Hanson-Young to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the valuable work of Trees For Life in South Australia, including the management of more than 4 000 hectares of threatened bushland and the training of 2 500 community bush carers, and

(ii) that Trees For Life’s 10 000 members have volunteered approximately 100 000 hours to protect and enhance the South Australian environment; and

(b) calls on the Government to reinstate funding to Trees For Life to provide for the protection of sights of conservation significance in South Australia.

Senator Ludwig to move on the next day of sitting:

That—

(1) On Tuesday, 2 December 2008:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;

(b) the routine of business from 7.30 pm shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 11 pm.

(2) On Wednesday, 3 December 2008, the routine of business from 5.30 pm to not later than 7.20 pm shall be valedictory statements relating to Senator Ellison.

(3) In making valedictory statements in accordance with paragraph (2) above, a senator shall not speak for more than 20 minutes.

Senator Milne to move on the next day of sitting:

That there be laid on the table, no later than 4 pm on 3 December 2008, the set of national principles intended to apply to new Feed-in-Tariff schemes and to inform the reviews of existing schemes agreed to by the Council of Australian Governments on 29 November 2008.

Senators Milne and Ronaldson to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the extraordinary expressions of support from around the world for the excellent standard of tuition offered by the Australian National Academy of Music,

(ii) that the Government, having said that the academy must be closed down, has now appropriated its name and reputation for its replacement institution, undermining any credibility in the Government’s claims that the new institution would be a ‘better alternative’ than the existing academy,

(iii) that, as of 1 December 2008, there are still no appropriate transitional arrangements in place for the students from the academy whose plans for 2009 have been destroyed, and

(iv) the extreme distress of some of our most outstanding young musicians, who have no idea what they will do in 2009 or where they will be sent, having
already missed the audition deadlines for the great majority of other music schools; and

(b) calls on the Government to:
   (i) acknowledge its mistake, and
   (ii) immediately impose a 12-month moratorium on the closure of the Australian National Academy of Music with a view to continuing the excellent standards of the academy while undertaking a proper consultation process in 2009 of ways to implement the findings of the two independent reviews which both recommended expansion and increased funding for the academy.

LEAVE OF ABSENCE

Senator McEWEN (South Australia) (3.47 pm)—by leave—I move:

That leave of absence be granted to Senator Polley from today to the end of the 2008 sittings, for family reasons.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 183 standing in the name of Senator Milne for today, proposing the introduction of the Energy Efficiency Opportunities Amendment (Mandatory Implementation) Bill 2008, postponed till 3 February 2009.

General business notice of motion no. 233 standing in the name of Senator Xenophon for today, proposing an order for the production of a document relating to the Productivity Commission, postponed till 3 December 2008.

HIV-AIDS

Senator SIEWERT (Western Australia) (3.48 pm)—I seek leave to amend general business notice of motion No. 305 standing in my name.

Leave granted.

Senator SIEWERT—I move the motion as amended:

That the Senate—

(a) notes that:
   (i) Monday, 1 December 2008 marks the 20th anniversary of World AIDS Day,
   (ii) World AIDS Day was instituted by the World Health Organization to raise public awareness about AIDS and to promote support and understanding for people living with HIV/AIDS,
   (iii) globally, there are an estimated 33.2 million people living with HIV,
   (iv) in Australia, between 1981 and 2007, there were 27 331 diagnoses of HIV infection, 10 230 diagnoses of AIDS and 6 767 deaths from AIDS,
   (v) in 2007, 1 051 people in Australia were diagnosed with HIV,
   (vi) currently, approximately 16 692 people in Australia are living with HIV, and
   (vii) from 2003 to 2007 the overall rate of new HIV diagnoses in Australia has increased from 4 to 4.4 per 100 000; and

(b) calls on the Government to review the national policies and funding on research, education and prevention programs in order to reverse the current upward trend in the rate of HIV infections.

Question agreed to.

TARKINE WILDERNESS

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.49 pm)—I move:

That the Senate—

(a) notes local government and community opposition to a road, proposed by Forestry Tasmania, through a section of the Tarkine forest; and

(b) calls on the Government to ensure no federal funding is used, directly or indirectly, for this road unless or until local government concerns are addressed.

Question agreed to.
COUNCIL OF AUSTRALIAN GOVERNMENTS

Senator CORMANN (Western Australia) (3.49 pm)—I move:

That the Senate—

(a) notes that:

(i) on 15 November 2008, state and territory Labor Treasurers held a pre-Council of Australian Governments (COAG) strategy meeting in preparation of the COAG meeting on 29 November 2008,

(ii) the Western Australian Treasurer (Mr Buswell) was explicitly told not to attend that meeting by the Treasurer for Victoria (Mr Lenders),

(iii) the Leader of the Government in the Senate (Senator Evans) has sought to justify the exclusion of the Western Australian Treasurer from the pre-COAG strategy meeting held by all Labor state and territory Treasurers,

(iv) when asked whether the Government had received any representations or had any discussions on issues relating to the upcoming COAG meeting as a result of that pre-COAG strategy meeting, the Leader of the Government in the Senate responded that ‘certainly there would have been preparations done’,

(v) the exclusion of the Western Australian Treasurer from COAG preparations and the attitude of the Leader of the Government in the Senate in relation to that are not in the spirit of ‘cooperative federalism’ promoted by the Government before the 2007 federal election, and

(vi) even the Western Australian Labor Shadow Treasurer (Mr Wyatt) was ‘surprised and disappointed’ that his Labor colleagues from the other states had excluded Western Australia; and

(b) calls on the Prime Minister (Mr Rudd) to reprimand state and territory Labor Governments and the Leader of the Govern-

Question put.

The Senate divided. [3.54 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes…………… 35
Noes……………. 35
Majority………. 0

AYES

Barnett, G.        Bernardi, C.
Birmingham, S.     Boswell, R.L.D.
Boyce, S.          Brandis, G.H.
Bushby, D.C.       Cash, M.C.
Colbeck, R.        Coonan, H.L.
Cormann, M.H.P.    Eggleston, A.
Ellison, C.M.      Ferguson, A.B.
Ferravanti-Wells, C. Fifield, M.P.
Fisher, M.J.       Heffernan, W.
Humphries, G.      Johnston, D.
Joyce, B.          Kroger, H.
Macdonald, J.      Mason, B.J.
McGauran, J.J.     Nash, F.
Parry, S. *        Payne, M.A.
Ronaldson, M.      Ryan, S.M.
Scullion, N.G.     Troeth, J.M.
Trood, R.B.        Williams, J.R.
Xenophon, N.

NOES

Arbib, M.V.        Bilyk, C.L.
Bishop, T.M.       Brown, B.J.
Brown, C.L.        Cameron, D.N.
Carr, K.J.         Collins, J.
Conroy, S.M.       Crossin, P.M.
Evans, C.V.        Farrell, D.E.
Faulkner, J.P.     Feeney, D.
Fielding, S.       Forshaw, M.G.
Furner, M.L.       Hanson-Young, S.C.
Hogg, J.J.         Hurley, A.
Hutchins, S.P.     Ludlam, S.
Landy, K.A.        Marshall, G.
McEwen, A. *       McLucas, J.E.
Milne, C.          Moore, C.
Pratt, L.C.        Sherry, N.J.

CHAMBER
MINISTERIAL STATEMENTS

Business Regulation Agreement and Small Business Initiatives

Carbon Pollution Reduction Scheme

Senator WONG (South Australia—Minister for Climate Change and Water) (3.57 pm)—I table a ministerial statement on COAG business regulation agreement and small business initiatives and I seek leave to make a statement on carbon pollution.

Leave granted.

Senator WONG—The Australian people made it clear at the last election that they want our government to take action on climate change. Australians want the government to deal with this issue so our children and grandchildren are not punished for our failure to take responsible action now. The government’s commitment to acting on climate change was evident with its first official act—ratifying the Kyoto protocol. And climate change has remained a top priority since, through the government’s comprehensive approach to reducing Australia’s emissions, adapting to the climate change we cannot avoid and helping to shape a global solution. This reflects Australia’s strong national interest in an effective global response to climate change as well as the government’s commitment to ensure Australia plays its full, fair and constructive part in building a global response.

As Professor Garnaut demonstrated through his review, Australia is highly vulnerable to the effects of climate change—more so than any other developed country. As one of the hottest and driest continents on earth, Australia’s economy and environment will be one of the hardest and fastest hit by climate change if we do not act decisively.

It is true that the global financial crisis is having a substantial impact around the world and here at home, but this will not divert the government from the task of building a low-pollution economy for Australia’s future. There will never be an easy time to deal with climate change, but transitioning to a low-pollution economy is vital to Australia’s long-term economic prosperity. While we work around the clock to buffer our country against the full force of the global economic crisis, our government understands the importance of continuing to lay the groundwork for the future economy. The global financial crisis makes it more, not less, important that we tackle the big economic challenges.

In July this year, the Rudd government released the Carbon Pollution Reduction Scheme green paper, outlining the government’s preferred positions on emissions trading and the support proposed to help households and businesses adjust to this economic transformation. The green paper was informed by a comprehensive first phase of consultation with the community and business.

In October, the government launched Australia’s low pollution future: the economics of climate change mitigation. This comprehensive report contains Treasury’s detailed modelling of the costs and opportunities of acting decisively to meet the challenge of climate change. The report contains the most complex, comprehensive and rigorous analysis of its kind ever undertaken in Australia.

The Treasury’s modelling demonstrates that early global action is less expensive than later action, that a market based approach
allows robust economic growth into the future even as emissions fall, and that many of Australia’s industries will maintain or improve their competitiveness as the world moves to reduce carbon pollution.

In the months since the release of the green paper, I, my office and the Department of Climate Change have been engaged in a second phase of extensive consultation with business and the community on the Carbon Pollution Reduction Scheme. The government has received over 1,000 submissions, all of which are being carefully considered in the formulation of the white paper. The government has held workshops on the Carbon Pollution Reduction Scheme across Australia—in every capital city and in a number of regional locations. We are very conscious of the need to deliver an economically responsible Carbon Pollution Reduction Scheme, which is why we are going through such an extensive process.

Throughout this year, Australia has continued to play an active and constructive role in negotiations for a global agreement on climate change. The government has advocated global action on climate change in key multilateral and bilateral meetings, including the Major Economies Meeting Leaders’ Summit held at this year’s G8 meeting in Japan. We have used these meetings to emphasise the continued importance of forging a global solution to this global problem.

The Prime Minister signed the forest carbon partnerships with President Yudhoyono of Indonesia and Prime Minister Somare of Papua New Guinea to take forward our collaboration on reducing emissions from deforestation—a critical issue, given that emissions from deforestation and forest degradation account for around 20 per cent of emissions globally. In November, Australia hosted the Australia-Indonesia Ministerial Forum, where the two countries released the Roadmap for Access to International Carbon Markets, designed to assist Indonesia access international forest carbon markets. Australia and Indonesia also agreed to develop a second demonstration activity in Indonesia to help showcase in a practical way how emissions from deforestation and forest degradation can be reduced.

In November, I also hosted the inaugural Australia-China Ministerial Dialogue on Climate Change. This followed the April 2008 agreement between the governments of Australia and the People’s Republic of China to establish annual policy dialogues at a ministerial level. During the meeting, our two countries agreed to build on our cooperation on clean energy and clean technologies. China agreed to support efforts under Australia’s $100 million global carbon capture and storage institute and recognised that it was an important vehicle to accelerate global demonstration of CSS technology on a commercial scale. Australia has participated actively in negotiations throughout the year, including through making public submissions on priority topics. Most recently Australia submitted a substantial set of 13 submissions on key issues for the Poznan negotiations.

The government will release its CPRS white paper and medium-term target range for reducing carbon pollution on Monday, 15 December. We have been very clear throughout the year that we would release the white paper and medium-term target range in December. Our priority is to provide business and the Australian community with certainty on the design of the Carbon Pollution Reduction Scheme and target range in December—as we always said we would do. The 15 December release date allows me to represent Australia at the Poznan climate change negotiations, while also delivering on our commitment to release the white paper and medium-term target range by the end of the year.
We have an extensive internal decision-making process on the CPRS currently underway. We are also continuing with a comprehensive stakeholder consultation process. One key factor which has become clear during our consultations is that business certainty would be significantly improved if the design of the scheme was released concurrently with the medium-term target range. We are taking a measured and responsible approach to the CPRS and setting the path to reduce carbon pollution. This is a major economic reform and we must get it right.

Australia will continue to play an active and constructive role in negotiations at Poznan. As the UN has said, negotiators will use Poznan to take stock of the progress made so far and map out what needs to be done to give us the best chance possible of reaching an agreement at the end of 2009. Poznan is the midpoint in the international negotiations which started last year in Bali, building up to the UN Climate Change Conference in Copenhagen in December 2009. The release of the white paper in December will position Australia well to continue to play our full part in efforts to secure that global solution in 2009. Australia will also encourage other advanced economies to release comparable targets as soon as possible.

In the interests of securing our future economic prosperity, the government will continue efforts to shape a global solution and take responsible action at home through the Carbon Pollution Reduction Scheme. Next year, legislation on the scheme will be debated in both houses of parliament. During this debate, it is hoped all members and senators will take a responsible approach to dealing with the great challenge of climate change.

Senator JOHNSTON (Western Australia) (4.06 pm)—by leave—I move:

That the Senate take note of the statement.

I will respond to the minister’s statement on behalf of the opposition. I note that the Minister for Climate Change and Water has begun to follow the coalition’s approach of waiting to see where the rest of the world is going before deciding targets for greenhouse gas emission reductions. Why do the government continue on their rush and haste in their introduction of their own emissions trading scheme without waiting to see what is going to happen with respect to the outcome of the meeting of all countries in Copenhagen late next year and the detail of what US President Obama will do and what line he will follow?

The coalition has long warned that the government’s rushed 2010 deadline will lead to a flawed model that will damage Australian industry and, more importantly, damage employment. Likely to greatly influence the impact infrastructure can have in the years ahead is the design and timing of the government’s planned emissions trading scheme. Without doubt climate change is best tackled from a position of economic strength. I think that is a fundamental plank from where the opposition is coming on this subject. To this end, an effective emissions trading scheme must be designed to protect our export and import competing industries until the rest of the world has signed up to a course of action. As it stands today, the government’s preferred design for an emissions trading scheme would effectively impose billions of dollars of tax on those Australian export and import competing industries which are high users of energy, ahead of any commitment by our major trading competitors to sign up to such a scheme. This makes no sense.

The coalition believe that we need to give the planet the benefit of the doubt. We therefore support action on climate change. For that reason we have a policy of both protecting the planet and protecting Australia. We support in principle an emissions trading
scheme as part of a three-pillars approach to climate change which also includes a clean energy revolution and unrelenting international pressure for reduced world emissions. The situation is that we consider that an emissions trading scheme should commence when it is ready, in an orderly, methodical and responsible manner which enjoys the broad support of Australian industry and protects vulnerable Australian households, not before 2011. The carbon price must be set at a level that reflects action by the rest of the world, and if no action is underway Australia must start an emissions trading scheme with a very low price and a slow trajectory. Australia must have an emissions trading scheme that will achieve carbon reductions without compromising Australia’s future economic sustainability. Last year’s Shergold report warned that excessive haste creates great risk.

We have seen some very interesting developments in recent times. The minister makes a statement in a very timely way given the shifting of the goalposts here. Notwithstanding the fact that she is going to Poznan and has said that she is going to tie down interim targets thereafter—I think her announcement is due on Monday, 15 December—I want to pause to say that this government in its design of this scheme has committed to a dreadfully flawed scheme. When you look at the amount of energy we are supplying to particularly East Asia, to not include liquid natural gas in a scheme such as this, when we are exporting a reduced emissions technology effectively through the gas, is utterly crazy. The best thing we can do for China, Japan, Taiwan and South Korea is to give them an energy source that is emissions reduced. But, no, LNG has been left out of the scheme. LNG will be rendered marginally competitive under this scheme. It will be damaged.

I pause to say that there is a lot of concern in this chamber about the car industry. The car industry is going through a period of enormously stressful economic strain at this moment. On top of what it is going through, we are going to impose an emissions trading scheme upon that industry and the amount of energy it uses, particularly in the southern states, which rely on coal-fired generation. I might point to the Tasmanian refinery and the Port Pirie refinery. That is a microcosm of an example where the government appears not to be listening. Alcoa’s $3 billion expansion project has been put into mothballs while we wait to see some certainty. The minister talks about certainty; she has created uncertainty. She has over 1,000 submissions. We know what they are saying: they are saying that this policy is an anathema to economic stability and to economic certainty. When is the minister going to wake up to the fact that the global financial crisis has added to the problems of implementing this policy? It is a dangerous policy. If she were seeking bipartisan support, she should come into this chamber and say, ‘We are pausing to have a good look at what everybody else is going to do and to rework our original position and go forward low and slow.’

Senator MILNE (Tasmania) (4.12 pm)—I rise to take note of the minister’s statement. I appreciate the minister making a statement on this, but really it is completely unacceptable that the government do not tell the Australian people what the 2020 target is before the minister leaves for Poznan for the global negotiations. Nobody, but nobody, is going to believe that the government have not already made up their mind and decided what the target is—as if anything is going to change in the next 10 days. So the only reason the government are not telling the people of Australia what the 2020 target is is that it is a very weak target and the government want the cover of Poznan to be able to say
when they get back, ‘The reason we have gone for a weak target is that the rest of the world is not moving any faster,’ and therefore it covers them to make it look as if it was something of a response to global negotiations when clearly they have decided now what the target is going to be.

It is obvious from the directions on the Treasury modelling what the target was always going to be. If the government had been serious about looking at the range of what was possible, they would have asked the Treasury to model everything from a five per cent to a 40 per cent cut in greenhouse gas emissions by 2020, and then you would be able to see where the threshold point is in terms of real costs. As it was, Treasury was told to model 450 and 550 parts per million, and with a five per cent, 10 per cent, 15 per cent and 25 per cent reduction by 2020 there was virtually no difference in the cost. So, if there was no difference between a five per cent cut and a 25 per cent cut, what was the difference to 40 per cent? That is the question that the government need to answer, but we cannot answer it because Treasury was not asked to model it. I asked the minister in question time last week whether she would ask Treasury now to rerun the model on a 40 per cent cut and 350 parts per million and also use other models, and she refused. The government made a political decision not to model anything above a 25 per cent cut, so we do not know what a deep cut would do in terms of costs, and that, as I said, was a political decision.

For the government to say that it is taking a comprehensive approach to reducing Australia’s emissions is wrong. Firstly, there is a lot of talk about a comprehensive approach but it is not happening. The government promised a 20 per cent MRET by 2020 but it has still not legislated for that one year on. There has been no move to actually do that. The renewable energy industry is getting very frustrated and angry, and a lot of the firms are going to go offshore because the government has not done what it said it would. Secondly, it is very clear that the government is not going to support a national gross feed-in tariff, yet everyone in the world—from the Spanish to the Californians to the Italians to the Germans—will tell you that what led to the deployment of renewable energy in those places was a gross feed-in tariff.

While the minister claims that Australia is taking some sort of leadership role and that the Chinese are talking to Australia about carbon capture and storage, of far greater significance is the fact that the Chinese Academy of Sciences has signed a memorandum of understanding with the United States energy agency for the US and China to accelerate investment in solar technologies. So while Australia will be trying to pump carbon dioxide down holes, China and the US will zoom straight past us on renewable energy technologies. Because it is very clear to me that that will be the case, I told members of the renewable energy industry at the Australian-New Zealand solar energy conference last week that it is time for fight or flight. I told them that they should either leave now for the US where the action is or stay here and fight to get the 20 per cent renewable energy target legislated and to get a national gross feed-in tariff. To lie down in the middle of the road is to guarantee to be run over. It is very clear to me that that was always going to be the case. After his election, Barack Obama promised a green new deal—a $150 billion investment in a green energy revolution. Americans will say that that is part of their energy security but that investment is also certainly part of their attempt to secure their manufacturing industry into the future. Australia is not doing that and our insistence on carbon capture and storage will see us going backwards in this regard.
On the issue of deforestation, it is disgusting that the government is running around talking to Indonesia and Papua New Guinea about deforestation while subsidising the logging of forests in Australia. What sort of hypocritical position is that? No doubt the National Association of Forest Industries will be there in Poznan with the minister supporting such a view, but anyone who knows anything about ecology and biodiversity will not be supporting the Australian government view that it is fine to stop deforestation in PNG and Indonesia but not to stop deforestation in Australia. We need a mechanism to include the protection of standing stores of forests and vegetation. We could then get credit for that, instead of supporting the maintenance of forests in PNG and Indonesia while knocking forests down in Australia. Yesterday I was at a book launch in Hobart, where again we see the massive and fantastic Tasmanian forests—the Styx and the Florentine—about to be logged with this government’s approval. Standing carbon stores are to be knocked down with this government’s approval. Obviously the rest of the world will be aware of what Australia and Canada are doing.

In Poznan Australia will be chairing the umbrella group. Let us get this very clear: whilst all of the world’s media reported that Australia was going to ratify Kyoto at the Bali conference, which was a very positive thing, what they did not report was that Minister Wong chaired the umbrella group, which consists of the world laggards—Canada, the United States, Japan, the Saudis, Australia and New Zealand, which opted out—and that it was the umbrella group that fought strongly against a 25 to 40 per cent cut being included in the negotiating range of emission cuts by 2020. They got that blocked, instead putting it there as a footnote. Minister Wong herself said this morning that Australia never supported a negotiating range of 25 to 40 per cent.

In Poznan we will again have Minister Wong chairing the umbrella group, chairing the recalcitrants, which will again do everything in their power to stop the rest of the world adopting the 25 to 40 per cent negotiating range. If they come back from Poznan without a 25 to 40 per cent negotiating range, it will be as much Australia’s fault as anybody else’s. Let us get that very clear: unless there is that 25 to 40 per cent negotiating range in the Bali roadmap—which was put in as a footnote because it was taken out of the roadmap at the insistence of the umbrella group and others—then let us sheet the blame home to where it deserves to be and let us give up any pretence of Australia being a leader. Leaders do not go to global meetings and refuse to reveal their position, only to come home and hide behind a position of inaction as justification for poor results. Leaders actually go there, as the European Union has done, and say, ‘We will go for 20 per cent by 2020, and if the rest of the world moves we will go for 30 per cent.’ The European Union is out there saying what they think is right for the climate and for the people of the world. That is what we should be doing, not hiding behind the skirts of the coal and logging industries, peeping out every now and then to see if anybody has noticed.

It will be interesting to see in some detail what the government has said about the 13 submissions on key issues for the Poznan negotiations. I notice that the minister has said that Australia will encourage other advanced economies to release comparable targets as soon as possible. Well, if our government is not prepared to release their targets before the negotiations, why would the rest of the world take any notice of us? Climate change is serious and it is urgent. It is a global catastrophe. The scientific information has got worse as the world seems to be...
backing off doing anything about it. In many ways we are in a worse position than we were 12 months ago—we certainly are in terms of the climate. Having the government using the rhetoric of action on climate change whilst doing nothing is worse than a government that does not pretend it is doing anything and says upfront that it is not doing anything and that it is not going to. At least then you know what is going on.

But the Australian people have been misled into thinking that ratification of Kyoto is enough and that the ETS is going to be a silver bullet. It is not going to be a silver bullet. In fact, it is going to do precious little, because it is going to have weak targets and a weak cap and so many free permits that it would seem they are going out of style. If this carbon sink forests initiative continues, there will be a way of cost-shifting the mitigation burden from the coal companies and the aviation companies to the taxpayer anyway through these tax breaks on forests. Things have never been worse in terms of where we are on climate change. There is a lot of talk; there is not much action. We will see on 15 December whether, in fact, I am right, but I suspect that we are going to hear five to 15 per cent dressed up as some kind of reaction from this government. We should never forget that last year the world said 25 to 40 per cent was the appropriate negotiating range. The Australian government did not instruct its Treasury to model 25 to 40 per cent. No, the Australian government instructed its Treasury to model five to 25 per cent. The highest that Australia is prepared to go to is the lowest that the rest of the world thought was appropriate.

I will finish by reminding us just how serious climate change is. It has become such a common source of conversation and discussion that people have become complacent. This is incredibly urgent. We are approaching thresholds from which there is no retreat. There are many scientists who are now privately saying that we are already too late—that there is so much heat locked into the global oceans that it is already too late for the world’s coral reefs and that we are managing them for decline. We have many scientists who are saying that the methane chimneys bubbling up in the arctic are just the beginning of what is to come and we are already at the point of the feedback loops in terms of methane, tundra thawing and massive methane emissions to atmosphere. I am one of those who think we have run out of time. I think that if we do not get global emissions to stabilise and come down by 2015 then we are in for catastrophic climate change. There is no point in people looking back and saying they could not have known in 2008. They could have known and did know in 2008. The question is: did they have the courage to do something about it or were they more concerned about what the business council might say and what the big end of town might donate for the next federal election to actually take the position that the globe requires?

Quite apart from the climate change impacts, Australia is going to be bypassed. We are going to become a backwater of manufacturing and our current account is going to be worse if the rest of the world get on the with green energy revolution that I believe they are going to get on with. We will see some of our best brains and our jobs go overseas. I pose the question: why is it that when 200 jobs are lost in a coal mine or in old-growth logging it is a national emergency and we have to have a rescue package, but when 200 jobs are lost from BP Solar—sophisticated manufacturing—in Sydney everyone goes, ‘Oh, what a shame’? Why is it that we are not keeping the sophisticated manufactures and bringing in the legislation that will give a boost to these sectors? Why are we just saying: ‘It’s a shame they are
going offshore. The things we are good at are
digging holes, cutting down trees, putting in
roads and building resorts, but we do not
have the brains or the gumption to rebuild
our manufacturing sector and give ourselves
energy security and sophisticated manufac-
tures and exports’? That is where we should
be going, and that is why Australia’s weak
targets from both the climate and pure eco-
nomic points of views are such poor posi-
tions to be taking to the world. It most cer-
tainly is not a leadership position.

Senator IAN MACDONALD (Queens-
land) (4.26 pm)—I have a lot of different
views to the previous speaker, Senator
Milne, on this issue. But one thing I do agree
with her on is that the approach of the cur-
rent government has been hypocritical at best
and dishonest at worst. It was all about win-
ning votes last November in the election with
the rhetoric on climate change—the ill-
thought-through plans, the lack of real con-
sideration of the impact on Australia and the
lack of understanding of what the rest of the
world was going to do. I am afraid that the
Minister for Climate Change and Water con-
tinues to stumble from one problem to an-
other as she attempts to try and match up the
action to the rhetoric that has been spouted
by the Labor Party for some time. I hear now
from the government all these great pro-
grams about deforestation. I just want to re-
mind the Senate that earlier this year the new
government came in flush with success and
knocked off two programs that the previous
government had that dealt with deforestation
in Indonesia and in the Solomons, as I recall.
They cut those programs, which were actu-
ally doing something positive to stop defor-
estation in some of the most sensitive parts
of the world, without even a murmur.

This whole global climate change debate
has been fraught with inconsistencies. One
thing about this government that concerns
me very greatly goes back to the attitudes
that prevailed in the Hawke-Keating times,
when if you did not agree with everything
that the government said on a subject then
you were somehow a lesser person. You were
somehow racist, sexist or any other pejora-
tive that came around. Today in question
time, I asked the minister a question. It was a
very, very simple question, and I tried to get
an answer from her at estimates as well. I
accept that climate change is happening. I
am no scientist, but I read the papers and I do
accept it. I do acknowledge that there are as
many qualified scientists who disagree as
there are who agree. It is confusing for those
of us without a scientific background, but, on
balance, I accept that it is happening. I sim-
ply asked the minister to tell us what impact
Australia’s Carbon Pollution Reduction
Scheme—given that we emit less than 1.4
per cent of the world’s total greenhouse gas
emissions—might have on the changing cli-
mate of the world. That is what it is all about.
Forget about the rhetoric and forget about
what scientists are saying. We accept that our
climate is changing. If Australia does what
the rhetoric says we are going to do, what
impact will that have on the changing cli-
mate of the world?

Every time I have raised that with the
minister I have got the finger-pointing and
the accusations of being a sceptic and all
other sorts of things. You simply ask a ques-
tion and, because it does not happen to meet
with the minister’s view on life and because
the minister takes it as an affront that anyone
should question anything she says on climate
change, you suddenly get the shouting and
the finger-pointing and you are made to feel
that you have just spoken about motherhood.
With respect to my colleagues sitting oppo-
site, I say to ministers that just because peo-
ple have a different view does not mean that
they are any less Australian. My questions to
the minister, on this particular subject at
least, are always polite. Just tell me the an-
swer! But I get the shouting, the accusations and the finger-pointing and never of course do I get an answer.

One day I would like her to answer it because I think a lot of Australians are interested in what impact anything we do in Australia will have if China, India, America and, increasingly, Poland and Italy and lots of other countries do nothing. I know it will destroy our industries. I know it will destroy our mining areas. But I want to know what impact it will have on the climate change that is happening to the world. That is the bottom line; that is what it is all about. So I ask the minister, who I note does not wait around to hear these debates—she scuttles off; obviously she is very busy—

Senator Faulkner interjecting—

Senator IAN MACDONALD—She is very busy; I accept that, Senator Faulkner.

Senator Faulkner—I am here to represent her.

Senator IAN MACDONALD—Good. I am pleased that Senator Faulkner is here. I think he probably has a more rational understanding of the whole issue of climate change. He understands the politics very well and I know he was part of that. But he does, I think, have a more balanced view of the fact that other people can have a view without being continually accused of being sceptics. As my colleague Senator Brandis continually interjects to Senator Wong: ‘Is being a sceptic a crime nowadays under the new regime of the thought police of the Labor government?’ I would like to understand that whole issue.

I ask a question today about free permits and, again, the minister does not seem to have any idea. I have to say I do agree with Senator Milne on this issue: for all the rhetoric, all the handclapping, all the flashlights popping at Bali last year we now find that the Australian government are going to this major international conference without any indication of where they are heading. That has not been the rhetoric all the way through this year. You will notice a slight change of rhetoric as the Labor Party now understand the sense of the approach that was taken by the coalition in relation to climate change. Yes, we need to do something, but we do not need to do it in advance of others and we have to see what everyone else is doing.

I am also interested in discussing recent reports, only I dare not ask about them for fear of being accused of being a philistine. The other day I read—but I do not know if the article was accurate or not—something about some very serious ice scientists who were saying that the amount of ice is increasing both in the Arctic and the Antarctic. If that is true—I have no capacity to judge, but some fairly prominent scientists were quoted—how does that fit in with global warming? I do not know. I would like to ask the minister about that but I am sure that, if I do, for a start I will not get an answer and then I will be accused of all sorts of things. I am not a shrinking violet—I do not really care if she calls me names—but it would be nice every now and again to get the resources of the Australian government, who can give answers to these things, to actually answer a question. But it does not suit the minister’s rhetoric so we never get it.

How these assessments could have been done without taking any notice of the global financial circumstances I am not quite sure, but this government has done it. The Garnaut report seems to have been tossed aside already and we find some difficulty in having any idea of where we are going.

I do not want to take too much of the Senate’s time. The ministerial statement—although I have only had an opportunity to glance at it and listen while the minister was speaking—does not seem to take us any fur-
ther except to say what she announced to the media last Friday, I think it was—that is, that they are not going to announce a target before the Poznan conference is all over and dead.

I cannot help myself so I will put on record my disagreement with Senator Milne. I note the impact that Australian forests and the forestry industry have as to their positive aspects for so much of Australia’s society and economy, including our addressing of climate issues. There are positives all the way through. Time will not permit me to go through them. I know that if time permitted Senator Colbeck, my colleague here on the front bench, would relish that, but I understand he is on strict orders not to delay the debate. But there are very positive aspects as to Australia’s forestry industry that help in so many ways. On that subject I am pleased to say that, at least in the last few years, the Labor Party and the Liberal Party are at one in our understanding of that.

Senator Colbeck—There are a few sceptics over there.

Senator IAN MACDONALD—A few sceptics over there, are there? If there are sceptics, good luck to them. We do encourage different thoughts although some others do not. I will leave it there, Mr Acting Deputy President, but in case others might want to speak about this later, should I seek leave to continue my remarks?

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Senator Macdonald, in regard to your request, the question is before the Senate and I now will put the question:

That the Senate take note of the statement.

Question agreed to.

BUILDING AND CONSTRUCTION INDUSTRY (RESTORING WORKPLACE RIGHTS) BILL 2008

Report of Education, Employment and Workplace Relations Committee

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Pursuant to standing order 38, on behalf of the Chair of the Senate Standing Committee on Education, Employment and Workplace Relations, I present the report of the committee on the Building and Construction Industry (Restoring Workplace Rights) Bill 2008, together with the Hansard record of proceedings and documents presented to the committee, which was presented to a temporary chair of committees on 28 November 2008. In accordance with the terms of the standing order, the publication of the report was authorised.

Ordered that the report be printed.

COMMITTEES

Intelligence and Security Committee

Presiding Officers’ Response

The ACTING DEPUTY PRESIDENT—

I present a response to a recommendation, which relates to the responsibilities of the Presiding Officers, of the report of the Parliamentary Joint Committee on Intelligence and Security on annual report of committee activities 2007-08.

With the concurrence of the Senate, I ask that the response be incorporated in Hansard.

The response read as follows—

Parliamentary Joint Committee on Intelligence and Security: Annual report of committee activities 2007-08

Response by Presiding Officers The report contains the following recommendation:

The Committee recommends to the Presiding Officers the need for additional staff to have security clearances.
Response
The Presiding Officers are aware of the need for staff of the Parliamentary Joint Committee on Intelligence and Security to have appropriate security clearances as stipulated in the Intelligence Services Act.

Due to staff movements at the commencement of the 42nd Parliament, for a period of several months the staff dedicated to the committee included only one suitably cleared staff member. Clearances for other staff were completed by August 2008. Currently there are six employees of the Department of the House of Representatives which supports the committee with the required level of clearance and one in the process of upgrading an existing clearance to the required level. All staff dedicated to this committee currently have the required security clearances.

It is considered that this is sufficient to support the foreseeable needs of the committee and reasonable contingencies. The Clerk of the House advises that the situation will be monitored and, if necessary, action taken to ensure the work of the committee is not inhibited. In particular, steps will be taken to ensure that staff to serve the committee in the next Parliament are identified as early as practicable and any necessary security clearance processes are commenced at the earliest practicable date.

Environment, Communications and the Arts Committee

Membership

The ACTING DEPUTY PRESIDENT—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (4.38 pm)—by leave—I move:

That senators be discharged from and appointed to the Environment, Communications and Arts Committee as follows:

Appointed—

Substitute member:

Senator Nash to replace Senator Boswell for the committee’s inquiry into the effectiveness of the Environment Protection and Biodiversity Conservation Act 1999 and other programs in protecting threatened species and ecological communities

Participating member: Senator Boswell.

Question agreed to.

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

Consideration of House of Representatives Message

Message received from the House of Representatives informing the Senate that the House has agreed to the amendments made by the Senate to the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008.

TAX LAWS AMENDMENT (LUXURY CAR TAX—MINOR AMENDMENTS) BILL 2008

First Reading

Bill received from the House of Representatives.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (4.39 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (4.40 pm)—I move:

That this bill be now read a second time.

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

Leave granted.
The speech read as follows—

TAX LAWS AMENDMENT (LUXURY CAR TAX—MINOR AMENDMENTS) BILL 2008


These amendments will ensure that amendments to the Tax Laws Amendment (Luxury Car Tax) Act passed earlier this year operate as intended. These amendments are intended to clarify the operation of the law.

First, they will ensure that luxury car tax refunds are payable to eligible businesses where they actually bear the cost of the luxury car tax regardless of the arrangement used to finance the vehicle.

Second, they will ensure that contracts entered into before 7.30 pm on 13 May 2008 are the relevant contracts for determining luxury car tax rate of 25 per cent, when subsequent financing arrangements are made.

And, third, they will put beyond doubt that luxury car tax refunds are paid directly to claimants.

In the 2008-09 Budget the Government took a decision to increase the rate of luxury car tax from 25 per cent to 33 per cent with effect from 1 July 2008 as part of the Rudd Government’s plans to make the tax system fairer and contribute to a strong fiscal position.

It is because we made the hard yards in the Budget to build a strong surplus that we have the flexibility to respond now.

The increase was passed by the Parliament in September with a number of amendments from non-government Senators.

The technical amendments I am introducing today will clarify the law to ensure that these amendments operate as intended.

These amendments are required to provide clarity and certainty to car buyers, finance companies and car dealers and I strongly urge the Opposition to support the bill.

Full details of this bill are contained in the Explanatory Memorandum.

Debate (on motion by Senator Faulkner) adjourned.

NATIONAL RENTAL AFFORDABILITY SCHEME BILL 2008

AUSTRALIAN ORGAN AND TISSUE DONATION AND TRANSPLANTATION AUTHORITY BILL 2008

DAIRY ADJUSTMENT LEVY TERMINATION BILL 2008

FINANCIAL TRANSACTION REPORTS AMENDMENT (TRANSITIONAL ARRANGEMENTS) BILL 2008

GREAT BARRIER REEF MARINE PARK AND OTHER LEGISLATION AMENDMENT BILL 2008

TRADE PRACTICES AMENDMENT (CLARITY IN PRICING) BILL 2008

CUSTOMS AMENDMENT (AUSTRALIA-CHILE FREE TRADE AGREEMENT IMPLEMENTATION) BILL 2008

CUSTOMS TARIFF AMENDMENT (AUSTRALIA-CHILE FREE TRADE AGREEMENT IMPLEMENTATION) BILL 2008

GUARANTEE SCHEME FOR LARGE DEPOSITS AND WHOLESALE FUNDING APPROPRIATION BILL 2008

NATIONAL RENTAL AFFORDABILITY SCHEME (CONSEQUENTIAL AMENDMENTS) BILL 2008

Assent

Messages from the Governor-General reported informing the Senate of assent to the bills.

ENVIRONMENTAL AND NATURAL RESOURCE MANAGEMENT GUIDELINES

Motion for Disallowance

Senator MILNE (Tasmania) (4.41 pm)—I move:
That the Environmental and Natural Resource Management Guidelines in relation to the establishment of trees for the purposes of carbon sequestration, made under subsection 40-1010(3) of the Income Tax Assessment Act 1997, be disallowed.

This is an incredibly important disallowance motion and an incredibly important initiative for rural and regional Australia and for the Australian environment. The history of this tax amendment, which gives 100 per cent tax deductibility upfront for the planting of trees whether they be plantation monocultures or otherwise, was brought in by the Howard government by the then Treasurer, the Hon. Peter Costello, before the 2007 federal election and was deemed to be essential legislation. However, I got up in the Senate and said that, if they passed it, I would tell rural and regional Australia what they were up to.

As if it were not bad enough that the coalition had introduced a managed investment scheme, they were also introducing a provision which was effectively a managed investment scheme on steroids, and rural and regional Australia were going to be significantly distressed by what the coalition were doing.

The legislation then went from essential to non-essential and we went to the federal election without it and I had assumed that that would be the end of it. So I was shocked when the Labor Party not only brought it up to the federal election but brought it back through the House of Representatives in one tax bill then inserted it into another tax bill as well so that it came to the Senate in two different tax bills. Having identified it in the first tax bill, the chamber was unaware that another tax bill went through, one which was non-controversial, so the matter was not debated in the Senate even though we had grave concerns about it and had noted them.

Now the operation of that legislation to give that tax deduction is contingent upon guidelines being struck by the federal minister. In fact the legislation makes it clear that, for people to be eligible for the 100 per cent tax deduction upfront, the taxpayers must be carrying on a business and the carbon sink forest must meet environment and natural resource management guidelines. Therefore the effect of disallowing these guidelines is to make the legislation null and void—that is, inoperative, because nobody would be able to get a tax deduction as they would not be able to comply because the guidelines would be non-existent. This is critical not only because the legislation needs to go but also because the guidelines themselves are so poor. I will get to why they are so poor shortly.

The issue here is: what is the genesis of this legislation? Who put it up to the coalition when the Howard government was in office? One can only speculate about that but it is very clear that the people who thought up the managed investment schemes were very keen to get a similar provision for trees that were not being cut down. You could get a managed investment scheme for trees to be cut down under the 2020 forest plantation vision but you could not get a tax deduction for planting trees for a carbon market. It was very clear that those Collins Street investors were in there to maximise their returns in the future at the expense of people living and working in rural Australia and at the expense of the environment.

Why do I say these things? Look at what has happened with managed investment schemes. We have seen wholesale conversion of native vegetation and native forest to plantation establishment right across the country. We have seen adverse outcomes in terms of water. Whole catchments have been converted from native forest and native vegetation to plantations, with massive interception of water, and the plantation companies have not had to pay for that water. They
have intercepted it and taken it out. They got a 100 per cent tax deduction for doing so and disadvantaged people on the land trying to produce food, and that is still the case.

In spite of the fact that these guidelines make some mention of water, the fact of the matter is that there is no consistent management of water around the country. There is inconsistent and patchy provision and legislation in relation to water and its use. We have a situation in Tasmania in some catchments where the run-off is so significantly reduced that Launceston City Council will probably have to build a new reservoir facility because of the amount of interception that has gone on in those plantations. In other catchments we have hydrologists saying that plantations are going to have to be logged in order to free up some of the water. That is the reality of what has gone on as a result of managed investment schemes.

Only as recently as September this year there was an article in the *Land* titled ‘Out with the old forests …’ It talks about managed investment schemes, saying farmland, water catchments and 100-year-old trees are falling prey to tax-friendly investor schemes. It points out:

Graziers—
in New South Wales—
are furious that a separate piece of State Government legislation, the Plantation and Reafforestation Act and Code 1998, governs land management for timber plantations, over-riding the more strict native vegetation laws that farmers are bound by.

So, while farmers cannot clear land, the forest companies can clear land under provisions in New South Wales, to the great detriment of the natural environment.

Let me get back to the actual provisions of this legislation’s regulations. For a long time the government argued—and this is up on the Australian tax office website—that the capital cost of land is not included as part of the tax deduction. It was never clear to me how that could be correct. The reason for that is that under this particular provision costs in relation to the establishment of a carbon sink forest are tax deductible. The provision goes on to specify that there are two instances in which tax deductibility would not apply: for the costs of land clearance and for the costs of draining a wetland. If you specify in the legislation the conditions under which you are not eligible for tax deductibility, you effectively lead the courts to interpret in the widest possible way the phrase ‘costs in relation to the establishment of carbon sink forests’. Therefore, every cost except those costs associated with land clearance and draining a wetland would be tax deductible. Because of the way this legislation is written, up to 2012 you can tax-deduct the whole lot in the first year. Imagine what that is going to do to people on the land in rural Australia! It means that the cashed-up coal companies and the cashed-up aviation companies can go in, purchase land and have it tax deductible.

What is even worse, and we know this, is that the best land, the best water and the best climate grow the best trees. But it just so happens that the best land, the best water and the best climate give the greatest returns in terms of agriculture as well. So you are in direct competition with food-producing land in Australia. The coal companies and the aviation companies are not interested in who they displace or the ecological impacts associated with water or biodiversity. All they are keen on is bulking up those trees as fast as possible so that they maximise the standing carbon and therefore maximise the offsets of the emissions at their stacks or, in aviation, as a result of their operations. On the one hand they are there in the negotiations on the Carbon Pollution Reduction Scheme saying: ‘Give us free permits. We need as many free
permits as we can have.’ On the other hand they are saying: ‘We will minimise our emissions by cost-shifting,’ such that, instead of the costs applying to those companies, taxpayers will bear the cost of mitigating their emissions through funding the purchase of land by these companies for this purpose.

Not only is this a disaster for rural Australia but essentially it is a land grab. It will lead to very substantial accumulations of land and related assets by energy companies or companies supplying carbon uptake products through carbon sink forests—and managed investment scheme companies will just rebadge themselves, grow a new arm or expand their operations to actually do that. What is more, if you are somebody who needs to minimise your tax, you can employ one of these companies to package up the land, the water rights and all the other associated costs and deduct them in the first year for you. So you have a massive potential, as I said, for incredible rorting of the tax system. In my view, this is not something that either the Howard government or the Rudd government intended, but it is the outcome of this very poorly drafted legislation.

When I made these points before—and colleagues in this parliament from other parties have also made these points—the government stood up and said, ’No, the cost of land is not tax deductible.’ But it is tax deductible. So, in the end, I went and saw one of Australia’s leading tax barristers about this. He said that it is absolutely clear that the land is tax deductible. He is in the media today responding to this as well, saying that it does not matter what the explanatory memorandum says. He says the High Court have had many such cases. Where there is a difference between the actual legislation and the explanatory memorandum, they will always take the law as it stands ahead of that. So let us get rid of that.

The tax office has a view about this on its website, but the view of the tax office is not the law. The law is the law, and it will be interpreted as it stands. We know that in the committee hearings on this the government said, ‘The cost of leasing will be tax deductible.’ That was bad enough for a start. So you can approach a farmer and say, ‘Let me lease so many hectares of your property and then all of the costs associated with the leasing are going to be tax deductible over time, but now let me talk about water for a minute.’ I asked the barrister, ‘Can you claim the capital cost of getting a water right as well as the land?’ The issue here is: often the water right is attached to the land, and therefore the cost of the land reflects that, so you would get the tax deduction for the water right by virtue of the value of the land. But let us say it is not attached to the land; then the issue becomes: it depends. If you have to buy a water right which gives you the ability to, year by year, pump a volume of water through a permit, the capital cost upfront of the right will be the capital cost with the land and it will be tax deductible. If, however, it is not an upfront cost and it is a permit year by year, then that will not be tax deductible in that sense, but all your leasing costs will be tax deductible. So it depends what you are doing in relation to the water right how it is constructed.

What we are going to have is high-income taxpayers, in a year when they need to minimise their tax, approaching these carbon sink businesses, like managed investment schemes, and they will organise for purchase of the land, they will get all the costs upfront, tax deductible upfront, and then they will come to some arrangement to onsell this property—just like they have with the managed investment schemes. The people who will be doing it will be not only the forest industry but also the coal industry and the aviation industry, because it helps them to minimise their offsetting costs. So they get
free permits and they get the taxpayer to set up the offsetting strategy for them, to the detriment of rural and regional Australia. If carbon sink investors eventually do switch to food production—and I believe this will be the case—we are going to see increasing pressure on food production. There will be food shortages because of climate change, because of peak oil, because land has been taken out of agricultural production, because of incursion by subdivision and so on. When that occurs, there will be a temptation for them to go back.

Can they ever cut the forest down? Of course they can. When they onsell a property, the next person can say, ‘It was not my intention for these trees to be a carbon sink. In fact, I can get more money now by converting it to something else,’ and they can do so. In terms of the tax deduction, who pays it back? There are no enforcement provisions. There are no disincentives in this. There is nothing at all in the future to stop you from saying, ‘At the time I planted it, it was my intention that it be a carbon sink, but since then I have changed my mind.’ There is nothing to say you cannot cut those trees down. You can get the tax deduction in the first place only if it was your intention for that to happen. But, in the event that you do, the penalty you will pay will be in relation to the carbon you have given up under any subsequent arrangements you have in selling carbon into the carbon market, and you will have to make good. But with the tax deduction, especially if you have onsold the land, you have no consequences in terms of what benefit you got out of it in the first place, if a changed ownership leads to those trees going.

If the trees are not cut down, there are other ways to kill trees—like not watering them, for example, or bushfires that go through them and so on. It may not be your intention to cut them down, but—oh, dear—they were destroyed, they died, or something happened to them along the way. We have seen plenty of that with the managed investment schemes. In Tasmania there is a plot that was put in on a managed investment scheme which has currently got cattle grazing on it. I have drawn it to the attention of the authorities, because to me it seemed like a rort in the first place.

This is really serious. The guidelines are not really worth the paper they are written on, because they say that you must be in compliance with state legislation and with local government in terms of planning schemes. In the case of Tasmania, there is no land-clearing legislation. So you will comply with this if you do not do anything and you keep on land clearing, because there are no regulations. In Tasmania, there has been not a single assessment of groundwater in any catchment. And there is no requirement in these guidelines for a hydrological analysis before these plantations go in. So we will have the situation where it will suck the water out as interception. And, in a place like Tasmania, without any provision on land clearance and without any provisions in relation to groundwater, let alone water rights, you know what the inevitable outcome is going to be. In terms of land clearing, whilst the guidelines say ‘compliance may be achieved by avoiding clearing land of remnant native vegetation, as determined by the relevant state or territory legislation’, as it is there is no enforcement. Who is going to come and check on any of this? Who is going to look to see what you did in relation to this in the longer term? So what if you complied in the event there is no legislation there in the first place? Yes, you ticked the box to say, ‘I complied. I cleared this area.’ The clearance is an important issue because there will be the Kyoto sink forest definitions about what you can clear or cannot clear, and of course there is plenty of native vegetation
that can be cleared that would not fit that definition. So this is a disaster from one end to the other.

I particularly want to talk about the legal advice I received today, which I will deal with in the tax bill as well. It is important that people looking at these guidelines realise that they are going to create the biggest shift in agricultural land and water away from food production, with large-scale impacts occurring in a manner not seen since the introduction of managed investment schemes. The impact of the guidelines will be equivalent to, if not worse than, that of the MIS, and the farmers out there know it. During the Senate inquiry process, we received a lot of submissions from sugar growers, dairy farmers and so on around the country. They have lost their properties and their viability because of the impact of managed investment schemes in their areas reducing critical mass. It will happen again; it will be a disaster. I urge the Senate to support the disallowance motion to get rid of these guidelines. If we want proper carbon sinks then we must make sure that they are biodiverse, that they will go only on marginal land and that they actually fulfil the purpose of being in the ground for 100 years—not this shonky MIS dressed up as something else.

Senator BOSWELL (Queensland) (5.00 pm)—I rise to support the motion to disallow the environmental and natural resource management guidelines made under section 40.1010(3) of the Income Tax Assessment Act 1997. I see this disallowance motion as the down payment on a fundamental restructuring of the economy to be achieved by the government’s Carbon Pollution Reduction Scheme. It is because this issue is so important that I join my fellow Nationals in making a stand. Crossing the floor is the longest walk in politics. It should not be done in hubris or for effect or revenge but in sincere commitment and belief that the decision before us is above ordinary gravity, and I believe that is the case today.

The guidelines facilitate a tax deduction for established carbon sinks. If successful, this disallowance motion will render the deduction inoperable. Let me repeat: the new law is completely inoperable without the guidelines that spell out the environmental and natural resources management process in relation to the establishment of trees for the purpose of carbon sequestration. I have received internal advice from the Department of the Senate and external advice from a prominent barrister confirming that, without these guidelines, the legislation is inoperable. It will not be possible to plant trees and incur expenditure for establishing trees in carbon sink forests unless the guidelines have first been made.

One of the conditions for the deduction is that you must meet the requirement of the guidelines—no guidelines, no deductions. Why is this issue so important? Because the tax deduction has the potential to distort land prices in major agricultural regions, moving food-growing land to carbon sink land and undermining food security. This is important because the legislation, which prohibits the management of investment schemes to act as a tax incentive, is being thwarted. Managed investment schemes are already lining up to exploit a loophole that allows them to take advantage of this carbon sink deduction.

Most importantly, this tax deduction represents the first shift of taxpayers’ money and a mammoth structural change to the economy with the government’s Carbon Pollution Reduction Scheme. To give carbon sink forestry operations a significant tax advantage over food-producing operations will inevitably distort the market in favour of carbon sinks. The current guidelines contain nothing to contradict this conclusion. Providing a tax incentive to one sector of the mar-
ket—in this case the carbon sink investors—will raise the rate of return on their investment. In contrast, traditional agricultural land, void of an equivalent tax incentive, will suffer a comparative decline in rate of return. Consequently, rural land will lose its value as a food-producing resource.

The value of marginal and prime land will be changed under preferential treatment given to carbon sinks over food production. This will have the ongoing effect of weakening the strong farmers, who will not be able to expand the size of their holdings. They will not be able to afford the prices being paid by the carbon sink operators. These guidelines artificially inflate the price of land and put it out of reach of the farmers; therefore, more and more land will be taken from farming and food production and tied up in carbon sinks for generations.

The guidelines create a discriminatory tax benefit with similar effects to those of managed investment schemes. The added downside to the carbon sink tax incentive is that carbon sink forests are supposed to be permanent and, therefore, the market for food land cannot make a comeback even if returns should improve for food producers. The tax incentive and accompanying guidelines are a clear case of distorting the market and creating an unfair advantage for one land user over another.

The importance of food-producing land and food security in Australia is undermined through these tax incentive guidelines. Australia has already seen how a taxation incentive can be used to distort land prices. There has been an invasion of forestry based managed investment schemes into prime agriculture land, which threatens the viability of farming land and food production. The Senate inquiry that looked at this deduction was told by the Canegrowers Association that 14,000 hectares of prime cane land has been lost to forestry managed investment schemes. The sugar industry is concerned that land use will move towards carbon sinks, just as it has moved towards managed investment schemes. But it is not just sugar-growing areas that are being affected; it is everywhere and anywhere that there is good rainfall and agricultural land, including land presently under dairy, horticulture and other cropping.

The legislation attempts to make managed investment schemes ineligible for a tax deduction for the establishment of carbon sinks; however, the MIS industry is attempting to find a way around that. There are already managed investment schemes seeking to change their structure to take advantage of the new tax deduction on carbon sinks and, in doing so, broaden their income stream. The publicly listed Great Southern Ltd or GSL, an MIS, announced to the Stock Exchange in August that they were restructuring, with the main investment objective of capturing the potential benefits of carbon emission trading. One of the sugar processors has written to me, asking that ‘Forestry MISs not be allowed’—in their words—‘to double dip; that is, to take a tax advantage to establish trees for harvest and then convert the scheme to allow for sequestration credits’. The concern is that MIS tax incentives extend over years and, in contrast, tax deductions for carbon sinks are over one financial year.

But it is not just the farmers, the millers and the processors who are worried; it is the unions as well who opposed these guidelines in their submission to the Senate inquiry. A third-generation Tully mill worker later commented to the effect that, if this takeover of farming keeps going like it has, there will not be a fourth generation of his family working at the mill. That is because the mill needs a critical mass level of production to keep it viable. If there is less land for farm-
ing and less product, the mill cannot operate efficiently and costs go up. It must get a critical mass. That is the same for a dairy factory or any other food processor.

The *Australia’s low pollution future* report by Treasury refers to the ‘Garnaut-25’ scenario, which sees around 40 million hectares of new forestry plantations established from 2005 to 2050. It is difficult to picture how much land 40 million hectares is. The total area sown for winter crops in Australia in 2008-09 was estimated to be slightly less than 22 million hectares. Double that and you will get an idea of how much land is being forecast for new forestry plantations. *Australia’s plantations 2008 inventory update* reports that Australia has less than two million hectares of plantations currently. This means that a large amount of food-producing land is projected to be turned into forestry. This raises the question: if we put 40 million hectares into plantations, where on earth do we put those 240 million kangaroos that we are supposed to farm, according to Professor Garnaut?

In March this year, Australian Securities Exchange General Manager Anthony Collins told an ABARE conference that ‘the value of issuances in the Australian emissions trading scheme could be around $120 billion over the next 10 years, more than twice the value of the Australian government bonds market’. Little attention has been given to this extraordinary summation of the emissions trading market or to its implications. The financial services industry must be salivating, and some big business is counting on free permits, courtesy of the taxpayer, to get by. But, for everyone else, this is a huge carbon tax that will flow through the nation’s businesses and households.

As a National, I am particularly concerned about the impact on agriculture. The potential impacts of an emissions trading scheme on agriculture in Australia were estimated by ABARE in June this year to result in ‘agricultural production costs rising by three per cent for livestock and 4.5 per cent for cropping in Australia if agriculture is excluded from the scheme; and agricultural production costs rising by 18 per cent for livestock and six per cent for cropping in Australia, if agriculture is included in the scheme’. If today’s carbon sink regulation is like Australian farming having a stroke, then the ETS to come will have the impact of a heart attack on rural industry. And do not forget the consumer. If it costs a beef producer an extra $180 a beast to get it to market, who will pay? The consumer will not and the producer cannot without going out of business. How attractive it will be to grow trees instead. But then how do we feed ourselves and how do we replace valuable food exports?

You have to question the government’s genuineness in all of this. Senator Wong delivers lecture after lecture on the need to set up an ETS by 2010. Forget what the rest of the world decides to do in Copenhagen or what Obama gets through congress. Forget all that; Minister Wong wants Australia to go over the top and rush the enemy carbon lines without any covering fire. Some industry players think it will be okay to come out of the trenches because they will be given free cover in permits. But the permits do not last very long and there are not enough to go round. The foot soldiers of industry and agriculture will be told to go over the top and brave a world riddled with the bullets of a financial crisis. They will have extra carbon costs that will make it difficult for them to survive. Big businesses will just move out of Australian trenches and find a neutral country where they can operate without worrying about the carbon fire.

Today with this disallowance we are digging the first line of trenches for Australian industry as it comes to grips with a 2010
emissions trading scheme. Meanwhile, back at the Wong ranch, government departments putting the 2010 brand on the carbon cattle have not even done their own budget costings of what the Carbon Pollution Reduction Scheme will cost them. In October estimates I asked what work had been done on analysing the government’s own CPRS liabilities. They had no answer then and took it on notice for every department. I have received a reply from the Infrastructure, Transport, Regional Development and Local Government portfolio. They say simply that the design of the CPRS has not been finalised. The only other reply says, ‘The Attorney-General’s portfolio has not endeavoured to estimate the operations cost to the department under the Carbon Pollution Reduction Scheme.’ That means that the government do not know what their cost blow-out will be under a CPRS and they have not done the work on it. Think of all the emissions from department buildings and cars—yet they expect business to cop it sweet in 2010. We are not talking about minor costs, either. The community sector raised concerns early on about how they were to pay their increased power bills under the ETS, yet there is no provision for these significant costs in forward estimates.

So we have a government carbon general pushing the industry troops out of the trenches to face open warfare from the rest of the world, who are not playing by the same rules. It is like our government generals are acting on behalf of some other government—not the Australian one. We must hold off from establishing an ETS before Copenhagen, at least. It is crazy to self-sacrifice jobs and exports with no chance of taking any carbon ground if the rest of the world is not with us in the trenches. This carbon sink regulation is part and parcel of changing the underlying structure of the economy to suit the hastily designed and imposed Carbon Pollution Reduction Scheme. It sends the first wave of foot soldiers—once again, farmers—over the top and into a new conflict where there will be many casualties.

There has already been an international volley fired in the carbon war. The British government is imposing a $400 green surcharge on Australians travelling home from the UK on Qantas aircraft. This is marketed as a new method to help save the planet but, let’s face it, it is an opportunistic revenue raiser for the old country that takes money from the colonies and makes it harder for our tourism industry. Have we entered the age of a new green imperialism? Perhaps. It is very hypocritical of the UK, because the new tax takes no account of the environmental efficiencies being made in planes that fly in and out of Australia or of the fact that short-haul flights in Europe create comparatively more greenhouse gases.

The subject of today’s disallowance motion can be likened to the first step on a slippery slope towards a wholesale restructuring of the economy and how we do business in Australia. Today it is about impaired food security and the viability of rural communities and infrastructure. Tomorrow, or certainly by 2010, it will be about the carbon tax—the equivalent of adding two bond markets onto our financial system, or $120 billion of issuances over 10 years. The only businesses that will win are those that go offshore where there are no similar restrictions. They will seek an emitters’ paradise and go unregulated. Other businesses think they can walk through this maelstrom of market changes unscathed because they will get free permits. How long do they think that will last? How long will it be before their suppliers, with no protection against rising carbon input costs, go to the wall?

No-one can escape the carbon tax past the very short term. If you think you are safe,
just think of the deals that will be done in this chamber by a Labor government wanting the Greens’ support in the Senate and preferences in election campaigns. Once the CPRS is established under legislation, all the levers and frameworks are there to turn off free permits and change caps and trajectories at the whim of a Senate vote. Only one kind of business left in Australia will truly be a winner: the moneychangers, the financial whiz-kids who have brought the world economy to its knees because of reckless greed and dysfunctional regulation. Are we really going to reward them with brokerage fees for $120 billion? John F Kennedy once warned: ‘... those who foolishly sought power by riding the back of the tiger ended up inside.’

Karl Marx famously said:
The last capitalist we hang shall be the one who sold us the rope.

Today the Senate votes on a tiger and that rope. We vote on whether to allow the big end of town to distort the market through tax advantages that put trees ahead of food and farmers. In doing so, we vote on whether to begin undermining the efficient allocation of resources that allows economic progress and prosperity.

The big companies that will benefit if this disallowance motion is not passed will eventually fall victim to the process the legislation begins—a process that attacks the jobs and exports of a country that needs both to survive in this competitive and crisis-affected world. If this disallowance motion fails then we will have taken the first step in ushering in a green ‘brutopia’. Take away the farms and the food, tax the resource- and energy-intensive industries, and Australia is no longer Australia. We will be a land of forests and misery. We will be poor and unable to help the poorer. We will be unemployed and unable to offer jobs to future generations. I urge all senators to consider this disallowance motion not as some insignificant fraction of a day at the office but as a keystone event in our history. Once we embark on this voyage of harm to our natural competitive advantages, we start to dismantle the sails that took us to such a lucky country. We do not want to end up inside the tiger or at the end of a rope we fashioned ourselves.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (5.18 pm)—I rise to concur with the views that were clearly and very well put by Senator Boswell and the views that were put forward by Senator Milne. This is an issue that we have been talking about since June. It is not something that is a flight of fancy. It is a very serious issue, and today a number of National Party senators unfortunately will have to cross the floor to enunciate that. Why is it so important? Because we have tried for so long to mediate another outcome; we have tried for so long to come up with another process; we have tried for so long to breathe some sense into this legislation.

The wider community must see that there is something peculiar happening when the National Party and the Greens, supported by some of the Independents, are at one on an issue such as this. It signals that there is something very peculiar and wrong with this legislation when both those groups have serious concerns about it. I do not believe in the operation of a pure market economy but, for all those who vote for it, this legislation says that obviously they do not believe in market theory. Theirs is an ‘optional market theory’ approach where at certain times you hold it up as a religion, as the be-all and end-all, and at other times you drop it like a hot potato. This is an upfront tax deduction for those who can afford it most, to be paid by those who can afford it least. It would be peculiar even if you knew nothing about agriculture or about regional Australia. You would look at it from the outside and say: ‘If
I believed in market theory then I would just let the market operate. I would not come charging in, try to create market differentiation and interfere with the process when we have seen all the problems it has caused just lately.

We look at this as extremely important—so important that it requires us to show our nation clearly that there are serious errors in it. I will go through just a few of them. They have probably already been covered by my colleagues. The big one is the demise of regional towns. If, by your own mechanisms, you take away the substance of their economic base and that of the hinterland that surrounds them, which has provided the commerce that has built up the town and which people have relied on to invest in that town—to buy a house, to move there as a doctor or a schoolteacher, to build a shop—then you are doing something very wrong. In that breath you are saying: ‘Don’t worry about the world economy. You have to worry about your own nation’s domestic tax policy. That has become a major threat to your future.’ That is a very peculiar thing for people who call themselves economic conservatives to inspire.

Remember, it is quite simple: if you are offering an upfront tax deduction, that is the impetus for people to invest in the scheme. It means that therefore they have a tax bill. And, as they get a tax deduction in a deficit budget, somebody else somewhere else has to pay the tax. So those corporations that can afford it most get the tax deduction, and those who pay for it are the Australian working families. They pay the bill for this cute little deal—and it is a cute little deal.

The effect of the loss of prime agricultural land, as we know, is quite simple. Going straight back to market theory, if you take out prime agricultural land, if you take out the mechanism of producing prime agricultural food, you force up food inflation, full stop—game, set and match. Not only are we imposing a tax bill on the Australian consumer but we are putting up the prices of groceries in the shops to boot, so they can remember it—another peculiar step for people who believe in market theory.

Whilst they are also doing that, they say: ‘Oh, well, we can rely on imports. We will remove Australian domestically grown food and we will rely on imports.’ It is strange in the extreme that a country the size of Western Europe, with only 21 million people, is starting to become more and more reliant on imported food. Our whole concept of food sovereignty should be one of our nation’s strengths. We are starting to make it one of our nation’s weaknesses. What are we going to rely on—a resource based economy, with about two per cent of the workforce employed in it, and the rest of the people in service industries hoping and praying that the game never stops? Every country knows it is one of the smartest things you can do—regardless of the rules, the laws, your beliefs, you must make sure you can feed yourself. This is yet another step away from being able to feed ourselves. Any household will tell you that the most tenuous position you can ever be in is when you are relying on somebody else to feed you, especially when those people are slightly hungry themselves.

One of the insults added to injury in this whole thing is that, when you look at a town, the income stream that was associated with that land, that used to go through that town, that used to support the commerce, that used to bring a benefit back to that region, is now going to be a carbon sink. And that carbon sink will get a future income stream. After we have given them an upfront tax deduction, it will get a future income stream, through the increase of weight on carbon that is petitioned by that area. But where will that income go? It will not go to the local town. It
could even end up overseas. It could end up being owned by Mitsubishi Steel. It could go anywhere. What do we say to the people of that town—that not only have we completely circumscribed their access to income but we have also moved any potential income stream to somewhere else? And we believe that is morally just? It is yet another part of the oxymoronic process that enmeshes this piece of legislation—or whatever it is; I do not know what you call it.

So not only have we completely circumscribed their process; we have moved the income stream that supported that district to a completely different place somewhere else. And look at the actual commerce of it. If these people are going to get a future income stream, let us look at the concept. If there is a hectare, 10,000 square metres, and for every 10 square metres they can plant a tree, and, say, it is worth $100 a square metre, that is a possible future income stream of $100,000. What on earth are you giving them an upfront tax deduction for? Why do you need to do that? If this were a real economic issue, a real economic belief and statement of how the process should work, they would not need an upfront tax deduction. Otherwise, you are just propping up something that should not exist in the first place.

You can do with private land what you want. I have never suggested for one moment anything other than that with private land, if it is yours, you can do what you want. If it is private land, people can still put in a carbon sink. We are not saying you cannot put in a carbon sink—put in a carbon sink. But do not ask the Australian people to sponsor it, to subsidise it. Do not ask the mothers and the fathers of Australian working families to sponsor the deduction for the major companies. That is exactly what is happening.

And let us look at the efficacy of the carbon sink. It came to us through the committee hearings that summer pasture sequesters more carbon than a dry sclerophyll forest. This debunks the myth that it will not be using prime agricultural land, because if you go into prime agricultural land and you want to sequester more carbon than is already there, there is no point removing the summer pasture to plant trees. You would actually be going backwards. If you wanted to be authentic about it, you would have to go to an area with high rainfall and good soils and the prospect of being able to deliver a big increase in the weight of carbon in a short period of time.

We have asked for just one thing right from the start: for prime agricultural land to be excluded. It was not asking for much. We started in June. We never got there. We got this peculiar response, ‘We’ll rely on local government guidelines and state government guidelines,’ because they knew that the thing they had to dance around was that they would never grasp the nettle and exclude prime agricultural land. The reason they will not is that that is where it is going to—because that is where the MISs go. This is just a turbo-charged MIS. If you are relying on local government guidelines, which local government guidelines? Which local government guidelines stop you from growing trees? I have no idea. Even if the local government came up with those guidelines, they would be taken to the land court at the state level. These issues are all part of this mystery and this riddle as they try to fool us in the way this legislation works.

On this issue—and this is something that the Australian Greens and the National Party differ on—I believe that the emissions trading scheme is going to be one of the worst things that ever happens to this nation. In a time of recession we are moving towards a period where we are going to create another
tax. It is another tax to encourage people to
leave our nation and do business somewhere
else. That is what it is. The response to the
queries that we put to Treasury in the Senate
Standing Committee on Economics says that
this is strongly revenue positive. That means
the government collect money. It might be
coincidental, as the government run into
deficit, that they will be looking at ways to
pick up funds. What a brilliant way to do it:
go on a moral gig of ‘we’re going to save the
world, collect money and fix up the defi-
cit’—because the government become the
arbiter of where it is morally right and mor-
al wrong to send that money that they have
collected from the Australian people.

But, if senators in this chamber do not be-
lieve in the concept of the ETS and they have
serious concerns about it, they cannot vote
for this, because this is step 1 of putting their
foot on the sticky paper. I imagine the Aus-
tralian Greens will continue their support of
it, but I and my colleagues see that the ETS
is going to be economic vandalism. If we
want to reduce carbon emissions, I think a
possible economic downturn will do that in
spades. We do not need to exacerbate the
process by encouraging the aluminium
smelters and a whole range of other busi-
tesses to move overseas. If you vote for this,
you have to understand that you are voting
that you believe in the ETS and everything
that surrounds it. You have to be sincere and
dark dumk. You are either on board or you
are not; you cannot have this sort of optional
belief system. That is also a key concern.

Australia cannot continue closing down
prime agricultural land. As we continue to
rely on overseas imports for food, we do not
just lose our domestic production; we also
make ourselves vulnerable because those
overseas suppliers can enter into an ar-
angement where there is a specific supply
contract with specific retailers of the product.
Those supply lines to overseas venues be-
come a very powerful instrument to stop
other participants in the market. Big retail
players have the capacity to set up explicit
supply lines to certain big players overseas,
but your independent greengrocer and your
independent stall probably do not get the
same arrangement and the same process. So,
at a retail level, this can start to move against
small business. This really shows the inter-
meshing of all the effects when you start
passing legislation that reduces Australia’s
access to prime agricultural land to produce
food.

I also brought up through the Senate esti-
mates the fact that the legislation, and I have
quoted it before, in schedule 8, 40.10 says
that capital expenditure is deductible for the
establishment of carbon sink forests. Other
people have said, ‘That’s different,’ and,
‘The explanatory memorandum’s different.’
We have heard today from Senator Milne,
who has spoken to one of the leading tax
barristers, who said that is bunkum: ‘If it
says capital expenditure’s deductible, capital
expenditure’s deductible,’ Game, set and
match. The minister has never had the capac-
ity, the bravery, to go into the legislation and
say, ‘It excludes the purchase of land.’ So, if
it does not exclude the purchase of land, I
suppose it includes the purchase of land.

If that is the case, that is totally unfair.
Who else gets a deduction for purchasing a
block? Why don’t we give the deductions
that we are giving to these people to the peo-
ple growing fruit, vegetables and meat, peo-
ple who are trying to sustain themselves and
in the process send their hard-earned dollars
by way of tax to the Treasury? Why aren’t
we giving them the same advantage? I can
imagine other things associated with the
planning of a carbon sink forest—if they put
up a shed to store stuff in, that is a capital
expenditure, so they will get an upfront tax
deduction. A farmer would have to write that
off over 15 or 22 years or something. This is
outrageous. Why are you creating another sentiment of market differentiation, where the person on one side of the fence gets one advantage and the person on the other side gets another advantage, and what differentiates them is that one has the gall to try and feed Australia while the other is planting trees to get an income stream at a future date and gets the benefit of an upfront tax deduction?

We heard Senator Boswell talk about the prospect of 40 million hectares of new forestry. We only have 22 million hectares of crops. We have to understand this concept and where it can go. We have to look into who is actually pushing this agenda—who is going to make money out of this? Follow the money and you find the problem. That is the query. It is obviously going to be the people who have the capacity to make a margin on trading it and the people who make a tax deduction on putting it in place.

For the sake of regional towns, for the sake of maintaining Australia’s food sovereignty and for the spirit of fairness among all citizens in this nation—who should not be compromised by having to pick up the tax bill for the tax deduction that this is—I ask and plead for people to knock out these regulations. At a later stage, to make sure we clarify it, part of the TLAB 5 measures will explicitly disallow the tax deduction.

I know there are people who feel very strongly about this—some of them probably not noted in the media. I know there are strong feelings against this piece of legislation. So I ask: even if you are not going to vote against this, at least do not vote for it, because if you vote for this you are voting for our nation to go down a path of unfairness and you are taking the first step in a very dangerous economic proposition for our nation to deal with in a possible recession.

Senator WILLIAMS (New South Wales) (5.36 pm)—I rise in this chamber to voice my objection to what is being planned here and support the disallowance motion put forward by Senator Milne. I said in my maiden speech on 15 September:

… governments should not take our food producers for granted simply because we have such a huge supply of good quality, well-priced food. We all know what happens if we do not eat. And that is the point I make here: for the government to have an upfront tax deduction to allow the big end of town to come in and buy up our prime agricultural land, sow it down to trees and hence make money afterwards I think is simply wrong.

I have said for months now that if we want to take the carbon dioxide out of the air we can put it in the soil; we do not have to put it in the trees. If you talk to any soil nutritionist, they will simply say that carbon is the cycle of life. We see people like Dr Christine Jones, at Armidale, and my good friend Nationals MLC for New South Wales Rick Colless, who has worked in the care of land for some 27 years, saying, ‘Get the micro balance right in the soil and it will sequester the carbon out of the air and into the soil and then can be used for more production of food.’ This is the way we should be going in this nation, not allowing upfront tax deductions for the big end of town to buy up our land, plant it into trees, remove it from producing food and take the money out of the local economies that have battled against drought since early 2002.

What happens when our food production reduces? Going back to my days of learning economics in 1972, the story was that if demand exceeds supply then prices rise. There has been one big kerfuffle of late about how the price of food is high. That has been brought about by the lack of supply brought about by the lack of rainfall and negative
seasons on the land. So what are we going to do? We are going to give an upfront tax deduction to reduce the volume of food in this nation. This is bad not only for the future of all Australians but for those local communities that rely on the dollars being brought into their districts by the sale of such things as wheat, barley, sorghum, sunflowers, canola; you name it. They are the industries that bring the dollars into those local towns and communities that keep the small businesses going, that keep the working families in a job. Now we are going to make a decision here that will have the end effect of putting those working families out of a job. That will be the end result of this in small communities.

We see that we have a huge problem of a lack of flow of water in the Murray-Darling Basin. You do not have to be a rocket scientist to realise that when you plant trees they actually absorb moisture and prevent in many cases the run-off of water, even in wet times. The more carbon sinks are established, the less water will run down the Murray River. I am sure Senator Xenophon, Senator Birmingham and others are not real happy about that. I am sure that even Minister Wong would not want to see less water running down the Murray and hence more problems as we see in the Murray River. But the allowance of this carbon sink upfront tax deduction is going to have that effect on the Murray-Darling Basin.

It is just so wrong when the big end of town, those with the big chequebooks, can come in and pay the big price for prime agricultural land. The effect of that is simple. Farmers wish to expand their land size, as they have had to do for a hundred years. Going back to the 1950s, in areas such as inside the Goyder line in South Australia, with a property of 500 acres you could make a good living. Then in the seventies you needed 1,000 acres. Then in the nineties you needed a couple of thousand acres. Today to survive you probably need 2,500 or 3,000 acres, simply because farmers have to be more productive, the retail price of products has not kept up with the cost of their production and hence they have had to expand their properties. But when the big end of town come in and pay whatever they want for the land, knowing full well they are going to get an upfront tax deduction, according to Senator Joyce and others here, and go on to make their money, they will inflate the price of land. They will squeeze out the small bloke, and we are just going to see more carbon sinks established. The end result will be less production of food, less exports and worse monthly trade figures.

It is the emissions trading scheme that this is all being prepared for. The Nationals have made it quite clear that unless the big emitters around the world take on the same project we will become uncompetitive. We will shut down industries here; we will move them overseas. I was talking to one person representing the cement industry. In Australia we produce 10 million tonnes of cement a year and we also import two million tonnes. When we produce a tonne of cement in Australia, we produce 0.8 tonnes of greenhouse gases. What will happen if we tax that industry out of existence? It will then be moved overseas or we will import cement from China. In China they produce a lot of cement, around one billion tonnes a year, but when they produce one tonne of cement in China they produce 1.1 tonnes of greenhouse gases. So we would shut down our local cement industry to import 10 million tonnes of cement from China. The result is that, instead of producing eight million tonnes of greenhouse gases in Australia, we will import the 10 million tonnes from China that will produce 11 million tonnes of greenhouse gases. The net effect is that we close down our industries here, we lose 1,850 jobs, we
import all our cement from places such as China and we put three million tonnes of extra greenhouse gases into the atmosphere each year. That is not very clever at all. That is going to be the effect of the emissions trading scheme unless the United States, India, China and the other bigger emitters come on board with something in the way of this to at least make us competitive and not shut down our local industries. This is where we are heading, and where we are heading is not good for our children’s future in terms of having to make a living, to feed the people, to have exports and to keep our small communities alive. That is why I will be supporting this disallowance motion.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.42 pm)—I also support the motion. I acknowledge and give credit to the submissions we have just heard and the power of the National Party’s stand on this important issue. I also want at the outset to thank my colleague Senator Milne for having drawn the Senate’s attention to this matter last year, because otherwise it would be through and done and dusted without the very important debate it is getting at the moment. The minister and the government cannot say they were not told about this insidious process that we are dealing with here today. The hand of the big end of town, particularly the National Association of Forest Industries and the big polluters, is all over these regulations. Minister Wong is an intelligent and resourceful character, and I am surprised that she is hosting such a shoddy and hopelessly inadequate piece of regulation in this parliament.

I was in Bermagui on Friday night for a public meeting about the logging of forests on the doorstep of that town and in southeast New South Wales more generally. Of course, that problem applies in Tasmania as well. A lot of issues were raised at the meeting. People are concerned about the tourist amenity, they are concerned about biodiversity, they are concerned about recreation and they are concerned about the feeling of place that they have. The Indigenous people there are totally opposed to that logging taking place, and the oyster growers pointed out that other local clean water areas have been lost because of siltation following deforestation. One of the few forests left in the Bermagui region is now threatened by logging that is to occur in the new year. On top of this came repeated questions from the public about carbon. The public is astute on this and seems very much better versed on it than is the cabinet.

Effectively built into this proposal is a public subsidy for planting carbon-sink plantations, which is a perverse outcome. Here we have the government and the Liberal Party supporting the destruction of the biggest carbon banks living on terrestrial Australia—that is, the native forests—and, as a consequence, contributing nearly double the pollution of the whole of the transport systems of Australia into the global atmosphere. The woodlands and native forests of Australia, from the Tiwi Islands to Tasmania, are being converted into greenhouse gases at an extraordinary rate. It is estimated that that accounts for 17 to 20 per cent of Australia’s total greenhouse gas output—and that is in the world’s biggest coal exporting country. That is incredible, and it is not even measured by Minister Wong’s greenhouse office. We will hear that that is because internationally we do not have to, and that is because Australia, amongst others, fought very hard under the Howard government not to have it included. But the reality is that that is part of the greenhouse gas output in Australia.

Here we have a system to establish plantations to sequester carbon and to effectively cover the fact that these great forests, which store massive amounts of carbon, are being logged. This is, in my book, culpable behav-
This is a gross misdemeanour at the highest government level against the interests of the planet, future generations and the biodiversity we share on this planet. Here we have big business effectively getting a Labor government to bring forward a set of guidelines that are going to aid and abet the process. This will have the perverse effect of having more and more land that currently has woodland or forest on it converted to plantation and will result in a massive loss of carbon. You will get a tax break for some future carbon sink that will never again replace what was lost.

I noticed that in the regulations there are words like 'may' and 'should'. One regulation says:

1. Carbon sink forest establishment should be based on regionally applicable best practice approaches for achieving multiple land and water environmental benefits.

Compliance with this guideline may be achieved by, for example:

• avoiding clearing land of remnant native vegetation as determined by the relevant state or territory legislation …

Well, look at the performance of the New South Wales, Victorian and Tasmanian governments on that score. They are ripping down state owned forests that are massive hedges against climate change and discounting it all as nothing. These regulations put into the hands of those same people a request that they ‘may’ look at whether taxpayer subsidised carbon-sink plantations under this scheme ‘should’ be restricted in places where people are going to cut down forests and woodlands or even clear scrublands to achieve a process that will, at the end of the day, hold less carbon in it. It is extraordinary that the dollar imperative here is riding over not just commonsense but the decency to be honest, which is required of all governments.

Today, the National Party is making a stand against the inevitable takeover of food-producing lands—lands where farmers get no subsidies for producing that food—by a scheme driven by the people at the big end of town who can see a get-rich scheme. They will be getting the investors in for their tax deductions for plantations that are supposed to be carbon sinks and that will replace food lands. I have not heard an answer from anybody in government or elsewhere as to whether the current carbon stores in the food lands are going to be replaced by these plantations. Is there a necessity for an assessment? No, there is not. Is this used land, the so-called back blocks of farm lands, the hills where there are currently woodlands that are the maximum carbon storage and which are the naturally best attuned ecosystems for maximising the storing of carbon, now going to be knocked down? Because they are considered marginal farming land, are they to be replaced by plantations that will never ever contain as much carbon? There is nothing in these regulations to say that cannot happen.

Unless you regulate with ‘musts’—and you have to—and leave no option but to abide by a system which ensures you are actually going to increase the carbon-sink facility on land, it will not happen, because the driving motivation here is going to be making dollars and achieving tax deductions. The motivation is not going to be the good of the land; it is not going to be the wellbeing of the human community, either locally or globally, in terms of food production; and it is certainly not going to be hedging against climate change. This was driven by money makers and the Labor government has rolled over and said, ‘Yes, we’ll have that’ to this inherited legislation from the former government, and that is why we have this extraordinary perversity where there will be an actual loss of carbon sink. This will be subsidised by taxpayers through schemes com-
ing from the big end of town, where they could not give a damn about what is happening in rural and regional Australia, its productivity or its ability to be a hedge against carbon. They will be interested in get-rich-quick, money-making schemes to be sold to people wanting to avoid taxation.

Currently, they are onto an issue of great concern to people right across Australia: climate change. It will be very easy to sell to people. ‘This is win-win. You get a tax deduction and you help save carbon from going into the atmosphere and you actually take carbon out of the atmosphere.’ The reality on the ground is quite different. If this goes ahead, we are going to see perversity of that aim and carbon stores—carbon stores bigger than will ever be replaced by this scheme—will be lost through the get-rich-quick potential. The government says, ‘We will leave looking after that to the state governments.’ Really? Who is going to assure me or anybody in this Senate that that is going to work? We would pass the regulations and leave it to the ‘good offices’ of, for example, the Tasmanian government, which wants to build Gunns pulp mill? This is a government which is prepared to put great subsidies into that pulp mill and which knocked out the environmental assessment process to facilitate it—stuck it on the sideboard because it did not fulfil the wishes of one corporation. What are state Labor governments—let alone a federal government that has handed across ipso facto through this process this control to state governments—going to do when they are approached by multiple corporations who have a get-rich-quick scheme and do not want environmental rules getting in the way of it?

The practice shows that this will fail. It will not bring the goods. But the reality here is that, if the Minister for Climate Change and Water, Senator Wong, the Minister for the Environment, Heritage and the Arts, Peter Garrett, and, more particularly, the Prime Minister, Kevin Rudd, want to achieve an outcome on climate change through what we do with our land, the first thing the Rudd government must do is stop the destruction of the biggest carbon banks living on Australia: our forests and woodlands. Overnight, the contribution towards saving the planet would be greater than this scheme would ever, even if it maximised its potential, give to this country. The government that is failing to protect the biggest carbon banks in the country is asking us to pass this legislation which will give very much the same people who are behind that forest destruction industry the ability to buy up otherwise productive land in rural areas or land which is already a big carbon store and sell it on to people as a win financially and, deceptively, as a win for protecting the environment when it will do nothing of the sort.

It is incredible that an intelligent government like the Rudd government could support legislation like this. It is incredible, because this is ignorance writ large. It will be used through studied ignorance—through people saying: ‘Well, that’s the law. It must be good. Senator Wong supports it and Prime Minister Rudd supports it’—as others go about getting people into tax-deduction schemes which are going to do this country harm rather than good. I commend my colleague Senator Milne on the good work she has done on this. I commend the common sense of the National Party in opposing—

Senator Nash interjecting—

Senator BOB BROWN—Absolutely. Not least, Senator Nash, because common sense sometimes takes courage. We are seeing that courage today. There is a conscience factor here, and I would charge every member of the Liberal Party and the Labor Party who is really considering the urgency of the climate debate in this country to vote against
their party and to cross the floor on this issue. It is as important as that.

Senator XENOPHON (South Australia) (5.58 pm)—I too support the disallowance motion and I support the sentiments of the previous speakers. This is a monumental act of folly. This will have the effect of taking away prime agricultural land. It will put further pressure on the Murray-Darling Basin, because there is no requirement for these schemes to be contingent on a hydrological study before going forward. In the discussions I have had about this, the CSIRO’s rule of thumb, it seems, is that you have to be very careful about which rainfall regions you put these forests in, because they can actually do serious damage by taking groundwater out of the system. More importantly, there is also the issue of interception. We have seen what Professor Mike Young from the Wentworth Group of Concerned Scientists has said about this. The Wentworth group have been quite outspoken about the importance of dealing with the whole issue of interception. What could be a bigger source of interception than giving the go-ahead to carbon sinks with accelerated tax benefits?

Senator Joyce is right. This is a turbocharged MIS in terms of its tax benefits, and we know what MISs have done to rural communities. We know what they have done to overallocation in the Murray-Darling Basin. I know what they have done to irrigators in the Riverland; they just cannot compete with the MISs. The price of water has been forced up. It has accelerated the whole issue of overallocation and this carbon-sink legislation will just make it so much worse. So it beggars belief. It is an act of folly that will harm rural communities, I believe, irreparably and irreversibly. It is an act of folly because it will affect our food security and it is an act of folly because it will impact on our water resources in this country.

I note that the government is requiring guidelines with respect to the whole issue of how it will impact on water, but they are only guidelines; they are not mandatory and they are not requirements. In the absence of a mandatory requirement and of having some very clear guidelines the consequences will be catastrophic.

There are no protections for current food producers under this legislation. There is nothing to stop these schemes from taking over prime agricultural land in order to plant these carbon sinks. There are no guarantees that these forests will not be chopped down in the future after these schemes have taken advantage of the tax breaks. Why would the government pay good money to buy something that can be so easily taken away? Effectively, that is what the government is asking the taxpayers of Australia to do. We will be subsidising the making of water resources more precarious in this country, we will be subsidising the making of rural communities less viable and we will be subsidising our food security being made much less secure. I do not understand why there is nothing that specifically stops the clearing of native vegetation in order to plant carbon-sink forests. Where is the sense in that?

It is for these reasons that I support this disallowance motion. It is for these reasons that I believe that this scheme is a monumental act of folly that will haunt those who support it. This will come back. There is no question that the consequences of this scheme will be to cause wholesale damage to the environment and to rural communities in this country and to put the Murray-Darling Basin under even more stress. I do not understand this: we are in the midst of debating the water bill, which is supposed to be about having a new authority and about ensuring the water security of the basin, and this flies in the face of that. It flies in the face of fundamental good policy and common sense.
Unfortunately, I believe we will be revisiting this in the not too distant future, but I fear that the damage done to rural communities and to the environment will be irreversible.

Senator HEFFERNAN (New South Wales) (6.03 pm)—This is what I would call a serious mess. I think that everyone in this parliament ought to be condemned for allowing such an untidy, unstudied, unscrutinised piece of legislation through the parliament. There are lots of bits of this legislation that are good, but there are lots of bits of it that are a voyage into the unknown. I would like to deal with some of the facts. The press have been speculating about whether or not people will cross the floor. I said as a throw-away comment—because it is not going to make any difference—that there is going to be a micky on this at the end of the day, which I think is a shame.

I think we ought to revisit the issue. As we all know, this disallowance motion would disable the legislation if we agree to it. I think we ought to go back and redo the legislation and do something about avoidable deforestation and degradation. This actually penalises people who save forests, which, as Senator Bob Brown said, is just silly. I have to say that I would cross the floor if it would make a difference but it is just an ego tugging or rimming exercise for some. I do not need to tug my ego, but I oppose the legislation, seriously, based on a lot of consequential possibilities.

In regard to the tax side of this, I have heard all the very good and passionate speeches so far and some are saying that the value of the land is tax deductible. That is not my understanding. There is, as I understand it, a barrister’s opinion around—although I would shoot two out of three lawyers if I were in charge—saying that the land is a tax deduction. I am reliably informed by the government and the tax office that the land is not a tax deduction. I am also reliably informed that the lease is not a tax deduction and that the forestry right is not a tax deduction.

Today I have tried to get my head around some of the issues of this. I have to say that there are some great opportunities if we get the legislation right. My view is that the legislation is seriously flawed. I do not think anyone in this chamber or in the parliament, or at least the bulk of people, would have any idea of the technical detail of this. So I will just run through a few things.

I would like to raise the matter of CarbonSMART, which is the landcare farmer based version of a carbon sink company as opposed to someone like the CO2 company which, although they do not like me using the word, are a carpetbagging company who promote carbon sinks. The catchment management authorities—I suppose most people know what they are—are even into this. I have a copy of a letter to the member for Bendigo from Mr Ben Keogh, Managing Director, Australian Carbon Traders, which sets out an example of what the catchment management authorities are doing. This is about knocking off the benefits that would accumulate to farmers. The letter says:

As an example, one landholder who was offered a grant was offered $800 per hectare to revegetate by the CMA, the site will return around 550 tonnes of CO2 over its lifetime. Break that down and the CMA is offering $2.90 a tonne, and they are using government money that was put aside for biodiversity and water quality projects. They could sell those credits … for up to $30.00.

That is a tidy little profit for the catchment management authority. I think the profit ought to be with the landholder.

The CMA is acting in a greedy and irresponsible manner, they do not know what they are doing and in their own interest use federal money to line their own pockets, money that could and should be going to the landholders.
Of biggest concern is that if or when agriculture is covered in 2015 and landholders are required to reduce their emissions—

and bear in mind, at $40 a tonne, 27 per cent of the production costs for beasts will be the carbon tax—

or offset them with forestry the landholders will have lost 50% of their carbon rights … to the CMA.

That letter has provided just one example. The landcare movement has a really good plan. I would also like to get some things on the record in relation to CarbonSMART and to mention a particular gentleman who resides at Merriwagga; Ian Shaw is his name. He has done a deal with the CO2 company for about 30 hectares and has bought a forestry right on the property at Merriwagga. This country, much to the misunderstanding of a lot of people in this debate, was mallee country. It is being returned to mallee country but with a Western Australian version of mallee, which, under the catchment management authority guidelines and under the CarbonSMART guidelines, does not qualify because it is not a local native tree. These are trees that you would not cut down. If you did anything with them in time you would make a few didgeridoos out of them.

In this particular instance we have done the sums and over 30 years, for 600 tonnes at $20 a tonne, that is $12,000, and the landholder gets a once upfront payment of $1,000. So it is not a bad investment. This particular landholder has a plan to do it himself. He is going to tell the CO2 company, as I understand it, to forget about it. He is going to do the rest himself and maximise that profit into his own farm. When his son takes over the farm, his son can be doing the farming and he can be sitting on the verandah collecting the carbon tax over the following years instead of giving it to some sort of a carpetbag operation, which is what everyone is worried about—the accumulation by aggressive companies that have an incentive at the present time, for the first three years left in the system, of an upfront tax deduction. These companies do not need the tax deduction to undertake the scheme; they have told me that. But it is nice work if you can get it, and if we are stupid enough, and if the taxpayers are so generous that they say, ‘Thanks very much. We will take that.’

So the farmer in Merriwagga intends, to his great credit, to do this himself. He intends to run seminars around the district so that other farmers will do it. This is out in mallee country, which is light-red country that blows away like hell in a dry time. He has an 800-acre paddock and has put rows of trees around his fences and will qualify for the carbon tax benefits on all that. He says that his costs are about 63c a tree because he has now bought and accumulated one million seeds through a nursery. He is going to pay the local school kids contract rates to plant the seeds. These are good ideas. It is not all bad. It is just that it is untidy legislation and we need to go back and rethink it.

This is what we ought to be doing rather than this shoddy stuff. Right around the planet, in Brazil and other places, there are companies that are working under the CDMs, the clean development mechanisms, of Kyoto to absolutely dodge farmers out of their money. There is a scheme in England where the farmers are getting 2c in the dollar because of the shoddy bookwork that we have allowed to go through. This is all part of the shoddy bookwork that is in this legislation. I think there is a lot of goodwill behind this legislation; it is just that it is not thought through. It was not paid any scrutiny and it slipped through with another bill. We saw the untidy episode here in the earlier sessions where I think it was tied to a change from one schedule to another.
We all ought to own up that we have made a mistake. We all ought to try and fix it because there are a lot of good things in it—if it is not a tax deduction for the land, if it is not a tax deduction upfront for the lease, if it is not a tax deduction for the forest right and if it is not eligible to be knocked out under the perpetuity laws. No-one has talked about the perpetuity laws with this. The perpetuity laws may need to be invoked to protect these things. I have not heard one person talk about the perpetuity laws. I do not have time to go through the technical detail. Besides that, I probably would not do it really well because I am a wool classer and a welder and not a lawyer. But we have some serious technical problems.

I have some modelling here to give you examples of variations between opportunities. There is a site in Western Australia and, if we take $20 a tonne as the cost, over 100 years that site is going to return $2,458 a hectare. The same cost for a site in Wagga will return $5,289 a hectare. These are interesting figures for people to understand. In Far North Queensland—yes, Senator Joyce—a cane block will return $11,958 a hectare. So there is some variation in what land will do.

Depending on the price of carbon and on the tax deal, obviously if you could buy a sugarcane farm and get the money upfront as a tax deduction, why wouldn’t you go there because you are going to maximise the sinking of the carbon? Bear in mind that the science on the sinking of the carbon by trees, as opposed to perennial grasses, is lining up apples with oranges, because we are lining up inert carbon with active carbon. We are trying to offset inert carbon with active carbon, which does not make a lot of sense to me.

The more I look into this, the more problems I see. For instance, the modelling on how much carbon you sink varies. I will not name the companies, but some companies are telling their investors that their rules for sinking the carbon are different from the government’s rules, with the Department of Climate Change being the final arbiter. The national carbon accreditation system is the one being used by CarbonSMART and Landcare, and I have to say that it is very conservative. But the carbon accreditation being used by some of the lurk people, the potential lurk people that are coming into the system, is two or three times as generous as the national accreditation system. I do not know what the hurdle is for them to jump over the approval by the Department of Climate Change, which has the final say.

This seems to me to be a piece of legislation about which we all ought to say, ‘We have made a mistake.’ While there are some positives in it, there are some potential negatives in it. I have talked to people on both sides of the equation and in the middle. I cannot think of a better body to be advising farmers on how to go about a sensible carbon sink on your property. You might as well get profit for putting trees on your farm, especially out in some of that marginal wheat country. In Western Australia it makes a lot of sense to get rid of some of the reflective heat off country that was cleared in the 1960s and 1970s, country that should never have been cleared, and put some trees back on. That country, as that model demonstrates, is not going to sink a lot of carbon but will do a lot of good in getting rid of the reflective heat off the country and encouraging moisture and higher rainfall. So there are some good things about it. But we are just flying into cloud with this legislation. I have not talked to anyone who fully understands the technical side of it. It is hard to get up here and talk about the technical side because it is hard to follow.
To give you an idea of the good side of this, under the Australian government’s national carbon accounting system, the CarbonSMART mob have 13,000 hectares of land assessed as ‘unsuitable agricultural land to be planted’, including some hobby farms. It is all going to be registered on the title. Landcare are ranked the top forestry offset provider by Choice magazine and the Total Environment Centre, beating the CO2 Group for instance. They are putting all their efforts into maximising the profit for the farmer so that the farmer gets the benefit as the market rises. Under the proposed punter schemes that we are all worried about, the farmer does not get any tax deductions. Only the promoter gets the tax deductions. The farmer gets a few bob upfront and then, when he sells the farm to the next bloke, the next bloke has to wear it. When he asks, ‘What are those trees there?’ the farmer says, ‘Well, they are on the title.’ At least they are registered on the title. We managed to get people to understand that they have to be registered on the title, but there is no benefit. It becomes a discount on the value of the land for some people because of the upfront payment. For instance, in the case out at Merriwagga of $1,000 a hectare, that is a great way to square off the bank as a one-off, and then when you sell the farm to the next bloke—but that bloke out there has woken up and is now going to collect the credit as he goes—there is no benefit and it becomes a discount on the land because it is land that is out of production for which you are not getting any income as the farmer, and some mob on the Gold Coast or on the 25th floor of an office block tower in Melbourne or somewhere else is getting the benefit of it.

The interpretation of the tax side of that is still a vagary. The government have cooperated by giving as much information as they can to us to understand the tax rulings, but then we have other lawyers’ views. It is like competing science; you have competing law. The courts, as you know, are not about the truth generally; they are about the law. God knows what the outcome is. I would have thought that, before we went down that track, we should have tested that at court to see who is telling the truth. I do not know who is telling the truth.

It is regrettable that we find ourselves in this position, because most people in this place on both sides of the chamber and in the middle will tell you that maybe we are making a mistake. Why don’t we have the courage to say, ‘Whoops, let us fix it, let us define all this stuff’? Obviously the food task is going to double in the next 50 years; obviously there is going to be a contest for agricultural land; and obviously if you go about this the right way it will not put pressure on good farming land. As the landcare mob have said, they have assessed a lot of this land as unsuitable for farming. My plea—even though, as I understand it, it is falling on deaf ears—is that we have the courage to fix it.

Senator Boswell—Hear, hear!

Senator HEFFERNAN—We have the courage to fix it.

Senator Boswell—Well, we are going to fix it.

Senator HEFFERNAN—No, you are not. You are going to symbolically have a tug and walk to the other side—all you will do is tug your ego because it is a waste of time. I do not think Senator Nash should lose her job as whatever she is, the parliamentary secretary for water—

Senator Joyce—That’s a stupid thing to say.

Senator HEFFERNAN—I do not think she should, because it is not going to make any difference.
Senator HEFFERNAN—Why lose your job over something that is not going to make a difference—

The ACTING DEPUTY PRESIDENT (Senator Humphries)—Order! Senators should address their comments through the chair.

Senator HEFFERNAN—Sorry, Mr Acting Deputy President. Anyhow, that is just what I think. We should try to get a negotiated outcome, because I think we are making a dreadful error. Nothing that this group of people and I can do is going to make any difference, from what I understand. Everyone in this building stands condemned. Thank you.

Senator McGAURAN (Victoria) (6.22 pm)—In the seven or eight minutes just before dinner, I too wish to address this disallowance motion. Like other speakers, I believe the legislation is fundamentally flawed. It is farcical in many areas and shoddy all around. It will be no good for the government to say later on, as I predict they will after dinner, ‘This was your legislation.’ In fact, it is the government’s legislation. They passed it. While the scheme and concept, in the early stages, were thought up by the previous government, the legislation never came before the parliament. The whole scaffolding of this legislation and, consequently, the regulations we are debating today, are your work. You brought it before the parliament, you put it down before the parliament and subsequently defended it. So do not come in here later, after dinner, as predictable as it is, and say, ‘This was your legislation.’

The beginnings and the concept of this legislation were bred by our government and would have been fixed up. Whatever shoddiness is there now would surely have been fixed up, because we were a very efficient and good government. We could see bad legislation coming a mile away. So I make that point upfront before the Minister for Climate Change and Water, Senator Wong, stands up and speaks to the matter. I think this legislation gives a very generous tax incentive to investors to establish permanent tree plantations to offset carbon emissions. When I say ‘permanent’, the Senate committee hearings defined ‘permanent’ as between 70 and 100 years.

It is my view that this is bad legislation for the farmers and consequently it is bad legislation for the farming communities. Senator Boswell touched on this subject in his address. Recently we had the government’s senior economic and climate change adviser seriously write in his review—for those who want to be bothered to read it, but this utterly discredits it—the suggestion that farmers ought to replace grazing cattle and sheep with kangaroos. He envisaged 240 million kangaroos by around 2020. That is the extreme laughable, farcical end of this whole climate change debate—the kangaroo question. I notice the government have yet to rule it out, by the way.

This legislation and the regulations that introduce a tax incentive to establish permanent forests on farming land are at the extremely dangerous end of the climate change debate. As others have said, the legislation basically slipped through the parliament as part of a cognate debate on several tax law amendments. It certainly slipped by me. Thankfully, many of my colleagues were raising the issue at the time, and they did single it out. As often happens in this place, these sorts of serious issues are buried deep in legislation, but thankfully this found its way to a Senate committee, and I was part of that Senate committee in reporting. That is where we flushed out what is wrong with this legislation, and I would say that anyone with a serious conscience who sat on that committee would stand up here today and say that this legislation is wrong. It is bad for
the farmers, it is putting forests ahead of food, and, sure as God made little green apples, we will be back in this chamber again fixing up the loopholes and the nightmare that we have created for the tax office with the impossibility of managing this tax incentive.

I make the prediction that we will be back in this parliament fixing this legislation up. So I say to Senator Boswell and colleagues on the far left of the chamber that this will not be the last chance that we will have to debate this issue. It is predictable already. The flaws are so fundamental, so obvious, I do not know how the government is going to get up after a long dinner break and actually defend this legislation. I know we are talking about the regulations but I join with the other speakers and say that if you knock out the regulations you will make the legislation inoperable. So we are discussing the scheme in itself.

In short, the establishment of the scheme for the carbon-sink forests does not represent a valuable policy addition to the national objective of reducing greenhouse gas emissions. It is a scheme that lacks foresight or care as to the consequences for rural Australia. The intent of the legislation, the intent of the scheme, ought to be abandoned. The obvious result of providing a tax incentive to one sector of the market, in this case the carbon-sink forest investors, will be to raise the rate of return of investment—to make it attractive. That is what tax incentives do. Consequently, the value of the land increases, whether marginal or prime, for the purposes of carbon-sink investment. In contrast, agricultural land—food-producing land, the land farmers are working—will not have the equivalent tax incentive and will suffer almost an equivalent, or perhaps greater, decline in the rate of return. It cannot compete and consequently rural land will lose its value as a food-producing resource. In short, it is not a level playing field. It is tilted one way.

The added downside to this tax incentive, as distinct from the tax incentive given to the managed investment funds that have been addressed by earlier speakers, is that carbon-sink forests are permanent. That is the difference between this tax incentive and that given to the MISs. The MISs are a crop, in many respects, and it is debatable whether they should get their tax incentive or not.

Debate (on motion by Senator Conroy) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

Sitting suspended from 6.30 pm to 7.30 pm

BUSINESS

Rearrangement

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (7.30 pm)—by leave—I move:

That the order of the Senate agreed to earlier today relating to the hours of meeting and routine of business, be amended as follows:

Omit paragraph (b), substitute:

(b) the routine of business from 7.30 pm shall be:

(i) the business of the Senate notice of motion standing in the name of Senator Milne for the disallowance of the Environmental and Natural Resource Management Guidelines, shall be called on and have precedence over all other business until determined, and

(ii) consideration of the following government business orders of the day:

No. 2 Tax Laws Amendment (2008 Measures No. 5) Bill 2008
No. 3 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Fur-
ther 2008 Budget and Other Measures) Bill 2008
No. 5 Education Legislation Amendment Bill 2008 and a related bill
No. 4 Aged Care Amendment (2008 Measures No. 2) Bill 2008
No. 1 Temporary Residents’ Superannuation Legislation Amendment Bill 2008 and a related bill

Question agreed to.

ENVIRONMENTAL AND NATURAL RESOURCE MANAGEMENT GUIDELINES

Motion for Disallowance

Debate resumed.

Senator McGauran (Victoria) (7.31 pm)—Before dinner I was about to outline the significant difference in relation to tax deductions between the MISs—management investment schemes—and the carbon sink forest tax incentive scheme, and that is simply permanency. That has an enormous effect on the rural sector. The food-producing land under the permanency factor of carbon sinks cannot make a comeback in many respects if returns should ever improve for food producers over and above the distortion that the tax incentive has created. In my own state of Victoria, land has made a comeback where managed investment schemes have vacated the land and, in some cases, farming food producers have actually made a comeback over and above the plantations. Under the MIS, there is a chance of that occurring within the market fluctuation; but, when a forest is permanent, food producers and farmers cannot ever come back to that land—not in 100 years under this foolish legislation, such is the danger of permanency.

The tax incentive scheme is a clear case of distorting the market and creating an unfair advantage that will inevitably lead to a misallocation and an inefficient use of resources. Often the supporters of the scheme will say that farmers can plant windrows and boundaries to take advantage of the tax incentive scheme. They cannot. It is worthy to note that farmers carrying on the business of food production cannot join this scheme or take advantage of the tax break. The so-called dual effect of planting windrows and a carbon sequester forest at the same time is not likely to be permissible as a tax deduction because a farmer’s intent of planting is related to the primary business, not to emissions offset as defined in the legislation. That could become a lawyer’s delight.

What exactly is the legislation saying? Many of the previous speakers have asked that. There is so much about the legislation that is open for interpretation. But we know for a fact that the National Farmers Federation, when they appeared before the Senate Standing Committee on Rural and Regional Affairs, and Transport made the point that farmers cannot enjoy the tax incentive in regard to windrows. The Senate committee inquiry report, in referring to the NFF submission, states:

Concerns were also raised that the proposed arrangements would not allow a landholder to make a claim on the capital expenditure on non-contiguous plantings.

The NFF argued that this condition places a limitation on primary producers claiming the tax provisions for on-farm forestry practices that deliver carbon sink benefits. The NFF stated that on-farm forestry practices by agricultural producers will often involve multiple patches of small lots of trees in order to optimise the broader environmental and productivity benefits of such practices.

The NFF also argued that this same condition may instead lead to the perverse outcome of providing an incentive to farmers to plant trees in areas which deliver a poor environmental outcome, purely in order to maximise the potential claim.
This is a scheme for the big players—the big energy companies and traders that will buy large tracts of land to offset carbon emissions. It really is like giving Goliath the first punch in a fight against David. Further, the buy-up will be compounded by the fact that Labor’s proposed ETS is looking certain to be only a domestic scheme, in no way linked with international schemes; therefore, the carbon sink forest scheme will become even more attractive as a means to offset emissions and trade within the ETS. Obviously, you cannot plant trees on poorly productive land, as has been said by previous speakers, so the highly productive land will be the target of this new scheme. The forest-planting scheme will become a lazy way for the energy companies to offset rather than undertake the more expensive and long-term route of research and development, plant maintenance and upgrades or investment in alternative energies.

It is worth noting—and I note that Senator Boswell touched on this subject too—that Treasury has modelled the estimates on the number of new forest plantations that would occur under this scheme at different prices per tonne under the ETS. The Treasury modelling sets out certain scenarios according to different assumed stabilisation rates and prices per tonne of carbon, as will be traded under an emissions trading scheme. At the lower end of the assumptions, starting around the mid to high $20 per tonne in 2010, it is estimated that some eight million hectares of additional land will be given to new plantations by 2030. At the higher end of the assumptions, starting around the mid to high $40 per tonne, it is that some 40,000 hectares will be taken up in new plantations. It will become a case of forests before food.

Incredibly and foolishly, this massive loss of food-producing land runs parallel with two other flawed government policies that target reducing farm land—firstly, the $3.5 billion water buyback program for environmental flows along the Murray River. This policy has focused on buying productive rural properties, such as the historic Toorale Station in New South Wales, and turning them into reserves—unmanaged reserves, I would predict. At the same time, the Rudd government has ground to a halt the coalition’s $6 billion commitment to improving irrigation infrastructure—and that is the real solution to saving the Murray. Secondly, Labor’s Minister for the Environment, Heritage and the Arts, Peter Garrett, has his own land grab going on. He is about to hit the market in pursuit of 31 million hectares of new reserves.

It was only recently, in this parliamentary sitting, that the Minister for Agriculture, Fisheries and Forestry, Tony Burke, presented to the House a ministerial statement regarding world food security. Full of piety and anxiety, the minister delivered this statement—with hand wringing and pleas that Australia must do and can do better and, ‘We will lead the world in food security.’ I recommend anyone who wishes to read the minister’s speech to pick it up. He made the speech on 12 November. How hollow is that statement sounding tonight. It amounts to nought. It was as hollow as all the Rudd government’s statements that we hear—full of piety and no action at all. Let us read some of the statements that the minister made. He said:

The bottom line is that, wherever you are in the world, it is becoming harder for families to feed themselves. The world needs to act and we need to act now. Our actions need to be targeted, they need to be coordinated and they need to focus on the short, medium and long term.

Well, you cannot eat trees, Minister. He continued:

Australian agriculture is resilient and adaptable. We need to publicly acknowledge the critical role
our farmers play as food producers. If we get in front of the game and act decisively—

in front of the game? This puts us right behind the game. He goes on:

... I am certain that Australia’s primary industries will adapt to these challenges and thrive. And the world will continue to look to Australian agriculture as world leaders.

This is the only scheme of its kind in the world. It is the only type in the world. Indeed, we will be leading the world in replacing food-producing land with forests. That is the hollowness of that presentation.

In a time of great concern regarding world food shortages, the long-term effect of a major food-producing country such as Australia reducing its productive land will simply exacerbate the situation. In fact, Australia will lose valuable export income. And then, of course, there is the effect on the rural communities. Given that the majority of the farming sector is made up of family farms, this efficient social and economic unit will be undermined by the distortions that will be produced by the tax incentive scheme. Farming families are the foundation stone of the economic and social life of small towns and regional cities. The small businesses, schools, hospitals et cetera of small towns and regional cities are primarily reliant on a viable farming sector for their own economic viability. These economic regions will be detrimentally affected by the loss of productive farming land because of this scheme—singularly because of this scheme.

Senator Jacinta Collins—So how are you voting?

Senator McGauran—‘How do I know?’ says the interjection. You have no care. You have wandered in here and just decided to interject willy-nilly. You are from the city. That is the whole idea—you are from the city. You do not have a clue.

Senator Conroy—How are you voting?

Senator McGauran—Don’t you join in, Senator Conroy. You are the last person who would seek to represent the rural sector. The Environment Association, Senator Conroy, noted the undesirable impacts in rural Tasmania, stating their concerns before the Senate inquiry. They said:

Australia’s attempts to sequester carbon to mitigate global climate warming are likely to promote a mass expansion of artificial plantings in Tasmania. A great social concern for Tasmania is that farming activity is being replaced by artificial plantations which employ very few. The reduction in farming activity, the local production of food and associated employment is a long-term loss that may well have severe impacts for the viability of our community.

And the VFF, the Victorian Farmers Federation, gave similar evidence, backing up the Environment Association from Tasmania.

It is worthy to note that this debate has been very much centred on the theory of the scheme, though some people have properly touched on the practicalities of the scheme. As they have all said: ‘Who is following up on all of this in five, 10 or 15 years? When they get the deduction in the first year, who is going to follow up on that?’ I should inform the Labor Party that this is still a country of fires and floods and droughts. If you ever try to plant a mass lot of trees—and the two senators across there would never have tried to plant a tree, except in perhaps the backyard of their suburban home—it will be a case of get the tax deduction in the first year and run, because no-one will be checking to see what the results of that plantation are. (Time expired)

Senator Nash (New South Wales) (7.43 pm)—I rise tonight as a National Party senator to make a contribution to this debate, and I say as a National Party senator that this is an issue that goes right to the heart of a sustainable rural and regional Australia. To my mind, there is absolutely no doubt about that,
which is why I am standing here today. It is an interesting situation to be in with my National Party colleagues, knowing that to stick up for what we believe in we actually have to cross the floor. It is not something we have taken lightly. It is something that we have given a great deal of consideration. To us, it shows how important this issue is.

During the week somebody referred to it as a 100th-order issue. To me and to my colleague Senator Joyce, sitting in front of me, it is anything but a 100th-order issue. For anybody to think this is a 100th-order issue shows just how disconnected they are from things that are important to rural and regional Australia. This is not a 100th-order issue; this is a top issue. It goes right to the heart of how we make a sustainable rural and regional Australia. That is the question that this country needs to ask.

Just last week I was on the North Coast talking to a farmer, and they said: ‘Does this country actually want a sustainable rural Australia? Does this country actually want farmers to keep producing? Does this country want farmers to keep feeding the nation? If they don’t, come and tell me, because I’m quite happy to pack up now and go and do something else.’ The view was that they are getting sent from pillar to post, because there is no support and they are coming up against things exactly like this carbon sink legislation. They are out there working their guts out and have done across most of Australia for the last seven years. They are up against drought and all sorts of other difficulties, yet they keep soldiering on. And what do we do to them? We give them no support. Then they turn around and see something like this carbon sink legislation put forward, which is going to give potentially huge tax breaks to the big end of town. What does that say to them about how much we care and how important they are to this country? I think it says we do not care at all. But I can tell you that we care about it. The Nationals care about it. That is why we are prepared to cross the floor to stick up for the people who need us to stick up for them.

I recognise the others in this chamber, the Greens and the crossbenchers, who are also prepared to stand up on this issue and say how important it is. This is about the protection of prime agricultural land. Do you know what that prime agricultural land does? It feeds and clothes the nation. To stand here and support a piece of legislation that potentially is going to rip that security away—take that productive agricultural land out of the system and replace it with carbon sink forests through a tax break—is simply wrong. It is flawed legislation, bad legislation, and it should not be going forward. It is unfortunate that the only way we can address this is through a motion to disallow the regulations. We believe by knocking the regulations out we will disable the legislation itself. Coming up later this evening is a piece of legislation through which we will again address the issue. But isn’t it unfortunate that we have to come in here and address this issue through a disallowance motion on a set of regulations?

This legislation goes right to the heart of food security in this nation. It is a debate this country needs to have and needs to have pronto. We need to decide if we, as legislators here in Canberra, are going to provide the tools and mechanisms to ensure that we have food security—not only in the food we provide for this nation but in the food we provide to the least developed nations and the work that we do here to assist them. That is part of our role as a developed nation—to ensure that we help where we can. Yet this legislation directly places that food security at risk. What we are going to see, with the reduction of prime agricultural land, is a reduction in food production capacity. What we are potentially going to see, through that reduction, is an increase in the price of food,
not only hurting our country but potentially ensuring that we will have to rely more on imports. Once we start to rely more on imports—apart from the fact that we are not doing what we should be doing and producing the food and fibre that we need—there is the issue of quality. We have tremendous quality standards in this country. The minute we start importing we will have serious quality-control issues about the food that we provide for the people in this nation to eat. The issue of food security is one that we need to address, and this piece of legislation does exactly the opposite—it takes away that security.

We do not have a problem with the planning of carbon sinks. We have an issue with the government giving a tax break for doing it. If there is going to be competition for prime agricultural land in this country, there should be a level playing field for farmers and corporate entities alike. Why should corporate entities get a tax break to do something when farmers do not get one? Farmers do not get a tax break to graze their properties. Farmers do not get a tax break to plant a crop—

Senator Joyce—Build a shed.

Senator NASH—Build a shed—I will take the injection from Senator Joyce. We—and I should say this as a farmer from the central west of New South Wales—do not get those tax breaks. But what is being proposed here is a tax break for the big end of town to deal with their carbon emissions by putting in carbon sinks on our prime agricultural land—on the very land that provides food and fibre for this nation.

Earlier today we heard a discussion around whether or not, under this 100 per cent upfront tax deduction for capital expenditure over four years, the land itself or leasing of that land is going to be classed as capital expenditure. We are standing in this chamber months and months after this was first raised, as my colleagues Senator Milne and Senator Joyce said earlier, and we still do not know what capital expenditure is going to be included in this.

I can only ask the Senate, with respect to the potential situation of a 100 per cent upfront tax break for large corporate entities, whereby they may purchase land and get 100 per cent tax deductibility for doing so: what does that say about our support for rural and regional communities? What does that say about how wrong we are getting it, how wrong this government is getting it in terms of providing that security? The issue of the lack of certainty alone should be getting every senator on this side of the chamber to cross the floor and make sure we knock out these regulations to disable—

Senator Jacinta Collins—Is Julian going to join you?

Senator NASH—you would have to ask him, Senator Collins—this legislation, because it is not right, it is not fair, it is not on and it should not be going forward.

One of the other issues that is of particular concern to me and my Nationals colleagues is the fact that there have been no hydrological studies done on the impact on the water system and on the impact of interception. You do not have to be a rocket scientist to figure out that if you go out and plant a stack of trees they are going to have an impact on that water system. As my colleague Senator Milne said earlier, they are going to be taking water without paying.

We saw just last week in this chamber hours and hours and hours of debate around the Murray-Darling Basin system and what we should be doing to protect it to ensure that it is sustainable in the future. Yet this particular piece of legislation allows goodness knows how many acres of land to be planted with trees. We have no idea, because
there have been no studies done; there has been absolutely nothing—

Senator Boswell—Forty million.

Senator Nash—Potentially 40 million—thank you, Senator Boswell. And not a single jot of work has been done on the potential impact on the water system. So here we are, on the other side of the chamber, hearing from the government week after week their words of dedication to making sure we fix the Murray-Darling Basin system, and yet they are allowing legislation to come into being that is potentially going to have an enormous impact on that water system. It is not right. It is not on. I do not see how anybody in this place can agree that that is an appropriate way forward for the management of the water system in this country.

The other issue that is of course of enormous concern to us particularly, as Nationals, and the reason why we are standing here and are going to cross the floor, is that there has been absolutely no work done on the potential social and economic impact on rural and regional communities of these plantations being put in—absolutely none. What we are so concerned about is that those who understand rural and regional communities know what the flow-on effects from the productive capacity of land in our rural communities generate for the economic wealth of our rural and regional communities. You take that productive capacity away and it is not only that farmer who is affected; there are the flow-on effects on businesses in all those towns—the chemical distributors, the newsagents, the professionals who come to town, the local doctors—

Senator Williams—The schools.

Senator Nash—The schools. Thank you very much, Senator Williams. It is the schools; it is the teachers; it is those who start leaving because the population starts declining. If you take that productive capacity away, you do not have the economic sustainability of that regional town. And that is exactly what this legislation is going to do. If allowed to go forward it is going to remove that productive capacity, because we know that the minute those carbon sink forests are planted on that land, that is all that will happen.

Senator Joyce—The biggest threat is the government.

Senator Nash—The biggest threat is the government, says Senator Joyce, and I completely agree with him. That is what will happen. Can I reiterate, as I said earlier: we do not have an issue with carbon sinks being planted. What we do have an issue with is the fact that companies are going to get a tax break to do it.

The future of rural communities is at stake here. It is interesting to note that we are seeing the same approach from the government as we saw in the water debate last week. They have no idea about the impact their decisions are going to have on rural communities. I recently travelled from one end of the Murray-Darling Basin to the other, and every community along the way said how dislocated and disconnected they felt because the government were not taking them into consideration, because the government did not know, did not understand, the impact that their decisions on water were going to have. So we are seeing the broad approach from the Labor government and the complete disconnection from the impact their decisions are having on rural and regional communities. This shows up nowhere better than the fact that we are looking at this piece of legislation on carbon sinks. There have been no socioeconomic impact studies at all done on the effects on the communities. Look at water. Look at the buyback program potentially taking a huge amount of water out of communities. And guess what? There has not
been a single bit of socioeconomic work done on the potential removal of that water. There has been an ABARE commissioned study. That is not going to report until the middle of next year. Guess how much entitlement is going to be bought back between now and then. It is indicative of the lack of respect that the government show rural communities and their lack of ability to understand the potential impact that their decisions will have on rural Australia. It comes back to the question: do we or do we not want a sustainable future for rural and regional Australia?

I come back to the farmer I referred to in the beginning. They will pack up and do something else if we are not prepared to support them. They will pack up and somehow find some other way to live their lives. Our role has to be to support those people who are providing food and fibre for this nation—and, if it is not, then it should be. If it is not, we need to address that. We need to make sure that that is one of our prime concerns, because all they are seeing at the moment is a whole lot of disconnection and a whole lot of dislocation from what they are doing and from what is being provided by way of support through government policy and programs to try and assist. They deserve to be assisted. They do not deserve to see a piece of legislation that is going to give a tax break to the big end of town that can afford it. I do not care how many speakers there are against this; there is no way you can get away from that statement. It is fact. This is going to give a tax break to the big end of town.

I do not see why mum-and-dad taxpayers, working families who work hard in this country to pay their tax, should subsidise the big end of town to put in carbon sink forests so they can deal with their carbon emissions. It is wrong. It is not their responsibility and they should not be asked to do it. The big end of town have enough capacity to do this without a tax break—it is as simple as that. They do not need it, they should not get it and they should not be having it. Why should the mums and dads of this country subsidise the big end of town under a Labor government? There is no reason for it.

The government knows that it can reverse this. It knows it is bad legislation. The only people who are prepared to actually say that it is bad legislation are those who are going to be sitting across on the other side, on the side supporting this, when we get to the vote. All I can say is that those sitting on this side and not joining us are doing the wrong thing by rural Australia, who so desperately—now more than ever, after seven years of drought—need our support, not a kick in the teeth. They need our support now. We are going to continue to stand up for them. My colleagues Senator Joyce, Senator Boswell and Senator Williams and I will continue to do that, not only through this piece of legislation but every time we turn around. We will do everything we can to support rural and regional Australia because we know how important those communities are to this country. They deserve our support, and we will be supporting this disallowance motion.

Senator COONAN (New South Wales) (8.01 pm)—The environmental and natural resource management guidelines, the subject of this disallowance motion, are required under section 40.1010(3) of subdivision 40-J of the Income Tax Assessment Act 1997. The guidelines commenced on 3 July this year. The coalition have come to the view—and I am summing up on their behalf—that disallowing the guidelines would not materially affect the operation of the act. It would see the remaining provisions of the section continue to operate, and the effect would be fewer restrictions on establishing and operating carbon sink forests. The guiding principle of course is that regulations by their nature must be subordinate to an act.
But I do acknowledge the differing opinion that disallowing the guidelines would see subdivision 40-J of the act rendered inoperative. I acknowledge that there are differing views. Whilst the coalition do not consider this to be the case, as I have just mentioned, either outcome would in our view be far from optimal and therefore the coalition cannot support the disallowance motion. In our view, carbon sink forests are an important tool in the fight against climate change and in reforesting areas of Australia that, arguably, should never have been cleared in the first place. That said, it is important that the provisions of the act are supported by guidelines, as originally intended.

Firstly, I will provide a little bit of history, very briefly. The Treasurer, the Hon. Peter Costello, announced the carbon sink forest tax provisions in his budget speech on 8 May 2007. Due to the November 2007 federal election, the bill introducing these measures lapsed. The Labor government reintroduced the provisions in the Tax Laws Amendment (2008 Measures No. 2) Bill 2008. The bill passed the Senate on 17 June 2008 and received royal assent on 24 June 2008. On 26 June this year, the Senate referred the implementation, operation and administration of the legislation underpinning carbon sink forests and any related matter to the Senate Standing Committee on Rural and Regional Affairs and Transport for report. The report was handed down on 23 September 2008. It was after that that Senator Milne moved a disallowance motion on the guidelines, on 24 September 2008.

As I just mentioned, there was a Senate report. The majority Senate report concluded:

The committee considers that the tax deductions for carbon sink forests under the Income Tax Assessment Act 1997 (ITAA) represent a valuable policy addition that will promote greenhouse gas reductions. The structures and processes outlined in the Act provide for a sensible legislative and administrative framework relating to the tax treatment around the establishment of forest carbon sinks.

I note and acknowledge concerns expressed by Senator Milne and several of my colleagues in the dissenting report. Let me now turn briefly to that report. In the dissenting report senators recommended that carbon sink forests should be registered on the property title, that native vegetation should be protected and water resources considered, that the forests should not be harvested or cleared and that carbon sink forests should not be planted on prime agricultural land. Some of these issues were already covered in the original guidelines. Following discussions with the coalition, the Minister for Climate Change and Water addressed matters not in our view already adequately covered in the guidelines and provided proposed amendments which address the issues of water resources, agricultural land use and legal recognition of carbon sink forests on land title.

It is fair to say that the nub of objections to the guidelines is the contention that ‘prime agricultural land’ is not adequately defined where there is no applicable land use legislation to refer to. Land use zoning is of course a state and local government responsibility. But defining the meaning of ‘prime agricultural land’ for the purposes of eligibility for carbon sink forest establishment in the tax law could be inconsistent with state and local regulation for land use. Moreover, it would be impractical for the Commonwealth to make assessments, for example, as to what parts of a farm might and might not be prime land. So we accept that precise definition is not necessarily appropriate in the tax act.

The minister also provided advice that the use of the term ‘felling’ in the act is a broad term that ensures that trees cannot be destroyed and tax incentives still claimed—that
is, trees cannot be harvested, cleared or ploughed in consistently with a tax deduction still being claimed. I do thank Senator Wong for her cooperation in this matter and for provision of the amended guidelines, which I think do provide some significant improvements, which of course the coalition supports.

One of the main criticisms of the carbon sink forest provisions canvassed in the Senate report is that they will encourage the planting of carbon sink forests on prime agricultural land. The coalition does not accept this proposition because the economics simply do not support it. As part of the Senate committee inquiry, ABARE was commissioned to ‘assess the circumstances in which it may be financially attractive to replace agricultural land uses with carbon sink forests’. The conclusion was that a high carbon price in excess of $100 per tonne of carbon dioxide equivalent would be required to make it attractive to replace agriculture with carbon sink forests. Furthermore, the coalition noted that carbon sink forests do not offer high returns over a short period of time and that there are a very limited range of deductions that can be claimed. Let me turn to them. As the Australian Taxation Office guidelines indicate, costs that you are able to deduct may include the costs of acquiring the trees or seeds; the costs of planting the trees or seeds; the costs of pots and potting mixtures where the potted plants are being nurtured prior to being established in their long-term growing medium, in the ground, in a permanent way; the costs incurred in grafting trees and germinating seedlings; the costs of allowing seeds to germinate, whether by broadcasting, deliberate regeneration or planting seeds directly; any costs incurred in preparing to plant for the purpose of establishing trees for carbon sequestration; and the costs of surveying the planted area.

Equally, the expenditure you are not able to deduct is very clear, and that is where I must take issue with Senator Milne’s earlier contention where she says, as we understand, that there is advice that has been received by the Greens that, because the cost of purchasing land is not mentioned in the act under section 40.1020, the cost of the land may be deducted 100 per cent upfront. This is simply inconsistent with the Australian Taxation Office statement on what is and what is not deductible. The tax office clearly states that the expenditure that you are not able to deduct includes the costs of purchasing land to be used for establishing the trees and costs attributable to the land rather than to the establishment of trees. For the purposes of the record I should also set out what is not able to be deducted, which includes costs incurred on other plants, for example trees for felling or horticultural plants; cost incurred on assets separate from the trees, such as fencing, water facilities for trees of a carbon sink, roads within the carbon sink forest and fire breaks; costs incurred to drain swamps or low-lying land; costs incurred on rights to allow you to access the land to establish the carbon sink forests or for carbon credits to be traded in the future; and, relevant to the issue that has been raised, the costs of purchasing land to be used for establishing the trees and costs attributable to the land rather than to the establishment of the trees. It is clear that this is rebutted in the guidelines set out by the Australian Taxation Office. The coalition believes that it is highly unlikely that farmers would allow agricultural land capable of producing a crop or livestock for profit to be planted to a carbon sink forest when essentially all they can claim is a tax deduction for the trees.

It has been said that these provisions are managed investment schemes in disguise. The coalition is confident that this is not the case. These provisions are not a managed
investment scheme. Managed investment schemes have a specific range of conditions and benefits attached to them that do not attach to carbon sink forests. For example, amongst other differences, only investors can claim the managed investment scheme benefit. This is not the case for carbon sinks. Under managed investment schemes 100 per cent of contributions can be claimed provided that at least 70 per cent of the MIS manager’s expenditure is direct forestry expenditure—that is, attributable to establishing, tending and felling trees for harvesting in the first year. This is not the case for carbon sinks—only a very limited number of deductions may be claimed, as I have specifically outlined.

So this act and the supporting guidelines are, in the view of the coalition, an important tool in the battle against climate change. The minister has given an assurance that the government will closely monitor carbon sink forestry establishment activity under the legislation, and we see no reason other than to accept that assurance. Carbon sink forests are an important carbon sequestration technique and tool. As the coalition has previously noted, carbon sinks have the potential to reduce our carbon footprint and, alongside a properly designed emission trading scheme, which we all await with interest, and a strongly supported renewable energy sector, which we all encourage, are part of Australia’s environmentally sustainable future.

These regulations are an important element of our broader environmental agenda and should, in our view, stand. Australia’s food security remains a key policy focus for the coalition. I have listened very carefully to Senator Nash’s comments and I understand the passionate sentiments behind her concerns, but I am confident that Australia’s food security can coexist with green initiatives such as carbon sinks. I have taken a bit more time than I intended. For those reasons it is very important that this chamber and the broader public understand the basis on which the coalition will not be supporting the disallowance motion.

**Senator WONG** (South Australia—Minister for Climate Change and Water) (8.14 pm)—I acknowledge the contribution of various senators to the debate. I want to start by saying that the government has sought to take into account the concerns about these guidelines that were expressed in the dissenting report of the inquiry conducted by the Senate Standing Committee on Rural and Regional Affairs and Transport. As has been referred to in the discussions, I have discussed a range of proposed changes to the guidelines with the opposition as well as with Senator Milne. If the Senate votes down this disallowance motion, I do undertake to remake the guidelines in the form circulated to the opposition and other senators. On that basis, I table some draft revised guidelines and an explanatory memorandum to inform the chamber of my intention.

Senators may recall that there were a number of changes that the government proposed to these guidelines. The first was to take account of the concerns in relation to water availability, and there is a specific reference to surface and groundwater activity to take into account some of the issues raised. I note that some senators have said that the government should, through this process, require an entitlement or a water allocation. In relation to this issue and a range of other issues, it is important to recall that we are talking about guidelines under taxation law. There is a limit to how much broader natural resource management can be effected through that mechanism. So, whatever people’s views are about the natural resource management frameworks and policies which are in place either federally or at state level, the reality is that it is difficult for the federal government to effect an entirety of a natural
resource management framework through this measure. What we have sought to do is to reference the issues which are of concern. I also note that we have amended the guidelines to require that they include adherence to applicable legislation regarding the establishment of alternative land uses. We have also noted the recommendation raised in the Senate committee report in relation to registration on the land title. Those changes are included in the indicative guideline that I have tabled today.

We are of the view that carbon-sink forests provide an immediate and medium-term opportunity for Australia to reduce its greenhouse gas emissions whilst also meeting broader environmental sustainability objectives. The government has provided a tax deduction to give an incentive for growing forests for the specific purpose of taking carbon dioxide out of the atmosphere and to assist national efforts to reduce greenhouse gas emissions. A carbon-sink forest is defined in the legislation as a forest established for the purpose of carbon sequestration. The tax deduction is not available for a forest established for the purpose of felling, for harvesting wood products, for clearing or for any other purposes. I also make the point again that the legislation excludes managed investment scheme activity. The tax deductions provide incentives for investment in carbon-sink forests prior to the implementation of the government’s carbon pollution reduction scheme, thereby maximising early contributions to reducing greenhouse gas emissions. Unlike other forest activities—for example, commercial plantations for harvest and landcare plantings—the costs of establishing carbon-sink forests was not previously tax deductible.

I will not go through the detail of the measure. I would like to briefly remind the Senate that the tax measure provides that establishment costs are deductible in the year of expense for a five-year period from July 2007 to give an incentive for establishing carbon-sink forests. I also note that the environmental and natural resource management guidelines for the tax measures seek to promote complementary environmental and natural resource outcomes.

There has been some discussion—and this was an issue Senator Milne raised with me—about the clearing of vegetation. I make the point that the issue of clearing vegetation to establish carbon-sink forests is addressed in the legislation. Section 40-1010(2)(c) of the Income Tax Assessment Act provides that, to obtain a tax deduction, the area occupied by the carbon sink-forests must have been clear of trees on 1 January 1990. So the clearing of forest cover is addressed in the legislation in a direct way. Forest cover cannot be removed to establish a carbon-sink forest or to generate a credit under Australia’s Kyoto protocol account.

I also want to refer to the water issue, which has been raised by a number of senators. As I said, there is reference now in the revised guidelines to this issue. I make the point that interception activities in catchments that have been identified as fully allocated, overallocated or approaching full allocation are an area of priority under the National Water Initiative, and the guidelines already require water access entitlements for interception activities in those catchments. I have noted the concerns about groundwater and have proposed to amend the guidelines to include specific mention of groundwater, which picks up a recommendation of the committee’s report.

I simply adopt the contribution of Senator Coonan on the issue of prime agricultural land, in terms of the economic analysis and also the fact that it is significantly difficult to introduce in the context of these guidelines a definition of prime agricultural land where
there is no such common definition elsewhere in Commonwealth legislation, nor a consistent method for assessing what constitutes prime agricultural land.

One of the issues raised during the debate was the issue of land deductibility—that is, the acquisition of land and its deductibility. I was going to read from the same ATO advice that Senator Coonan already has. I will not do so, but I simply indicate that my advice is very clearly in accordance with the ATO guidelines that Senator Coonan referred to. I make the point that there is a well-established tax principle that assets with limited effective lives are deductible. Land is excluded from this principle, as land is not considered to have a limited effective life—note section 40-30(1)(a) of the Income Tax Assessment Act. Improvements or fixtures are generally treated as separate assets, not as part of the land, regardless of whether they can be removed from the land or are permanently attached.

The measure before the chamber is modelled on the horticultural plant provisions, and the ATO has determined that the cost of purchasing land to be used for growing a horticultural plant is not establishment expenditure, as the cost is attributable to the land rather than to the establishment of the plant. Both horticultural plants and trees in a carbon-sink forest are covered by division 40 of the Income Tax Assessment Act. It would be internally inconsistent for land to be deductible under this measure. So the government’s very clear advice is that acquiring land is not tax deductible as a consequence of the measure.

Another issue that was raised—I think Senator McGauran may have raised this while I was out of the chamber—was about item 3 of section 40-1005(5). It was suggested that the definition that made reference to ‘use the land for the primary and principal purpose of carbon sequestration by the trees, as a result of holding the licence’ specifically excluded farmers because, as I understood the argument—it is not my argument, so I am having trouble rephrasing it—farmers would not have land that was used for which the primary purpose would be carbon sequestration. The understanding and the advice that I have is that that item refers to the specific land on which the forest is being established and not to the whole of the landholding. Therefore, the criticisms put by some in the chamber are really not on point.

In closing, I thank Senator Coonan for her willingness to engage on these issues. This is an interesting debate. Politics often does make for some rather odd companions. I note that Senators Boswell and Joyce—certainly while I was in the chamber—really used this as a basis to attack action on climate change and identified this as the first line in their opposition to a carbon pollution reduction scheme. I know that is not a view shared by Senator Milne, but I do make the point that that was very clearly the way in which those two senators were articulating these issues. In her contribution, Senator Nash made a range of accusations about this government being disrespectful towards or disregarding particular communities. I assume that, given that this is Mr Turnbull’s legislation from commencement, her suggestion that this legislation disrespects or disregards regional and rural communities is in fact a criticism of the Leader of the Opposition. I do make that point. As I said, I thank Senator Coonan for her willingness to engage in a discussion about these matters.

Senator FIELDING (Victoria—Leader of the Family First Party) (8.25 pm)—Family First supports this disallowance motion. Family First also raised concerns about the unfair tax breaks for carbon-sink forests when they were last raised in the Senate, back in June. Farmers in Victoria have ap-
proached me to tell me about the pressure that this tax deduction for carbon sinks puts on productive farming land, because the land can be much more valuable with plantation forests than with other uses, like producing food. Tree plantations are subsidised while important food production does not receive similar levels of subsidy. Family First remains very concerned about the problem of land suitable for food production being diverted to tree plantations for carbon sinks. Food prices have skyrocketed in recent years, and we should not be doing anything that would put extra price pressures on food production. Giving such large tax breaks to forest planting creates enormous financial pressures that will see farmers and their families squeezed off productive land. Family First is very concerned that this could threaten the viability of small communities. This motion is a chance for the Senate to put some common sense back into the law and to ensure that we do not pull the land out from under the feet of hard-working farmers.

Senator MILNE (Tasmania) (8.27 pm)—I rise to sum up the debate, to close it, and also to thank all of those senators who have contributed to the debate this afternoon and evening for the considered positions that they have taken right across the board in relation to this legislation. There are a number of issues to go through, and I will go through them as logically and quickly as I can. The first point is that the legislation says that ‘the tax deduction encourages the establishment of forests that can contribute to Australia’s target’. If you are establishing forests to as rapidly as possible contribute to Australia’s target then you want to have your trees maximising the volume of carbon that they can sequester in the shortest possible time. That is why the time frame is on this legislation as it is, and that does not lend itself to what the government says is its intention.

Everybody from both the Liberal Party—and I will say ‘the Liberal Party’, because it clearly is not the coalition’s point of view—and the government say: ‘This will not be many hectares. It will only be a small, peripheral kind of measure.’ They say that on the basis that it is going to be on marginal land and so on. But they have not thought it through. That is not what the legislation says. I want to come back to the primary document here, the actual legislation—not everybody else’s musings and interpretations of what the legislation says, but what the legislation itself actually says. When we get to discuss the Tax Laws Amendment (2008 Measures No. 5) Bill 2008, I will be asking the people from the tax office exactly where it says what is alleged to have been the intent.

First of all, you would expect a genuine carbon sink to be permanent. There is nothing in the bill that requires these trees to be permanent. It says it has to be your intention to have a carbon-sink forest and that you cannot get the deduction unless your intention is that you are not going to cut trees down. But there is no penalty if you do. It means you cannot depreciate after the trees disappear over time. But the point is that they are not for permanent plantings necessarily—they can be, but not necessarily.

Secondly, they are not biodiverse. If you are serious about permanent plantings that are going to do the things that everybody in the government and the Liberal Party alleges they are going to do, you insist that these plantings be biodiverse. If they are, you are going to build much greater resilience in the landscape in relation to climate change because you will be planting native species in the areas in which they are endemic in order to maximise the chances of them living and sustaining a biodiverse landscape. If you have biodiverse plantings and they are obviously going to be permanent, then you put
them on land that is not your prime cropping land. It would make logical sense to be into restorative measures for areas of your property that were degraded, or for which you had no particular use at that time, and would therefore be suitable for restoration. You would be looking at things like connectivity in the landscape, habitats, improved water retention—all those kinds of things.

But this legislation does not require any of that. It does not say that they have to be biodiverse, and therefore they can be monocultures. If they are monocultures they are not there for the long haul. They are not going to live; the fast growing blue gums et cetera are not going to live for any great length of time but they will bulk up fast, which is the intention here—that is, to maximise the carbon as quickly as possible.

And you will get a water issue. The hydrological impacts here are absolutely critical. I heard both Senator Coonan and Senator Wong telling us that they are satisfied that the environmental and natural resource management guidelines cover that because now there is a reference to groundwater, as well as surface water, but the point is that the guidelines state:

Compliance with this guideline may be achieved by, for example:

Not ‘must be’ but ‘may be’. So there is no mandatory nature to these guidelines at all. They are not mandatory regulations; they are suggested guidelines that you ‘may’ adhere to in various ways.

The minister also said that there is a limit to the extent to which you can use tax law to drive a change of behaviour, which is an admission in itself that there is no way that compliance can actually be forced through regulations or mandatory requirements.

The next point is: who is going to enforce these guidelines? I note with particular interest that it will be the climate change secretary. The Commissioner of Taxation will seek confirmation from the Secretary of the Department of Climate Change that the trees established will be able to achieve the characteristics of a carbon-sink forest. That is an interesting thing. So how exactly is the Secretary of the Department of Climate Change going to reassure the tax commissioner that this is going to be the case? Who is going to go out there and actually tell anybody whether the surface water or groundwater activity was taken into account and what was done about it? And what does ‘taken into account’ mean? Okay, I plant my trees and I say that I took it into account and decided to disregard it. But nevertheless I took it into account and therefore I am deemed to comply even though I decided in the end that I did not need to do anything about it.

In relation to land clearance, the minister just pointed out that you cannot clear native vegetation because the legislation is using the Kyoto rules:

… on 1 January 1990, the area occupied by the trees was clear of other trees that
– attained, or were more likely than not to attain, a crown cover of 20% or more, and
– reached, or were more likely than not to reach, a height of at least two metres

In other words, it does not preclude the clearance of vegetation that is not covered by the Kyoto forest definition, but you can have other native vegetation. You could have brigalow on the land, for example. You would be able to clear native vegetation if the native vegetation did not conform to the definition of a Kyoto forest. So that is wrong; the minister was wrong to say that. She should have quoted the entire bit, because that is the significant issue here.

In terms of land clearance, as I indicated before, you are deemed to have complied if you have avoided land clearing of remnant
native vegetation as determined by the relevant state or territory legislation, which is a beautiful thing, except some states and territories do not have any legislation, so you will have complied if you do nothing because there is no legislation to comply with.

I note that the minister and Senator Coonan are also happy that we are including adhering to applicable state, territory or local government land use planning legislation, assuming that land use planning legislation actually protects agricultural land. I do not think so. There are constant changes to planning schemes to exclude the forestry sector from consideration. In Tasmania that is specifically the case. You can apply for your plantation forest under such provisions as would then exclude consideration by local government. They have been desperate to try to get local government control back over this but of course it has not been possible.

The other issue here that Senator Coonan and the minister were talking about related to the fact that apparently it is not going to be economic to put a carbon-sink plantation on high-quality agricultural land. Well, it will be because managed plantation investment schemes have offered tax-effective investment for wood growing for primarily hardwood chips for export. These provisions have generated a hardwood chip glut. That is what we have got now. And according to the government’s own projections, substantial plantation resources are poised to come on-stream by around 2010 and Australia’s existing hardwood and softwood plantation estate is nearing two million hectares and is capable of meeting virtually all our needs—wood needs—and substituting for all our native forest chip exports. Wood is therefore unlikely to provide a sufficient market for a significantly expanded tree-planting program to affect Australia’s post-2012 emissions targets.

In a recent submission to the government’s Carbon Pollution Reduction Scheme green paper, Judith Ajani and Peter Wood reported model findings that at relatively low carbon dioxide prices—around $10 to $15 a tonne—existing MIS hardwood plantation growers are likely to receive more revenue by switching their plantations from the wood market to the carbon market. If such a switch happens or if carbon-sink forests dominate Australia’s sequestration agenda, superior terrestrial carbon storage systems will be sidelined in Australia’s climate change mitigation policy. These ecosystems—native forests, rangelands, grasslands and woodlands—store carbon in resilient self-generating ecosystems and they offer low-cost, large-scale and permanent carbon storage that plantations, including carbon-sink forests, cannot. The Carbon Pollution Reduction Scheme as proposed is setting up native forests for wood production and plantations for carbon storage, which is the reverse of what should be occurring.

What is now going to happen is that the plantations in the ground are going to be kept for the credits that they generate under the Carbon Pollution Reduction Scheme and they will be tradeable. As a result, logging will be driven more intensely into native forests because under our current accounting system, which is the Kyoto accounting system, native forest logging is deemed to be carbon neutral. So, instead of getting out of native forest logging, this is going to create a perverse incentive for those plantation owners to keep these plantations for carbon and to drive the logging of native forest. That would be an absolute disaster in terms of a perverse incentive.

Contrary to what is being said by the Liberal Party or by the government, at a price of $10 to $15 a tonne on carbon we are in deep trouble here in terms of taking up land. Do not for a minute think that somehow this is
going to be restricted to areas which are marginal agricultural land. There is nothing in the legislation—and let’s get back to this; it is the legislation itself that counts—to say that the trees planted have to be in the ground for any length of time; there is nothing to say that they have to be biodiverse, they can be a monoculture; and there is nothing in the legislation that requires a hydrodynamic modelling exercise as to either groundwater or surface water before you plant anything.

On the issue of land ownership, once again I have had the Liberal Party and the government quoting a tax office determination, but I want to know where that is in the legislation. The legislation says, in relation to the establishment of a carbon sink forest, that you can tax deduct all your capital expenses except those relating to the clearance of land or the draining of a wetland. Under those provisions, the only link with the MIS provisions which were set up under the horticultural division, the legislation specifies that if you have a tax deduction under the MIS scheme you cannot get it under this one. There is nothing else in the legislation that precludes the land costs. This is something which will end up being tested in the courts.

Honourable senators interjecting—

Senator MILNE—And I am interested that Senator Conroy is not the least bit interested—

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! There is a little bit too much conversation across the chamber.

Senator MILNE—Thank you, Mr Acting Deputy President. As I said, there is nothing in the legislation that precludes the land costs and this will end up being tested in the courts because the big end of town is coming after this, big time. As was indicated by Senator Nash when she was speaking about the tax break for the big end of town, this legislation is designed for the coal industry. It is designed for the big polluters, for the aviation industry, for the aluminium industry and so on. They will be able to establish fast-growing, rapid offsets using water and good land. They will offset their emissions and there will be a shift of taxpayers’ dollars to the mitigation effort of these companies.

They will get free permits under the emissions trading scheme and they will get taxpayers’ dollars to offset their emissions. They are getting a double take whilst driving up the price of land, driving up the price of water, displacing cropping land and displacing agricultural communities. That is the reality of where we are going. In terms of biodiversity, even more appallingly, the logging effort will be driven even more solidly into native forests as the MIS companies get a better price for holding their plantations as carbon rather than for harvesting them as wood product. In fact, what we will find is that the MIS companies will repackaging. They will set up separate companies within the main company and they will shift the effort in relation to how much they put onto the wood market and how much they keep for the carbon market, and they will package that accordingly.

None of this was thought through in the legislation. It seems that there were some fairly naive people sitting around saying that it would be nice if we gave people a tax deduction to plant forests, on marginal land, that will never be cut down. If that was the intention that is not what the legislation delivers. I do not care what the explanatory memorandum says or what the tax office ruling has determined; this parliament has been misled. It has been misled by very poor drafting that does not give effect to what the government thinks it might be doing or indeed to what the Liberal Party might be doing.
We will be back to revisit this but not before there has been a megadisaster in rural Australia in terms of land use. We have already seen it in Tasmania and we have seen it in Victoria and in Queensland. Right around the country we have seen displacement as a result of managed investment schemes. People said at the time that it would not happen, but it did. I know that the Leader of the Opposition has been saying that this will just be marginal land and that the trees will be permanent. That will not be the case. This will be about monocultures and fast-growing ones. It will be bulking up the best land with displacement in rural communities and with a big tax deduction for doing so.

In summing up the debate, I thank all the speakers. I note that Senator Boswell talked about the land price distortions and undermining food security, and that is absolutely where we are going. It will mean double-dipping, as I said before, and, as Senator Boswell pointed out, it will mean that the managed investment schemes will convert to carbon sink forests and drive loggers into the native forests because of the distortion in the Kyoto accounting, which does not allow for emissions from native forest logging. I note that Senator Joyce talked about the destruction of rural communities, as did Senator Williams—and they are absolutely right.

Senator Brown also talked about the perverse outcome of driving the logging into native forests and the loss of the superior carbon stores in favour of inferior monoculture plantations. It is ludicrous that we subsidise the logging and clearing of the stores whilst giving a tax deduction for fast-growing plantations at the community’s expense. Senator Heffernan talked about the perpetuity laws. Senators Xenophon and McGauran also pointed out the impacts on rural Australia. Senator Nash spoke on rural and regional Australia and on the economic sustainability of country towns, and Senator Fielding mentioned his concern after having spoken to some farmers in Victoria.

In conclusion, it is very clear where this Senate is going to go on this motion. I have followed and thought about this issue very carefully for a long time. It disappointed me that, having moved for this disallowance motion, some six weeks later the government still had not got back to me when we had all discussed the possibility of negotiating an alternative set of guidelines which would be mandatory and which would give effect to these carbon sink forests in the way we wanted. The government did that while no doubt confident that the Liberals would be supporting them so they did not need to put the work into it, frankly.

This issue will come back to bite this parliament but, more particularly, the greatest concern is that it is too late once these people have bought up massive amounts of land, the deductions have taken place and the distortion is already in the market, because you cannot retrospectively come back in here and try to take it away after the event. We are indicating here that this is what will happen. Allowing the opt-in under the Carbon Pollution Reduction Scheme is a disaster because it provides the incentive, the driver, for this to go mad in the scheme. What should be happening is that subdivision 40-J, giving upfront deductions for carbon sink forests plus the coverage of reafforestation in emissions trading, should be suspended while policy incorporating the land use sector in Australia’s climate change mitigation strategy is developed. That is what we should be doing. We should be getting rid of this. We should not be allowing the voluntary opt-in of plantations into the Carbon Pollution Reduction Scheme; rather we should be looking at our whole land use sector, going back and getting full carbon accounting in terms of the carbon stores we have, separating the emis-
sions from logging and looking at this in a holistic way.

I thank the senators for their contribution and I urge support for this disallowance motion so that we can come back and get it right. I urge the government to consider not putting in those plantations as an opt-in in the Carbon Pollution Reduction Scheme, because that will be the price signal that really drives this in a way that you have not thought about but we all have.

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

The Senate divided. [8.51 pm]
(The Acting Deputy President—Senator MG Forshaw)

Ayes………….. 11
Noes………….. 45
Majority……….. 34

AYES
Boswell, R.L.D. Brown, B.J.
Fielding, S. Hanson-Young, S.C.
Joyce, B. Ludlam, S.
Milne, C. Nash, F.
Siewert, R. * Williams, J.R.
Xenophon, N.

NOES
Abetz, E. Arbib, M.V.
Barnett, G. Bilyk, C.L.
Birmingham, S. Bishop, T.M.
Boyce, S. Brown, C.L.
Bushby, D.C. Cameron, D.N.
Cash, M.C. Colbeck, R.
Collins, J. Conroy, S.M.
Cooan, H.L. Cormann, M.H.P.
Crossin, P.M. Farrell, D.E.
Feeney, D. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Furner, M.L. Humphries, G.
Hurley, A. Hutchins, S.P.
Kroger, H. Ludwig, J.W.
Marshall, G. Mason, B.J.
McEwen, A. * McLusca, J.E.
Minchin, N.H. Moore, C.
Parry, S. Payne, M.A.
Pratt, L.C. Ronaldson, M.
Ryan, S.M. Sherry, N.J.
Stephens, U. Sterle, G.
Troeth, J.M. Trood, R.B.
Wong, P. * denotes teller

Question negatived.

TAX LAWS AMENDMENT (2008 MEASURES No. 5) BILL 2008

Consideration resumed from 27 November.

In Committee

Bill—by leave—taken as a whole.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (8.05 pm)—Could I note my surprise in that last division that, after such a passionate speech by Senator McGauran against the Liberal Party, he failed to turn up for the division. But I move on.

Senator Abetz—Relevance has never been your strong suit.

Senator CONROY—Oh, Eric. I am supporting your position here. I am just flushing out the rat.

Senator Abetz—Be careful, Mate.

The TEMPORARY CHAIRMAN (Senator Forshaw)—Order, Senators! We might actually discuss the bill that is before the chair.

Senator CONROY—The government will not support the amendments to be moved by Senator Milne of the Australian Greens, Senator Joyce and Senator Xenophon in relation to carbon sink forests. I note that the carbon sink forest measure was passed by the Senate on 17 June 2008 as part of the Tax Laws Amendment (2008 Measures No. 2) Bill 2008. This measure will encourage the establishment of carbon sink forests and, in turn, make an important contribution to carbon sequestration. The im-
plementation, operation and administration of the legislation underpinning carbon sink forests was considered by the Senate Standing Committee on Rural and Regional Affairs and Transport. The committee considered that the tax deductions for carbon sink forests represent a valuable policy addition that will promote greenhouse gas reductions. The structures and processes outlined in the Income Tax Assessment Act 1997 provide for a sensible legislative and administrative framework relating to the tax treatment around the establishment of forest carbon sinks.

I note that the carbon sink measure is unrelated to the bill that we are considering today, the Tax Laws Amendment (2008 Measures No. 5) Bill 2008. I would like to make all honourable senators aware that this is an urgent bill. Schedule 3 to the bill extends eligibility for exemption from interest withholding tax to bonds issued in Australia by state and territory central borrowing authorities and commences from the date of royal assent. This amendment will result in a lower cost of capital and financing costs for the states and territories. Lower financing costs for the states and territories are crucial to state infrastructure projects, which need to be funded in the most efficient manner possible. The amendment will also aid in easing some of the pressures currently facing the Commonwealth government securities market.

Senator MILNE (Tasmania) (8.58 pm)—by leave—I move amendments (1) and (2) standing in my name and the names of Senator Joyce and Senator Xenophon:

(1) Clause 2, page 1 (lines 7 to 9), omit the clause, substitute:

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
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<tbody>
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<td>Provision(s)</td>
<td>Commencement</td>
<td>Date/Details</td>
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<td>1. Sections 1 to 3 and Act receives the anything in Royal Assent.</td>
<td>The day on which this Act not elsewhere covered by this table</td>
<td></td>
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<tr>
<td>2. Schedules 1 to 5</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 6</td>
<td>Immediately after the commencement of Part 1 of Schedule 8 of the Tax Laws Amendment (2008 Measures No. 2) Act 2008</td>
<td>24 June 2008</td>
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</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Page 35 (after line 8), at the end of the bill, add:

Schedule 6—Provision relating to capital expenditure for the establishment of trees in carbon sink forests

1 Application of Schedule 8 of the Tax Laws Amendment (2008 Measures No. 2) Act 2008

The Income Tax Assessment Act 1997 has effect as if Schedule 8 of the Tax Laws Amendment (2008 Measures No. 2) Act 2008 had not been enacted.
The purpose of these amendments is to remove entirely from the tax law this particular schedule. It would have the same effect as if schedule 8 of the Tax Laws Amendment (2008 Measures No. 2) Act 2008 had not been enacted. It removes entirely this whole provision of a tax deduction for a carbon sink forest. We have had a considerable debate on that and I now want to test some of the assumptions that were made in relation to that, since we never got an opportunity to debate this in the Senate previously. I would like to begin by asking where in the legislation, as it currently stands, it says that you cannot deduct the cost of the land. It is not in the explanatory memorandum; I know about that, and I do not want to hear about the tax law explanation either.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (8.59 pm)—The amendments are to put aside some assertions that have been placed out there that dealing with the regulations had no effect. I truly believe, on the advice of the Clerk and of other bodies, that the regulations were made inoperable and that, therefore, the legislation would have been inoperable had it been passed. But, had that not been the case, the amendments certainly put the argument to rest. They reach into the tax legislation and expunge the article that gives the deduction. They clarify beyond any question the effect of the legislation. If people argued before that they were not going to support the disallowance of the regulations because that would have no effect, then they will support the amendments because they definitely do have that effect. Without a shadow of a doubt, they have that effect.

What we are dealing with here is people saying that they have advice from the taxation department and they have advice from this body, advice from that body and advice from some other extraneous body, except this chamber. The primary document, the ultimate document, is the legislation itself. That is it. That is what is taken into consideration in a court of law, not the musings of some secondary body. If the musings of some secondary body were to stand and they were superior, there would be no point to this chamber. This chamber would be without cause, because all we would have to do is say: ‘Don’t stand for parliament. Stand for a position with the department of taxation. They are a superior body to the chamber.’ That is blatantly ridiculous. The primary document that you have to refer to is the legislation, and the legislation clearly says that capital expenditure is tax deductible, except for the drainage of swamps and the clearing of land. By reason that it says only ‘the draining of swamps and the clearing of land’, that is a presupposition that other things are deductible, and the other things that are deductible are the purchase of land.

In tax law there can only be capital or income. It is one category or the other. That is it. There is no third mysterious category. If it is a capital expenditure deduction, all the things that are defined by accountancy standards as capital become deductible, and that includes land. It is a capital expense amount. When you buy and sell land you are up for—wait for it—capital gains tax. Why? Because it is capital. If any other asset is determined to be covered by such a thing as the capital gains tax act then of course it would be a laydown misere—it is going to be a capital deduction.

I am surprised in the extreme that people have now got an alternate definition of capital. I am waiting for the piece of legislation that proves this alternate definition of capital, but it is not here because it does not exist. And that is it: game, set, and match. It is either capital or income. This legislation says that capital deductions are deductions for the purpose of this act. Therefore, someone is going to wander into the High Court and say:
‘Land is capital. Land is covered by the capital gains tax act. Land in every other definition is capital; therefore, I argue my case that land should be accepted as a capital expense deduction because it is capital.’ I do not know who is going to argue against them. They will wander in with the legislation and say, ‘This is what the legislation says.’ Someone else is going to wander in with what? The musings of an extraneous body?

The primacy principle says that this chamber sits above the musings of other bodies. So why didn’t the government put into the legislation that land was excluded? If it can go to the effort of putting in ‘the draining of swamps’, what stops it from saying ‘the purchase of land’? What happened there? The minister knows and the powers that be know and the people who are sitting behind you in those dark corners telling you what to say know exactly what they want. You are playing their fiddle. You have agreed to them today. Now Senator Conroy will try to convince the chamber that there is actually a superior body to this chamber. That will be fascinating in the extreme.

We have other people saying, ‘I’ll support it but I would be ego pulling’—whatever that is. That uses the premise that, whenever the numbers are against you, you run away; whenever the numbers are hard, you run away; whenever the battle is difficult, you duck for cover. Sorry, that just does not wash with me. If you think something is right, it is right and you support it. And, if you think otherwise, you do not. If you make an alternate decision, that is a decision for you. But to come in here and say, ‘I would support it but I do not want to be ego pulling,’ is to try and cover up your tracks, and everybody can see through that in a jiffy.

This goes right back to the essence of the matter: the capital expense deduction for those who will create market differentiation. It is a capital expense deduction so that they can obtain an entitlement, a benefit, to be paid for by the working families—we heard that ad nauseam. The working families are going to pay for this capital expense deduction that the Labor Party have brought into this chamber, because the Labor Party have taken the budget into deficit; therefore, every deduction that some other body gets, somebody else pays for. And who is going to pay? The primary payer of tax is going to be the working men and women of this country, the working families, as salary and wage earners—the people that the minister is supposed to represent. You have that smarmy little smiley face of, ‘Oh, it’s so hilarious,’ because you are covering up the fact that you know that you are deceiving those people. You know exactly what you are doing. You could have changed it.

I do not believe for one moment that, with the competencies that I think exist in the Labor Party, since 26 June—which was when this originally came up—you have not had the capacity to change it. You did not even make an attempt, except some pathetic, ridiculous referral to local government powers—so help me! That is as far as we got: if it contradicts local government and state government ordinances, it is disallowed. There is no local government act that stops you from planting trees—and you know that.

So we had the opt-in, opt-out market theorist: the whole market theory is religion; it is so important; it is what it is all about; this is the new way the world works—except when we disagree with it, and then we create a complete set of market manipulation principles, where the biggest threat to communities is not the global economic crisis but government economic policy. Government economic policy becomes their biggest threat, because a certain manipulation and variance in the market is placed there by a piece of legislation that goes through this Senate. I
think it is extraordinary that the people of Tully, the people down in the Riverland and the people of other towns are now at threat not because of the global economic melt-down but because of government taxation policy.

And why? Who is pulling the strings that made this happen? Who is pulling the strings that made this happen and, as a consequence, brings the smarmy smiles with it? That is an issue that needs to be considered. It shows that they are very influential people in how a nation is run. Follow the money and you will find the fault. I am supporting the amendments because, as Senator Milne has pointed out, there are a whole range of flaws in this. I acknowledge the sentiments that Senator Milne expressed with regard to the National Party—that they are probably driven by a completely different motive. But they both came to exactly the same outcome that this legislation is rubbish and that this is also part and parcel of it. So it is part and parcel of it and therefore it has to be knocked out.

There has to be a clear statement to the people of Australia that there are people in here with the conviction to see it as rubbish, call it rubbish and vote for it as if it is rubbish. That is what they are looking for. Such a statement would reignite their belief in this chamber as a democratic chamber. I note for the record that there are people here who have serious doubts about this. I note the last vote, where about 20 people did not turn up. That is a clear statement that there are concerns about this, and I acknowledge their concerns.

Senator Conroy interjecting—

Senator JOYCE—Not for one moment. I am only having a discussion and a bit of a concern about people who cloud the water with the so-called ego-pulling metaphor, which was completely not required. I acknowledge absolutely the convictions of some people, especially Senator Nash, who has given up her job as a shadow parliamentary secretary because of her belief in this. That is something that is decent and good and right—that people have that sort of conviction still; that people have the ability to look at the dignity of this chamber and to rise above what crumbs are offered to them and do what they think is right. That is refreshing to the Australian people. I also note some of the talkback that is happening on some of the radios, where Senator Nash is now a person who is placed in high esteem because of her conviction on this issue. And, once more, we get the smarmy smile. It might pay for dinner at Morrocco’s, but it is not going to cut it with the Australian people.

If we go to the essence of this, this takes out something that is more or less a tax deduction for those who can afford it most, to be paid for by those who can afford it least—manipulated by those who have the most influence in this place. It tells a whole story: to bring about a sense of market manipulation which will bring about the further demise of regional towns. It makes a statement that food on the table for Australian working families is not worth as much as currying favour with certain corporate interests. It says to those who want to be part of this that their belief in certain peculiar and very small and very influential groups is really what they are on about. It says that there is a whole range of belief and structure that is easily put aside when the right people make the phone call.

I look forward to an explanation from the minister on just one thing. Why did you not exclude land from the legislation as being a capital expense deduction? Why did you have to rely on an extraneous body? Why did you not have the conviction to put that into the regulations and the guidelines, so we would not have to move this amendment? Why did you not do that? What stopped you?
What was the process that made you come up with an idea that swamps and the clearing of land shall be specifically excluded—and that is where you stop? Was it that people said, ‘We have every intention to claim other things as capital expense deductions, so don’t put them in the legislation’? Was that the process?

Our position is that this is the first step on the path to an ETS. You cannot for one moment stick with the current guidelines and not support this, vote against this, and then say in another breath while with another group, a community of people, a group of friends, part of our caucus or part of your group in this chamber that you are somehow against the ETS—because you voted for it. When you vote for this legislation, you vote for an ETS. Your foot is on the sticky paper and you are on the path to it; you now believe in it. Your actions will always speak louder than your words.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.13 pm)—In answer to the question Senator Milne asked and, I think, the question that Senator Joyce was asking, I draw their attention to the Income Tax Assessment Act 1997, chapter 2, ‘Liability rules of general application’, part 2-10, ‘Capital allowances: rules about deductibility of capital expenditure’, division 40—‘Capital allowances’. Section 40.30 says:

What a depreciating asset is

(1) A depreciating asset is an asset that has a limited effective life and can reasonably be expected to decline in value over the time it is used, except:

(a) land …

I am not quite sure how much plainer I can be. It is stated there in black and white: ‘except land’.

In the same way that the carbon sink legislation does not cover exclusions, the horticultural plant provisions use a general meaning for establishment costs. The ATO has made a tax determination in relation to carbon sink forests, which states:

The cost of purchasing land to be used for growing a horticultural plant is not establishment expenditure, as the cost is attributable to the land rather than to the establishment of the plant.

Given that this interpretation applies elsewhere in division 40 of the Income Tax Assessment Act 1997, there is no reason for it not to apply in the same way for carbon sinks. The explanatory memorandum for the carbon sinks legislation makes clear that assets separate from the trees are not considered to be an establishment expenditure. I am quoting here from the Income Tax Assessment Act 1997, chapter 2, part 2-10, division 40, ‘What a depreciating asset is’. Quite clearly, land is written there and excluded.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.15 pm)—I am really going to enjoy this. Guess what, Minister? Land is never, ever a depreciable asset, so excluding land from the definition of a depreciable asset is to state the bleeding obvious. It never was, never is, never will be a depreciable asset. It is certainly a capital asset. What you have said shows the government’s complete misunderstanding of tax law. They have said, ‘We’re going to prove to you that land is not a capital asset because land is not a depreciable asset.’ You just said it in one: it is not a depreciable asset. Depreciable assets are assets such as trucks, automobiles, certain sheds, but they are not land. They never were. Saying, ‘Land is not a depreciable asset; therefore it is not a capital asset,’ is like saying, ‘A horse is not a snake; therefore it is not a mammal.’ It is a mixed metaphor and completely extraneous. So you are wrong. Once more, I direct you to the section that talks about 2007-08 to 2011-12 and ask you to clearly point out to me where in that section within schedule 8, ‘Capital
expenditure for the establishment of trees in carbon sink forests’, it explicitly excludes land.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.17 pm)—Division 40 is about depreciating assets and declines in value. It excludes land, as I have just described. Section 40(3) says that if it is excluded from division 40 then it would be inconsistent for it to be claimed under the carbon sinks provision in subdivision 40-J.

Senator MILNE (Tasmania) (9.17 pm)—I find this interesting, because you cannot cite where in the legislation it says land is not included. I asked the minister’s office to show me where it is in the legislation and all I got back was a concession that subdivision 40-J of the Income Tax Assessment Act provides a statutory deduction for capital expenditure incurred on establishing trees in a carbon sink forest. There were only two things to which they could refer to tell me that land was not included. One was the 2007-08 budget statement, which has nothing to do with anything. It is not the legislation; it is a statement in the budget papers, and half of those are wrong half the time. They went on to talk about the horticultural plant provisions. They said it is modelled on the provisions. So what! It is modelled on the provisions; it is not the provisions. Lots of things are modelled on things. They are not the provisions.

Of course, they then compare it to MISs because they are under the horticultural provisions. Other things are under horticultural provisions; therefore this one is. On the contrary. One is about trees that are going to be cut down. This is about trees that are staying. The only other reference that the government could give me was that of the Australian Taxation Office issuing a tax determination on what amounts are included in the establishment expenditure for the purposes of horticultural plant provisions. But it is only modelled on that. It is actually wrong. No one from the minister’s office could point me to where in the legislation this stands. And in the hearings, again, we got the same thing from various people. The Department of Climate Change, in its submission, said that landholders can also offer land to businesses that grow carbon sink forests in return for payment for use of the land. In this situation the business would obtain a tax deduction. How lucky is that!

The point here is that they do not point to anywhere in the legislation. They go back to the explanatory memorandum or to the tax office determination but not the legislation itself. That is why I went to see a tax barrister and said: ‘Look at the legislation. Have a look at the interpretation of it and tell me if the land is deductible.’ He said it most certainly is because of the specific reference that says expenditure in relation to the establishment of a carbon sink forest is deductible and the two circumstances that it cites where it is not deductible: (1) the cost of land clearance and (2) the cost of draining a wetland. Apart from that, the inference is that everything else is deductible and that a court would take the view that, because you have specified the two things that are not tax deductible, everything else is tax deductible in terms of capital costs.

He went on to explain a range of other things in relation to this, but the fundamental principle was there. He went through the legislation, and there is nothing there. He quite clearly said that, regardless of what the explanatory memorandum says, in several cases before the High Court where there has been a difference between the legislation and the explanatory memorandum, the High Court has taken the legislation as the primary document, and indeed it would in this case. There is nothing in the legislation, and the
tax office determination is not regarded as having anything like the power of the legislation itself.

So I would point out to you that I am still not satisfied that you have shown me anywhere in the legislation where it says the land is not deductible. I think that there are going to be a few tax barristers and tax lawyers around looking at this, not the least of whom, as Senator Boswell pointed out, are from the MIS companies. Already they have set up subsidiary companies for the sole purpose of switching across to this mechanism. If this was going to be some small initiative for marginal land, for biodiverse plantings, don’t tell me that those companies would be going to the trouble they are going to now to set up these subsidiary divisions, because they are doing that for a reason. So, unless, Senator Conroy, you can pick up the bill and point out where the specific exclusion of land is, I am going to go with the interpretation of a tax barrister who works with this all the time. And I might say that, in the course of talking to him, he did pose the question: why is it that government does not outsource part of the drafting of the legislation to people who are working in the field all the time, who have to interpret the law and go into courts and deal with the law, so that the drafting actually gives effect to what the government is saying it wants to do, and not draft legislation that is so full of loopholes it ends up with everybody in the courts losing a great deal in the process? That is the point I want to make. I will come back to it, and I will be very happy for you to point out where that is in the legislation. And, if indeed it is anywhere else in the legislation, I am interested that the minister’s office could not point it out to me and could only refer me to the budget papers or the tax office determination but nothing in the legislation. I presume that is still the case.

The second thing I want to ask is in relation to the role of the climate change secretary giving the commissioner of tax a notice if he or she is satisfied that one or more characteristics of a carbon source have not been met or will not be met et cetera. I would like the government to tell me what the role of the climate change secretary is—what he or she actually reports to the commissioner of tax on in relation to the guidelines. Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.24 pm)—I am just seeking some information on the second point. On the first one, Senator Milne, I accept that you genuinely believe the opinion of one tax barrister. I accept that entirely. But I guess we are just going to have to disagree from a government perspective, a tax office perspective and existing practice over the last seven years. When you say it mirrors the horticultural provisions—it does not mirror them; it is identical. It has the same impact. So I guess we are going to genuinely disagree about the interpretation. You passionately believe the opinion of one tax barrister, who may be a very eminent tax barrister. That does not mean he is correct. But you believe it, and we accept that you believe that to be the case. We believe differently. We have done everything we can. We have been through this debate a couple of times in the chamber. You have had opportunities to speak to Senate officials about it. We genuinely have a difference of opinion. But yours is based on an opinion you have received from one tax barrister.

On the second point, the section states:
The *Climate Change Secretary must give the Commissioner a notice in writing under this subsection if the Climate Change Secretary is satisfied that one or more of the conditions in subsection (2) have not been satisfied for the trees— and then it obviously just loops back to subsection (2). I hope that helps.
Senator MILNE (Tasmania) (9.26 pm)—No, it does not at all. We have just had a whole debate about these environment and natural resource management guidelines. I have heard from Senator Coonan that she absolutely believes that this will cover all the problems with the environment. We have heard Senator Wong say exactly the same thing. I want to know about the assessment process for the guidelines and how the Secretary of the Department of Climate Change is going to make a judgement as to whether they have been met. Or is he or she not required to make a judgement about that? In fact, is that completely irrelevant? Where does that fit in in terms of the enforcement and compliance?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.26 pm)—I am just seeking some more information but, while I am getting that, subsection (2) sets out the conditions:

(a) at the end of the income year, the trees occupy a continuous land area in Australia of 0.2 hectares or more;
(b) at the time the trees are established, it is more likely than not that they will:
   (i) attain a crown cover of 20% or more; and
   (ii) reach a height of at least 2 metres;
(c) on 1 January 1990, the area occupied by the trees was clear of other trees that:
   (i) attained, or were more likely than not to attain, a crown cover of 20% or more; and
   (ii) reached, or were more likely than not to reach, a height of at least 2 metres;
(d) the establishment of the trees meets the requirements of the guidelines mentioned in subsection (3).

I will see if there is some more information I can gather for you.

Senator MILNE (Tasmania) (9.29 pm)—So we have a form. It is a self-regulation thing—just tick the boxes and say, ‘I am confident that my trees are going to meet these requirements, thanks,’ and send it in to the tax office. Then the tax office sends it over to the Secretary of the Department of Climate Change without any reference to the specific land, without any reference to the
water issues. What is the point of these guidelines? Are they just there to hover around the side? Who is going to enforce them? Who is going to do anything about them?

To go back to your explanation to me of how the horticultural provisions apply, let us look at divisions 40-F and 40-J—division 40-J relating to carbon sink forests and division 40-F relating to the tax deduction for planting trees to cut them down, the MIS scheme. This legislation actually says specifically that you cannot get 40-J if you are a recipient of 40-F. Therefore, it is a precondition of 40-J that 40-F does not apply. Division 40-F is the one you are telling me about in terms of why the land is not tax deductible. But the point is that it is a precondition of getting J that F does not apply, and that is why I am saying it should be specifically in the legislation and why I think your interpretation is wrong.

I am really keen to know, if someone could tell me in very specific terms, how the Secretary of the Department of Climate Change will determine compliance on surface water and groundwater. It is really specific—how will he or she get compliance in order to let the tax office know this should go ahead?

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.31 pm)—I am just waiting for my answer—any time tonight would be great.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.31 pm)— Senator Milne, you asked about the groundwater. Senator Wong during the debate tabled some guidelines in relation to the establishment of trees that were amended, I believe, from earlier. Possible amendments are highlighted. They specifically deal with establishing carbon sink forests in ways that avoid any significant negative impacts on water availability, including surface water and groundwater. I think some of your concerns have been addressed in the guidelines that were tabled a little bit earlier this evening. I am not sure if you have had a chance to see them yet. They go on to say:

Compliance with this guideline should include adhering to applicable state and territory and local government land use planning legislation regarding the establishment of alternative land uses on agricultural land. Legal rights concerning carbon sequestration in carbon sink forests should be registered on the land title in accordance with state and territory governments’ legislation, and compliance with this guideline may be achieved by registration of carbon sequestration rights associated with the forest or through registration of other relevant legal arrangements that establish penalties may be imposed for giving false or misleading information. So, just like every other part of the tax act, it is self-assessment. You seemed to make something of that point. I am not sure that it is relevant. On the groundwater, I am seeking some more information. Senator Joyce, do not worry; we have not forgotten you. We will keep working on adding to your knowledge.

Senator NASH (New South Wales) (9.31 pm)—I ask the minister, following on from his last comments: could he perhaps advise the Senate who is going to determine whether there is false or misleading information?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.32 pm)— Sorry, Senator Nash; I was just in conference. I might need to get you to repeat your question in a second. Senator Milne, you asked about the groundwater. I am not sure if you have had a chance to see them yet. They go on to say:
ownership over, and rights regarding, sequestered carbon.

Senator MILNE (Tasmania) (9.33 pm)—This is a serious case of having our intelligence insulted, Senator Conroy. I do not know if you have been listening at all to what I have been saying. I am asking: how do these guidelines get enforced? Yes, of course I heard Senator Wong saying in here that she has now put in a couple more words about surface water and groundwater. I am saying: who will actually deem that this has been complied with? The issue here is that the Secretary of the Department of Climate Change is supposed to be telling the tax commissioner whether this is legit or not. That assumes that somebody at the Department of Climate Change actually considers the specific hectarage that we are talking about and asks: ‘Is there a groundwater issue? Is there a surface water interception issue?’ Does it take into account clearance, or is this just here essentially as a bit of decoration to say that, if you wanted to, you could look at this and, if you wanted to, you could take some notice of this? What I am asking is: how will it be determined whether a person did anything about surface water or groundwater before getting the tax deduction, and how will the Secretary of the Department of Climate Change make that determination? The Liberal Party’s support for these guidelines is based on them being complied with, on them actually existing, but they are not regulations and they are not mandatory. So can you please explain to me the difference between mandatory regulations and these guidelines as they pertain to the enforcement of these provisions?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.35 pm)—If I could start by responding to Senator Joyce.

Senator Joyce—Ah!

Senator CONROY—We have not forgotten you, Senator Joyce.

Senator Parry interjecting—

Senator CONROY—Senator Parry, don’t draw me with clever, witty interjections. Depreciating assets decline in value. They are assets that waste, like machinery and equipment, trucks et cetera. Taxpayers are allowed to claim deductions for declines in value under division 40 of the Income Tax Assessment Act and, as referred to before, division 40 explicitly says you cannot get a deduction for land.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.36 pm)—Thank you very much, Aristotle! That was incredible. A depreciable asset—he is right!—is a truck, a thing that over time has a value that deteriorates, that diminishes. And—guess what!—he is dead right: it does not include land. It never has. But land is definitely capital. It is not an asset that is subject to diminution. It is not a truck. It is not a car. It is not a fence. Land is a capital asset whose base is structured and permanent.

The minister says that he hangs the relevance of this legislation on the fact that it excludes land because land is not a depreciable asset—his quote, not mine; he said that in this chamber—and therefore we have nothing to worry about; because that is the case, the problem is solved. We have clearly proved tonight that land is definitely not a depreciable asset; in fact, he agrees with me. But land is definitely capital. Therefore the legislation is flawed. In this committee stage of this piece of legislation, for something we have been discussing since 26 June, we now have a huge hole in your legislation, a hole you could drive a truck through. The smart people know the hole is there. That is why they put it there; that is why they made you agree to it. This document is what you are
referring to, the Income Tax Assessment Act 1997. This is where it all comes from. You have a huge hole in your legislation, Minister. What are you going to do about it?

Senator MILNE (Tasmania) (9.38 pm)—Further to something that Senator Joyce said, the essential elements for the process of sequestration are the trees, land and water. The result of the process of sequestration is storage of carbon in a carbon sink. The accounting methodology for carbon sink forests will in most circumstances credit carbon dioxide sequestered in the entire system—that is, trees and other living vegetation, including branches, trunks, roots, deadwood, litter and soil. Unlike horticultural plants, where depreciation is recognised in the tax act, carbon sink forests actually continue to store more carbon as they grow, in their branches, in their roots, in the soil and so on, for decades or even centuries, depending on the type of vegetation.

This cannot be seen in the same context as depreciation. Apart from the fact that land is a capital asset, there is an even greater argument that the price of land should be included as a tax deduction because the land is essential to the carbon sink forest in terms of the carbon being sequestered, since, over time, there will be more carbon stored underneath the ground than there is above it. That is why old-growth forests have much more carbon in them than a plantation has—because they have got hundreds of years of the carbon in the soil. Unlike where you cut a tree down and you can take that away and sell that, with a carbon sink forest the land is an essential component of the storage of the carbon and an essential component of the calculation of how much carbon you have got there and therefore the value of that carbon sequestered over time. It is an entirely different thing. Whether or not you accept it, I think you are going to find that Senator Joyce and I are absolutely right here in terms of the interpretation that is going to be applied in the courts about the land actually being an integral part of establishing a carbon sink forest and maintaining the carbon sink forest because they are inseparable, unlike the MIS schemes, where you are cutting the forests down to take them away.

I come back to this issue that I still have not got an answer on—and I really think it is essential that we get one—as to what the difference between guidelines and mandatory regulations is and how these guidelines are going to be complied with and enforced. How are they going to be complied with and enforced? Please tell me that—not what is in them, not the amendments the minister has put up here, but how they are different from mandatory regulations, why this legislation does not have mandatory regulations and instead has guidelines, and, if they are only guidelines, how they are going to be enforced.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.41 pm)—I have been seeking information on the issues you have been asking about, Senator Milne. If the secretary is not satisfied with the declaration, the signed document, he or she will tell the ATO that is the case and the deduction will be denied. This is consistent with the self-assessment that is throughout the income tax act. I am not sure I can add a lot to that. It has been designed in exactly the same way. This also addresses one of Senator Joyce’s points and addresses one of the points he has just raised. Yes, land is capital; I think we are in heated agreement on that, Senator Joyce. The land is separate from the trees. The trees are deductible but are separate from the land, which is not deductible.

Senator Joyce—Where does it say that?

Senator CONROY—You can continue to ask the same question over and over again,
but, as I said earlier, we have a genuine disagreement. You believe you have found a flaw and a hole. On this side of the chamber and on the other side of the chamber, we do not agree. You are basing it on both your own opinion and that of a tax barrister. Senator Joyce, you said you believe this is what the courts of the land will uphold. That is nothing more than an opinion. It is a valued opinion but it is just an opinion. I think we are just going to have to agree to disagree on this point. I am not sure that there is any more information that we are going to be able to give each other, no matter how long we stand here discussing the same question over and over again. It is an opinion. You have a strong opinion in one direction; we have a strong opinion in a different direction. But it is an argument about opinions.

Senator BOSWELL (Queensland) (9.43 pm)—I have been listening to this debate because I am particularly interested in it. I do not have the expertise of being an accountant. In fact, I am a seller of paintbrushes. That is where I made my living for 25 years. Listening to this debate, I am getting more and more concerned about it. I was concerned about the fact that there would be an explosion in planting trees by getting a tax break on carbon sinks. That is one thing to be very concerned about. But, if in fact you are going to get depreciation on the land, this will take off like a bushfire and we will have carbon sinks wall to wall from the east to the west.

Senator Coonan—you cannot get depreciation on land, Bossie.

Senator BOSWELL—Well, I am sorry; I am getting advice from a tax accountant and a barrister who say that you can. You may be right, Senator—you are a barrister. But if you are wrong, God help the farmers because it will be a disaster of massive proportions if there is some chance of a tax deduction on land.

The smart way out of this, Senator Conroy, would be to report progress, go and get an opinion from someone who has worked in this area, such as a tax barrister, and report back to the Senate. If you are wrong and Senators Joyce and Milne are right, then we are in deep trouble. I am offering you the proposition that we report progress, get on to the next piece of legislation and then revisit this tomorrow or the next day. I would hate to be the minister at the table when this went through if I was wrong. You would carry that through with you until your dying day. The smart thing to do would be to just report progress, get on with the next piece of legislation and get some strong advice on this tomorrow from some tax barristers, the Solicitor-General or the Government Solicitor—then we will not be flying in the dark.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.47 pm)—We now have the opinions of an expert tax accountant—not me, but the referral from Senator Milne—

Senator Conroy—I think she said a tax barrister.

Senator JOYCE—A tax barrister then. We have also now clearly established that land is not a depreciable asset. From the acknowledgement of Senator Conroy himself, we have established that land is a capital asset. The amendment says:

You can deduct amounts for capital expenditure—and we have now determined that land is capital expenditure—incurred for establishing trees—if you buy the land to put the trees on, that is exactly why you did it—that meet the requirements for constituting a carbon sink forest.
They are the words in the legislation, not mine.

We now have a huge hole. Those who now support this support that hole and the effects that it will have on our budgetary position. If you support this, you support the hole in the Treasury figures. This is an issue that has progressed even tonight. The smart money would say that if you were fiscally responsible—on either side of this chamber—you would not support this. Some people have interjected: ‘Land is not a depreciable asset.’ We have determined that. That is what this whole thing swings off—it is not a depreciable asset. It is depreciable assets that are right for the exclusion. This is a capital asset; therefore, as a capital expense, it stands. It is capital in nature. If you depreciate an asset it goes on to income. In fact, depreciation recouped is on an income account; above that it is on a capital account. Land itself is pure and simply on the capital account. If I look at 40-1000 of the primary section of the guide to subdivision 40-J, without a shadow of doubt I can deduct amounts for capital expenditure. The first question I would ask is, ‘Is land capital expenditure?’ Yes, it is. The amendment says ‘incurred for establishing trees’. Did you buy the land to put trees on it? The company would obviously say, ‘I absolutely had no interest in buying that land except that I was going to put trees on it.’ There is not a shadow of a doubt. There is the nexus between my expenditure and the purpose. I have now defined my two arms. Then I go to the final wording of whether it was for the ‘requirements for constituting a carbon-sink forest’ to establish the nexus between the establishment of the trees and the trees for the carbon-sink forest. Game, set, match—I win.

The purpose of the court is to interpret the legislation in the form provided, not to interpret the musings of an extraneous and inferior body to this chamber. We all know that there is a hole in this. It is just bizarre in the extreme that, knowing that the hole exists, we are now going to vote for it. That means we are all fools. Even if you want to pass this thing—and I do not—I think that the advice that Senator Boswell gave you is good advice. I would park this and go away and get some competent advice, which for the life of me I cannot work out why you do not already have, because we have been flagging this thing all the way back to Senate estimates. I can put you in touch with whoever you want and you can do the same. What worries me is that the people who lobbied you to do this know exactly what they were up to. Why do we not just do the sensible thing, which is what the Australian people would expect, and spend 24 hours to close a loophole that will otherwise make you look like a complete and utter fool when this legislation appears in its first case with someone against the tax department? The plaintiff will win on this one hands down.

Senator MILNE (Tasmania) (9.51 pm)—I am still waiting for the government to tell me the difference between mandatory regulations and guidelines and how compliance with these guidelines will be enforced. Further to Senator Joyce’s comments, I am interested to know whether the government did get legal advice from the Attorney-General’s Department or anywhere else. Do you have legal advice on this issue? As this has been an issue since before the 2007 election and for all winter, I just want to know whether the government actually did get legal advice from other departments as well as just this department’s advice.

I really insist on knowing how these guidelines are going to be enforced. Senator Coonan made a big thing out of the fact that she is satisfied that all of these will be applied and that the environment will be cared for. Well, it will not be, because these are just
voluntary guidelines that have no effect whatsoever. I want to know how compliance is going to be enforced. I specifically want to know whether you will be able to get a tax deduction if you have cleared land, because the clearing of the land is consistent with the Kyoto provisions—that is, the land had native vegetation on it but was not a Kyoto ‘forest’ in 1990. In a state like Tasmania, where there is no land clearance legislation, will you be able to get a tax deduction using these guidelines because you will be deemed to have complied?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.53 pm)—If I could just add some information for you, Senator Milne: the guidelines stipulate that all government regulatory requirements must be adhered to in order to obtain the tax deduction. This includes relevant state and territory land-clearing regulations. I am advised that it is not for the Commonwealth to introduce regulations that override existing state and territory laws. That is the information I have at this point in response to your questions.

Senator MILNE (Tasmania) (9.54 pm)—What you have just told me is that you can get a tax deduction for land clearance in Tasmania. Because there is no land clearance legislation, you will be deemed to have complied. That does not answer my other question about who is going to apply the guidelines. Who is actually going to check when you apply for your tax deduction whether these guidelines have been complied with? Who is going to do that? How? Where are the enforcement provisions?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.55 pm)—The self-assessment income tax act works in exactly that way: if you have done your tax, you sign a document that says you comply with the regulations. If there is an audit and you are found to have not complied with the regulations, then you are fined and other penalties apply. This works in exactly the same way. If people lie and cheat on the form—

Senator Coonan—It’s the tax act.

Senator CONROY—Yes, it is the tax act. Senator Coonan is trying to assist. I am at a loss to explain something that is as straightforward as that. Maybe I am just doing it really badly, Senator Milne, and if I am I apologise. But self-assessment is self-assessment. If you sign a document that legally says, ‘Here is what my opinion is,’ and it is subsequently discovered that you have falsely declared that, you are fined. That is the way self-assessment works. Once again, I apologise if I am not explaining it clearly, but I am not sure that I am going to be able to explain it any more clearly than that.

Senator MILNE (Tasmania) (9.56 pm)—I understand the principle of self-assessment. That is why the form only goes to the issues of whether you intended it to be a carbon-sink forest and whether you are confident that it is going to achieve the provisions of two metres and 20 per cent coverage. That is not the question I am asking. Yes, you can sign that. The question I am asking is: where do the guidelines fit in? The tax act, whilst it is about self-assessment, has mandatory regulations. It does not just have a set of guidelines that say, ‘Take this into account when you fill out your tax.’ It has actual mandatory regulations. These are not mandatory regulations. On that form, you do not have to tick boxes about land clearance and, in particular, about water. Where are you going to do that? Secondly, we are supposed to be having audits here. How are you going to audit from a self-assessment? How does the government intend to audit the implementation of these guidelines?
Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.57 pm)—Again going to the form, it says:
Details of how you expect the trees to meet the following conditions:
It is not just ticking a box for yes or no. You actually have to set out the details. It is a fairly straightforward form. Then you sign a declaration and it clearly states:
Check that you have provided accurate and complete information.

Penalties may be imposed for giving false or misleading information.
That is consistent with the income tax act. It is part of the income tax act. Again, I am not sure if I am going to be able to give you any more straightforward an answer than that. You keep asking about the guidelines and the fact that they are not mandatory. I think we have explained previously that we are not in a position to override state and territory law in this particular matter. You have to comply with all of those things before you can claim it.

Senator NASH (New South Wales) (9.58 pm)—Could the minister perhaps outline for the chamber what the process is for determining if there is false or misleading information?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.58 pm)—There is the same processes as for self-assessment under the income tax act. If you are prepared to make a false declaration and you are audited and it is found to be false, then you are faced with the penalties. It is exactly the same process.

Senator NASH (New South Wales) (9.59 pm)—Could the minister perhaps outline for the chamber exactly what that audit process is? I know he is saying that it is exactly the same as the other, but it might be useful for the chamber to understand very clearly what the minister means by the phrase ‘the same audit process will apply’. What actually is the process? Who will do it? When does it kick in? What criteria will be used? How will they be determined?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.59 pm)—The ATO has rigorous risk assessment procedures and the same procedures will apply in this case as apply in other cases. If all of a sudden you are an opponent of the self-assessment processes, I understand that and we are not going to agree. But all of a sudden you seem to want to impose a test on one part of the In- come Tax Assessment Act different from what applies to all the other parts. If that is your position we are going to agree to disagree.

Senator MILNE (Tasmania) (10.00 pm)—In relation to the guidelines, where on the form that Senator Conroy just referred to do you have to say what you have done in terms of assessing the groundwater or the surface water interception? Is there a specific section on the form? Is there a specific requirement on that form that you have to say that? Is there a specific section on water and what are you required to swear to in your self-assessment as to water? Can you confirm for me that this legislation enables you to plant monocultures and does not require biodiverse plantings? Secondly, can you confirm that there is no length of time in which these trees have to be in the ground? All you have to do to get the tax deduction is say that your intention is that the trees be in the ground, but your intention can change over time.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.59 pm)—There is the same processes as for self-assessment under the income tax act. If you are prepared to make a false declaration and you are audited and it is found to be false, then you are faced with the penalties. It is exactly the same process.
Digital Economy) (10.01 pm)—Section 11 of the form has the heading:
Details of how you expect the trees to meet the following conditions:
The last dot point under that heading states:
… the establishment of the trees meets the requirements of environmental and natural resource management guidelines for establishing trees for carbon storage.
Those guidelines—and I am happy to read them out again if necessary—particularly mention the surface water issue and you have to make your assessment as to whether you meet those guidelines and then you have to sign the form in a legally binding way.

Senator MILNE (Tasmania) (10.02 pm)—At last we are getting somewhere. All you have to do is say, ‘I believe that my carbon sink forest meets the environmental and natural resource management guidelines in relation to the establishment of trees. All you have to swear to is this:
Carbon sink forest establishment should be based on regionally applicable best practice approaches for achieving multiple land and water environmental benefits.
What is the test for that? That is gobbledygook of the highest order. What is the approach? Whose approach? Who says it is best practice? Which region? It is just a ridiculous idea. For number 2 the requirement is:
Carbon sink forest establishment activities should be guided by regional natural resource management plans and water sharing plans, and environmental impacts at a catchment scale should be considered.
So you say: ‘Yes, I comply with that. I considered the catchment management plans and anyway in my area there is no NRM plan or if there is it is not finalised or is not statutory, and there might be a water-sharing plan but there might not be so all I have to say is that I comply with that. The regional approach?
Yes, that is done too.’ The third guideline is:
Carbon sink forest establishment activities should recognise and adhere to all government regulatory requirements.
So you say: ‘Yep, that is fine, especially where there are none. It is great.’

There is not a person I know who could not tick those off and have 95 per cent confidence that if anyone ever audited it all you could defend the position that you adopted: the best-practice approach in your region; that you looked at those plans and took them into consideration; and that you recognised and adhered to government regulations, whatever they might be or however inadequate they are. So I just go back to the point I made earlier: these guidelines are not worth the paper they are written on and they are a disgrace.

Not only are we in this position of tax deducting the costs of the land; apart from everything else we now have a situation where all that the coal companies, airlines et cetera have to do when they employ a subsidiary company to plant out thousands of hectares is tick the boxes, because they know that none of those are legally enforceable. There is no benchmark there against which you could measure anything. It is an aspirational goal. And what does ‘best practice’ mean? It means: ‘Whenever I use a word,’ said Humpty Dumpty, ‘it means exactly what I choose it to mean—nothing more, nothing less.’ That is precisely what we have got here, Minister: Humpty Dumpty legislation. Your regulations are not worth the paper they are written on.

Perhaps you could tell me this. Do you get the tax deduction if you plant a monoculture forest rather than a biodiverse forest? Do you only have to say it was your intention at the time for it to be a carbon sink forest to get
the tax deduction and then later you can change your mind?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (10.05 pm)—On the monoculture issue the guidelines oblige the carbon sink forest grower to apply regional natural resource management plans and best-practice approaches for achieving multiple water and land environmental benefits. This will facilitate a focus on providing habitat for local flora and fauna, providing biodiversity benefits for the region. That is all the information I have at hand to give you on that.

Senator MILNE (Tasmania) (10.06 pm)—Why is that the case at all? NRM management plans provide for plantations in those areas. Where in these guidelines does it say that you have to have a biodiverse planting? Does this legislation preclude monocultures?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (10.06 pm)—The planting has to abide by local rules and local state rules. This legislation does not specifically mandate biodiversity. It says that you have to comply with the local regional state rules. I hope that that answers your question.

Senator MILNE (Tasmania) (10.07 pm)—It certainly does answer my question, because the local rules are useless—you know it and I know it. Take yourself to the Tiwi Islands, where there is massive conversion of native vegetation, or take yourself to Tasmania, where there is also massive conversion of native forests. Local rules are not worth the paper they are written on—you know it and I know it.

The more we get into this, the more we see that it is Rafferty’s rules. There is nothing here. You just get a tax deduction by saying ‘I intend this to be a carbon sink forest. Yes, I agree with all the local rules because there aren’t any in most cases.’ We know the National Water Initiative will not be in place until 2011. Between now and 2011 you can do as you like in just about any catchment as far as water is concerned. NRM plans are not statutory in most places. People working in landcare who are genuine about trying to restore ecosystems are horrified by this. With a bit of thought and a bit of care, this could have actually done what we needed it to do: to get biodiverse plantings in order to restore habitat connectivity in the landscape and resilience in the face of climate change. But instead of that this legislation has been put together by people who intend to run the sham. The sham is going to turn into a major scam across Australia and we are going to see a disaster.

I think we have asked enough now to establish that none of the things that have been asserted here actually stand. We know we can have monocultures, we know we do not have to have the trees in the ground for any length of time, we know we only have to say it was our intention when we put them in and we can sell to somebody else and they can cut the trees down. We can change our mind over time and we can tax deduct the lot. We can tax deduct the cost of the agent who puts the package together for us, including the cost of the land, and whether the access to water rights is a capital cost or a recurrent cost depends on whether you can put it in the package. This is a complete mess.

I was worried about it before, as Senator Boswell indicated, and now I see this as open slather. There is no enforcement, there is no disincentive and there is no-one coming along afterwards doing any assessment or enforcement. This is just an upfront land grab of a massive kind that will shift landownership in Australia in the most radical way. It will also shift wealth in Australia because those companies that need to offset their carbon emissions will get the taxpayers
to pay for it in two ways. One way will be with free permits and the other will be by tax deducting the costs associated with mitigation. It is the farming communities, the rural communities and the community as a whole who will pay. The people who will be grinning are the MIS companies and those resource based companies who are going to exploit this, big time. Whilst you might be sitting here thinking this is just a tiny little tax measure that is a matter of a few million dollars, wait until the Treasury starts to feel the impact, then there are going to be questions asked about how this could have been allowed to happen.

The people who are looking at natural resource management plans and catchment management plans, those who were devastated about what was going on with water, will be horrified to know that under this legislation people can put in a plantation, without any assessment of the groundwater or without any assessment of the interception, and get a tax deduction for having done so. Any attempt to fix it up later in 2011 under the National Water Initiative is going to be too late.

I am disgusted with this and I am disgusted by the people behind it. If this is the best the Greenhouse Office can do then it is an indictment. I cannot condemn it in stronger terms. Having stood here tonight trying to get some answers out of the government, knowing full well that in the Tasmanian context there is a tax deduction for clearing native vegetation to put in a monoculture to exploit a loophole, has been just horrendous for me. We all know it is going on, yet the upshot is that it is probably going to be allowed.

However many tax bills are going to come through this place before the next election, every time they do come through here I am going to move to delete this section. We will have this debate over and over and over again until we get some answers in relation to how these guidelines are actually going to change anything, how people are going to be followed up, how there is going to be enforcement and compliance and how we are going to get the environmental benefits that are claimed to be there. And I look forward to the first case that goes to the courts, which will be at great expense and will demonstrate that the cost of land was always tax deductible, because of the poor drafting of this legislation being defended in here by both the government and the opposition, who actually have not cared enough about the ramifications of this on the ground to go out, talk to people and see what it is actually going to do.

This is one of the great travesties and it is dressed up as a climate initiative when all it is going to do, by creating a carbon price through the ETS, is drive the perverse outcome of seeing plantations kept growing and native forests being logged. The greatest carbon stores and the greatest biodiversity will be destroyed and there will be a perverse outcome because people have not actually cared enough about this. There is not much more to be established here. You do not have any answers for us in relation to these guidelines. I note that, for all the talk about these guidelines, they are completely meaningless bits of paper without any compliance provisions. I look forward to voting on this amendment.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (10.13 pm)—I want to refer to the Income Tax Assessment Act 1997 as to what expenditure qualifies. You can have certain kinds of capital expenditure as deductions. Depending on the kind of expenditure, you can do this either immediately or over a period of years. It is called capital allowance. To the bottom of that we have now included a subdivision, 40-J,
clearly expressing that you can deduct amounts for capital expenditure incurred for the establishment of trees that meet the requirements for constituting a carbon sink forest. Unless the trees levitate they have to sit on something. That means the primary place they are likely to sit on is land; therefore, there is a clear nexus between the land, which we have all determined tonight is capital expenditure, and the trees. Between the periods 2007-08 and 2011-12, as determined by part 1 of schedule 8, it is an up-front tax deduction so, as to the period of time you get to deduct it over, it is one 100 per cent.

Question put:

That the amendments (Senator Milne’s, Senator Joyce’s and Senator Xenophon’s) be agreed to.

The committee divided. [10.19 pm]

(The Temporary Chairman—Senator RB Trood)

Ayes…………. 10
Noes…………. 47
Majority……… 37

AYES
Boswell, R.L.D. Fielding, S.
Hanson-Young, S.C. Joyce, B.
Ladlam, S. Milne, C.
Nash, F. Siewert, R. *
Williams, J.R. Xenophon, N.

NOES
Abetz, E. Arbib, M.V.
Barnett, G. Bilyk, C.L.
Birmingham, S. Bishop, T.M.
Boyce, S. Brown, C.L.
Bushby, D.C. Cameron, D.N.
Carr, K.J. Cash, M.C.
Colbeck, R. Collins, J.
Conroy, S.M. Coonan, H.L.
Cormann, M.H.P. Eggleston, A.
Ellison, C.M. Evans, C.V.
Farrell, D.E. Feeney, D.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Furner, M.L. Humphries, G.
Hurley, A. Hutchins, S.P.
Kroger, H. Ludwig, J.W.
Macdonald, I. Marshall, G.
Mason, B.J. McEwen, A.
McLucas, J.E. Minchin, N.H.
Moore, C. Parry, S. *
Pratt, L.C. Ryan, S.M.
Sherry, N.J. Stephens, U.
Sterle, G. Troeth, J.M.
Trood, R.B.*

* denotes teller

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (10.23 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (FURTHER 2008 BUDGET AND OTHER MEASURES) BILL 2008

In Committee

Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Trood)—The question is that the government’s amendments (1) to (7) on sheet 517, moved by Senator McLucas, be agreed to.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.24 pm)—I wonder if I could assist the committee. In response to a question that Senator Scullion asked just before question time today, in our haste to assist him I do not think I was absolutely clear.
The question that Senator Scullion asked—I am quoting from the *Hansard*—was: ‘How many people will not actually be caught by the exemptions? In other words, how many people do you think will still now move to Newstart?’

That is a difficult question to answer absolutely accurately. By way of answering, can I say that up to 580 separated partners are potentially affected, and 390 veterans in those partnerships have an accepted psychological or mental condition. A number of them will qualify for illness-separated status. You would be aware that the department contacted each of those 580 people. Sixty individuals who responded to the letter and who rang the special team in the Department of Veterans’ Affairs indicated that they would seek illness-separated status. We know that there will be some overlap with the 390 people. Can I also say that a third of the 580 people are not receiving the maximum rate of partner service pension, and a number may have the capacity to increase their working hours.

Of the 580 people who were contacted by the department in September, over 400 have not contacted the department following the notification of the changes in September. That is hopefully by way of explanation, but I have got to say, Senator Scullion, that it is actually quite difficult to answer the question accurately. Also, you asked how many people will move to Newstart. People who move payment will not all move to Newstart. They could potentially move to the disability support pension or the wife allowance, or there are a number of other payment regimes that they could go to. It is misleading, I think, to say that they would just go onto Newstart. I hope that is of some assistance in answering the question.

Senator SCULLION (Northern Territory) (10.27 pm)—I thank the minister for the answer, and I do accept the difficulty because of the overlap. I acknowledge that that is a difficult question to answer. I am simply looking at the demographic. The fundamental question for which I am really after an answer—and I think people will be interested—is: how many veterans will be worse off? Whilst we have got a rough number—I suppose around 200 out of that demographic—it is difficult to know and I acknowledge that. There are a number of other questions. I will try to keep this as short as possible, because I know that time is very tight. Given the tightening financial circumstances that all Australians are facing—not much comes from your side and potentially from ours that is not prefaced by the difficult economic times that we are in—clearly veterans would be feeling the pinch. Obviously, in consideration of making this sort of change, you would have done some sort of modelling to have a look at the socioeconomic impact on this demographic. Could you share with us some of that modelling or what you think is going to happen? You provided me with some answers about how many. Would you be able to provide any details of any other modelling you have done on the impact on these people?

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.28 pm)—Some assistance may be able to provided about the second part of that question. Can I first of all say, Senator Scullion, that no veteran will be worse off. That is very important. We are talking about the partner service pension. This does not affect the veteran payments. This is simply about the partner or, to be frank, the ex-partner of those veterans. It is important that we make it very, very clear that no veteran will be worse off under this measure. The reality is that partners who move from the partner service pension to other payments by and large will get a very
similar payment, if not exactly the same payment.

In terms of any socioeconomic modelling, I do not know that that is something that we should even contemplate, because if people are moving from the partner service pension to another payment they will be getting the same payment, particularly those people who have been grandfathered—for want of a better word—who are over the age of 63½. They are staying on the partner service pension but if they were going to move, they would be on the age pension. It is essentially the same payment, but I absolutely underline that no veteran will have their payments or entitlements changed in any way at all.

Senator SCULLION (Northern Territory) (10.30 pm)—Thank you for the answer, Minister. I think I did allude to this, but perhaps there was a lot going on in the few moments before question time. I had seen a saving that may have been indicated with this measure in an EM that I thought was a bit dated. What sort of saving has been achieved with the measure?

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.30 pm)—Senator Scullion, we have some information for you on that. This is complex because the initial explanatory memorandum has been changed by the subsequent changes in the EM that was tabled today. The savings with the partner service pension age pension are $35.1 million in the initial explanatory memorandum. That will be much the same. I think there is a change of $1.2 million to $1.2 million projected savings there. There has been reference to a figure of $113 million. That figure refers to the DVA savings—that is, the PSP age and the separated measures—but they exclude the cross-portfolio offsets. We are simply looking at the savings in the Department of Veterans' Affairs. The revised net saving overall is $28 million over four years. Is that enough information, Senator?

Senator SCULLION (Northern Territory) (10.32 pm)—Thank you for that. I think I have a pretty good idea now. I understood that the $113 million was an administrative saving from within the Department of Veterans' Affairs. Is that correct? Perhaps you could explain that part to me again.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.32 pm)—That figure is from within the Department of Veterans' Affairs, without the offsets in FaHCSIA and DEWR being contemplated. They are the two departments that will pick up the replacement payment for those people who move off the partner service pension.

Senator SCULLION (Northern Territory) (10.33 pm)—I notice that the implementation date has been moved from 1 January 2009 to 1 July 2009. What was the rationale for moving back that implementation date?

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.33 pm)—The rationale behind moving that date was that, following the community affairs committee inquiry, there was a recognition that a period of transition of six months would be helpful for those people who have a changed payment. It will allow for people to look at the arrangements that they may contemplate, and it will also ensure that those people who may apply to be retained on the partner service pension have an opportunity to do so in that six-month period.
provide me with the number of complaints that the Department of Veterans’ Affairs has received from partners who are to lose their entitlement?

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.34 pm)—I understand that there have been about 100 contacts with the department with respect to this measure, but it should be recognised that many of those contacts were duplicate or multiple contacts on behalf of particular individuals. So you cannot extrapolate that number of contacts to reflect the number of individuals who have sought to express their concern about the measure. It is also important to recognise that, of the approximately 580 people who were contacted in September of this year, some 400 people have not responded to that letter. That would make one think that they are comfortable with what has been expressed in that letter.

It is not to say, though, Senator Scullion, that people are not concerned about the measure. A number of speakers in the second reading debate talked about the concerns that they have had expressed to them. Those concerns are shared by the government, and that is why we are bringing in these amendments to ameliorate the impact of this measure. We want to make sure that it is fair to those people who are vulnerable. Senator Boyce talked about vulnerable people. We are making sure with the amendments that we are currently debating that those people will be managed very carefully. We know there are some very vulnerable people in that group, and we are looking out for them. We want to ensure that the amendments that we are putting before the chamber this evening will look after their interests.

Senator SCULLION (Northern Territory) (10.36 pm)—Part of your new section 38(2AB) deals substantively with a number of circumstances under which persons would find an exemption, dealing primarily with psychological or mental health conditions, an accepted war-caused injury, accepted defence-caused injury et cetera. The last dot point is ‘a psychological or mental health condition that has been accepted for the purposes of’ et cetera. Is there a provision for dealing with claims of a mental health condition when the veteran’s partner claims that this is the reason for leaving a residence but the veteran has not actually been assessed? That is a specific issue that you can go to, Minister, but the general thrust of my question is to understand more about this.

You have created a series of circumstances under which if certain things happen then you are in. Yet there are a number of circumstances that are not writ large, and we are not sure about the extent of those circumstances. Perhaps in answering that question you could just go through, in a general sense, the appellant process, particularly where a partner who has left is then able to appeal in some sense. One of the principal issues here, of course, is if somebody says and acknowledges that they have a mental health issue. They certainly are not going to come under the last dot point unless they have been diagnosed and certainly some veterans may not be prepared to put their hand up and say, ‘I have a mental health issue.’ It might well be self-evident but, if they have not actually been diagnosed because they do not choose to go down that path, the partner is certainly going to be in a very difficult situation. So I would appreciate it if you could help me deal with the assessment process.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.39 pm)—Thank you for the question, Senator Scullion. In terms of the accepted psychological or mental health condition, the amendment responds to concerns that veteran couples often separate
due to the mental health effects of war or defence service. Thus, an accepted psychological or mental health condition for the purposes of this amendment is a condition accepted under the Veterans’ Entitlements Act, the Safety, Rehabilitation and Compensation Act or the Military Rehabilitation and Compensation Act or accepted by an allied government as being war, defence or service caused or a condition that has been accepted for the purposes of non-liability health care under the Veterans’ Entitlements Act.

But you have invited me to speak more broadly. I think you set up a situation where a veteran has a mental illness but does not recognise that. We recognise that that is a potential problem. So, for the purposes of the exemption, in this circumstance it is allowable for the separated spouse to make—in most cases—her claim individually. So it does not require agreement from the veteran for that claim to be heard. I hope that the senator heard all that because it was quite relevant. As I said, Senator Scullion, in these circumstances, we recognise that the veteran—in most cases—himself may not recognise a mental illness, so it is appropriate that the spouse apply for exemption alone, without having to have concurrence from the veteran. In that situation, the spouse would fill out the form on her own behalf and she could make a claim in that way.

Senator SCULLION (Northern Territory) (10.41 pm)—These are technical matters but I still think we need to throw a little more light on that process. As a layperson I can understand that someone, particularly a partner in that circumstance, may read this and understand that that is the way you continue your partnering payment. But I find it very difficult to understand how you would make an assessment of a veteran’s mental health when the spouse is making the application without some compliance from the veteran. I am not trying to be mischievous and I hope I have not misunderstood you. I can understand where a partner may fill out the form independently, but at some stage an assessment has to be made of the veteran himself or herself to establish whether or not they meet that criterion. I would have thought that would have to come with the compliance of the veteran themselves.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.42 pm)—I think you are aware that the Department of Veterans’ Affairs is recognised as a department that is very close to its constituents. In those circumstances I think you would find that there would have been an assessment by the department of the veteran and the accepted psychological or mental health condition of the veteran would be known by the department. That is my advice, and I think you would recognise that that is pretty well understood. I would also say that the draft form that DVA have developed asks the following questions: have you ever taken out an apprehended violence order against your former veteran partner; in the relationship with your former veteran partner, were you ever fearful for your safety or that of your children, subjected to physical abuse or violence, subjected to psychological or emotional abuse or social isolation, threatened or oppressed? So, basically, the net is being thrown very widely so that anyone in a circumstance that may not be picked up by the letter of the law can be caught in the net. That is probably not the best analogy to use.

We are very clear that this is going to be applied in an extremely compassionate way. We know that there are many partners of veterans who have had very, very difficult lives, and in no way are we trying to make that situation any worse. So please be assured that the intent of the amendments that we are currently debating is to ensure that people who are in difficult circumstances are
not affected at all by the change to the partner service pension.

Senator SCULLION (Northern Territory) (10.45 pm)—The minister has provided me answers that are pretty much a broad brush of the areas I wanted to go to. I have to say, Minister, that—and it may be because of the short period of time—the answers to some fairly complicated and technical questions may have been in error. I am heartily disappointed with a couple of aspects of the answers. It is not a matter of the detail. I think the thrust of some of your answers leaves me and, I am sure, many people extremely disappointed.

What I find very difficult to understand—and I am sure most Australians would find it difficult to understand—is why through this process we have somehow made a partner of a veteran less important than the veteran themselves. These are people for whom we have had a special measure because they have cared for a veteran. When people go into a theatre of war, in many circumstances they unfortunately bring it back. Wives have told me, and I am sure many of us in this place have been told, ‘When my husband came back from war we stayed at war.’ We acknowledge the fact that the partner is so important to the continued wellbeing of the veteran that we should treat them differently to welfare recipients. This is an acknowledgment of the special role that that partner plays.

These changes in the legislation appear, Minister, to look at the position of partners and say: ‘We will look after the veterans. No veteran will be worse off.’ The actual payment to the veteran might be to the letter of the law, Minister, but I think it is going to be very hard to convince people that the veteran is somehow better off in the many circumstances where they still rely on their partner. They may be separated from their partner but they still rely on them, particularly when the veteran gets ill. We have found many circumstances where partners return and become the carer again. They may not live in a marriage-like relationship, but the partner certainly is a carer again. I think we are walking away from a position where we have given particular importance to the partner.

That is why the opposition have been somewhat miffed at the motive for this. I understand that the razor gang has been out and everybody has to do their bit of cutting. It is a tough business; I acknowledge that. This issue is too sensitive to politicise, so I acknowledge that everyone has their job to do. You say they are no worse off, but $28 million does not come from me and you, Minister. Somebody else has made a contribution. And if you say it is not the veterans then the only demographic left is veterans’ partners. Veterans’ partners are going to be $28 million or thereabouts worse off. That is an awful lot of money in quite a small group of people. Whilst I appreciate the answers to the questions, the opposition are completely unconvinced by them.

We are going to support the government amendments. The amendments substantially deal with section 2AA, and I think that is a fundamental that will move the legislation forward. It will not go to where we want it to go, but we will always support amendments that move legislation to a better place. I think that is the job of everybody in here. The amendments do not move the legislation to where we think it should be, but we are happy to support them because they do move it to a better place.

I have to say, Minister, that there are still many questions. I have been in the same position in this chamber and I know that the provision of information on short notice can be very difficult. I acknowledge you have done your best. But I am left with the feeling
that many of these issues have not been properly thought out. As I said earlier, this has been policy on the run. I acknowledge I make mistakes every day in my life. I just get on with it and change them and fix them. And that is obviously what has been done here. Clearly we have acknowledged that there have to be some changes. There has been some feedback and the government has now moved to make changes. But perhaps the best thing would have been to take the advice of a number of individuals who were very close to the matter. Some time ago, when the legislation was originally dealt with, the shadow minister for veterans’ affairs and member for Greenway, Louise Markus, moved a second reading amendment, which said the House:

…condemns the Government’s stubborn determination to insist that from 1 January 2009 partners who are separated but not divorced from their veteran spouse and who have not reached the age for the age pension, will have their partner service pension eligibility cease 12 months after being separated or immediately if the veteran enters a marriage-like relationship …

That was a very difficult time. Nobody in this place wants suddenly to step in the way of a budget measure. It was a big deal. Suddenly we were all responsible and people were going to hit us on the head with hammers. This is a slightly different circumstance, but the amendments are perfectly where we are going. They are where we should have been going right back then. I think the member for Greenway needs to be commended for the foresight of that particular amendment.

The coalition will be supporting your amendments but we will be bringing other amendments forward. You say the test for this is that veterans will be no worse off, but not only is this a test about veterans; it is a test about families. In these circumstances we cannot excise an individual from the family or community unit, say, ‘We’re just dealing with him,’ and forget about the support groups that naturally support him. All the veterans will tell you that there is no-one more important than their partner. They will acknowledge that, even if they are separated from their partner and the circumstances are not perfect, the most important thing in the period of their lives since they returned from whatever theatre they were in has been their partner. I do not think we can separate them. The government has said, ‘We can’t take it off veterans but in this area who else can we take it off?’ That has enabled it to cut some $28 million. It sounds a lot of money to someone outside this place. Because of the sort of pain and lack of support that this will involve, and in view of the fact that we do not appear to have done much modelling, it is not something we support. We will be supporting the amendment, but we will be moving further amendments so we can have a better circumstance.

Senator McLucas (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.52 pm)—Can I first of all say thank you to Senator Scullion for his indication of support for amendments (1) to (7). The government’s position is about ensuring that benefits reflect a person’s circumstances. I think we all know and recognise that the group of people we are discussing have very varied circumstances. There are the people whom Senator Scullion just described—those people for whom war has not ended. Their partners have provided support, through very difficult times, to their veteran partners. That is why we moved those amendments. Those are the people we want to ensure continue to be supported. The group of people Senator Scullion is talking about are the people who will be picked up by the government amendments that we are dealing with at the moment.
The government’s position is about ensuring that benefits reflect a person’s own circumstances, and we all know that the circumstances of this group of people are extremely varied. There will be people who are more appropriately provided with support through another payment mechanism or in fact encouraged and supported into employment. So this is an equity measure; this is a fairness measure. This is a measure that is designed to ensure that people get the entitlements for which they are eligible, and I think that in the veterans community in particular that is a principle that we all hold dear. People need to be eligible for an entitlement to receive that entitlement.

The government understand that certain separated partners require special consideration. That is why we have moved the amendments. It is dealt with through eligibility for illness separated status. In those circumstances where the separation has resulted from the psychological condition of the veteran due to his war service, the additional eligibility provisions come into effect. Can I assure the Senate that, under the government’s amendments, those genuinely affected are able to put their case forward and it will be sympathetically considered.

Question agreed to.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.54 pm)—The government opposes schedule 2 in the following terms:

(8) Schedule 2, Part 3, page 20 (lines 2 to 23), **TO BE OPPOSED**.

The TEMPORARY CHAIRMAN (Senator Trood)—The question now is that Schedule 2, part 3 stand as printed.

Question negatived.

Senator SCULLION (Northern Territory) (10.55 pm)—The opposition opposes schedule 2 in the following terms:

(1) Schedule 2, items 5, 6 and 7, page 18 (line 7) to page 19 (line 10), items 5, 6 and 7 (as amended) **TO BE OPPOSED**.

The TEMPORARY CHAIRMAN—The question is that Schedule 2, items 5 to 7, as amended, stand as printed.

Question agreed to.

Bill, as amended, agreed to.

The TEMPORARY CHAIRMAN—The question now is that Schedule 2, items 5 to 7, as amended, stand as printed.

Question agreed to.

Bill read a third time.

**ADJOURNMENT**

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (10.58 pm)—That the Senate do now adjourn.

**World AIDS Day**

**Kokoda Development Program**

Senator McEWEN (South Australia) (10.58 pm)—Today marks the 20th anniversary of World AIDS Day. It is important on this occasion that we remember the devastation caused by HIV/AIDS in our own country and elsewhere in the world. While we reflect on the pain it has brought and continues to bring to millions of people, it is important to look on what we are doing about it. In 2008-09 the Australian government will invest more than $28 million in programs in Australia to prevent and treat HIV and other sexually transmissible infections. This investment is in addition to existing government initiatives to implement a robust response to chlamydia and other STIs, including HIV. These initiatives include more than $12.5 million from 2005-06 to 2010-11 for
increased awareness, improved surveillance and a pilot testing program for chlamydia, and $9.8 million from 2007-08 to 2010-11 for a national STI prevention campaign.

In 2007-08, the Australian government spent around $127 million for Highly Specialised Drugs Program medications for HIV-AIDS, and we can only hope that with significant investment in preventative measures we can see that medication bill decrease. I also note with pleasure the announcement today that the government intends to re-establish the parliamentary liaison group on HIV-AIDS, a very important cross-party group of senators and members keen to work together on this issue.

At the end of 2007, there were an estimated 33 million people living with HIV worldwide. In addition, an estimated 2.7 million new HIV infections and about two million AIDS related deaths were recorded globally. The Rudd Labor government recognise HIV-AIDS as a global problem so, while investing at home, we are also providing assistance overseas. Today the government announced that we will commit $150,000 over two years to the Albion Street Centre in Sydney to coordinate a very important network of 30 regional World Health Organisation collaborating centres for HIV-AIDS across 10 countries in our Asia-Pacific region.

Globally, while sub-Saharan Africa remains the most seriously affected region, accounting for 67 per cent of all people living with HIV in 2007 in the world, Australia’s nearest neighbour, Papua New Guinea, is also facing a growing HIV epidemic. Papua New Guinea has the highest HIV-AIDS and STI rates in the Asia-Pacific region, and this is a great impediment to the future development of this nation—a nation to which Australia owes much for the support the people of New Guinea gave to Australian troops during World War II. It is an unfortunate truth that the less developed, or poor, nations of the world like Papua New Guinea and the African nations are disproportionately affected by HIV-AIDS. The best defence against HIV-AIDS spreading is to build in those nations a workable economy which provides proper health care, education, infrastructure and employment opportunities for all.

An AusAID commissioned report concluded that, unless interventions to address the spread and impact of HIV-AIDS in Papua New Guinea are scaled up, by 2025 in that country over 500,000 people will be living with HIV-AIDS, 117,000 children will have lost their mothers to AIDS, the workforce will have declined by 12½ per cent, GDP will be 1.3 per cent less than predicted and 70 per cent of all hospital beds will be needed for AIDS patients. These figures help us to see just how important it is for Australia to assist our nearest neighbour. I am pleased to note that Australia is doing that through the PNG-Australia HIV and AIDS Program. This $100 million, five-year program commenced in January 2007 and is run through AusAID. The program focuses on preventing the spread of HIV, partly through addressing some of the difficult issues underlying the epidemic, including gender inequality, health systems and surveillance capacity. The program also focuses on providing treatment, care and support for those infected and affected by HIV-AIDS.

The Kokoda Development Program is another positive program designed to assist PNG make progress. I was pleased to see an announcement in November this year by the Minister for the Environment, Heritage and the Arts, Mr Peter Garrett, and the Parliamentary Secretary for International Development Assistance, Mr Bob McMullan, regarding the opening of a refurbished health facility on the Kokoda Track at Efogi as part
of this program. Every Australian who has walked the Kokoda Track would have been to Efogi village, an important site in the history of World War II. The health facility at Efogi is just the beginning of a program that is sure to bring many benefits to the region. The Kokoda Development Program will improve access to basic services for people living along the Kokoda Track through a number of initiatives, including the placement of water tanks and toilets in villages along the track, training for more than 50 village health volunteers, the provision of curriculum materials for schools, the installation of new high-frequency radios for needy villages and support for the restoration of regular air transport services. It is very commendable that Australia is giving something back to those living along the Kokoda Track, who are so hospitable to the many Australians who walk there for the adventure and to remember our shared military history. It is a journey that should support the PNG tourism industry and, in turn, the people of Papua New Guinea.

I am pleased to say I am one of thousands of Australians who have received a gracious welcome from the people of Papua New Guinea. I walked the track in 2004 and I well remember the night that I spent at Efogi. Walking the Kokoda Track is a sobering experience, and it is an experience I know I share these days with a number of my parliamentary colleagues, including of course Prime Minister Kevin Rudd and, in this chamber, Senator Guy Barnett.

I returned to Papua New Guinea in October this year to walk another, lesser known track in the north-east of that beautiful country and to explore another famous military site and significant part of Australia’s war history. Shaggy Ridge is a track and a battle site on a ridge that is the highest feature in the Finisterre Ranges in north-eastern New Guinea. The ridge was named after Captain Robert ‘Shaggy Bob’ Clampett of the 2/27 Battalion, whose company was the first to reconnoitre its approaches. Many of the battalions who had fought on the Kokoda went on to fight on Shaggy Ridge. In 1943 the ridge was the site of the main Japanese defensive position blocking access from the Ramu Valley to the track and to the road network that joined it with the north coast. Operations by the 7th Australian Division in September and October 1943 had caused the Japanese to withdraw from the Ramu Valley and the lower features of the Finisterres and consolidate their defences around Shaggy Ridge.

Having traversed Shaggy Ridge, it was interesting for me to walk through the villages below the ridge, following again the route that the Australian soldiers took on their way to the coast after the battles on the ridge. As on the Kokoda Track, the people in this part of Papua New Guinea can see the value in a burgeoning interest in this new trekking adventure and the potential for Australians with backpacks to provide much-needed income for villages along the route. As on the Kokoda, the people in this area of Papua New Guinea are very, very proud of their support for Australians during World War II and want to work with the trekking companies showing an interest in developing this new adventure, particularly for Australians.

We know that sometimes tourism is a cause of the spread of HIV-AIDS in many countries, but in Papua New Guinea tourism and the development of a growing trekking industry have the potential to provide village level development assistance which is not government funded and which is genuinely owned, supported and controlled by the people of Papua New Guinea. It is, I believe, with that sort of development that we can truly help the people of Papua New Guinea to address the scourge of HIV-AIDS. I would like to thank the people of Papua New

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Guinea for allowing me to again enjoy an adventure in their beautiful country.

**National Association for Prevention of Child Abuse and Neglect**

**Senator ELLISON** (Western Australia) (11.07 pm)—Today Parliamentarians against Child Abuse and Neglect hosted an important event which showcased an initiative which I think is a standout in the protection of children. This parliamentary group is a very important one. It not only offers bipartisan support in a very important area for Australia’s children but also will provide a means for the future where we can address challenges which face the children of Australia. It is co-chaired by Senators Arbib and Kroger, and I congratulate them and members of this group on the great work they do. The initiative today concerned NAPCAN’s website called SOSO. SOSO stands for ‘Smart online is safe offline’. I was very impressed to see the great success that this has achieved in such a short space of time. It is targeted at some 2.4 million children across Australia, and it is estimated that over 80 per cent of children access the internet in Australia today. That demonstrates the need for such a website. Whilst the internet can be a great source of education, it can also pose a threat to children whereby predators can prey upon them. As Minister for Justice and Customs in the previous government I provided funding for this initiative, and I am very pleased to see that the current government have continued the support for this initiative. I congratulate the government with regard to that and urge them to continue that great support for what I think is an initiative which is going to see some very good results indeed.

The program deals directly with children and in a manner that appeals to children but also uses language which they readily understand. It has an advertisement which is being run on the Cartoon Network system, and around 1.6 million children have interacted with this advertisement. I tested my own children, my nine-year-old twins, this evening and they knew it very well. I did not even know it was there on the Cartoon Network but they knew all about it, and I think that is some testament to the cut-through of this initiative. If you do not believe that, the statistics spell it out very clearly. When you compare it to the Cybersmart site, which over a period of six months this year had just over 14,000 hits, in six weeks the SOSO site has had just over 43,000 hits. That demonstrates a great response it has had from children across Australia. Some 10 per cent of those have accessed the ‘Dob in a Creep’ part of the site, which deals with situations where children think that they know of someone who is not who they say they are and they are really up to no good. This is very encouraging. It demonstrates that the children of Australia are awake to this threat. Some of them have accessed that part of the site, if for nothing more than just to get more information.

I commend NAPCAN on the great work it is also doing with the industry in this regard. Marie Faulkner, the CEO, outlined today the partnership that has been developed between NAPCAN and the industry. I commend such providers as Telstra, Yahoo, MySpace, ninemsn, Microsoft and Ten, to name just a few. It is this partnership which will make this initiative such a success. I commend the industry for the work that they do in relation to this as well.

I will also mention the terrific work the Australian Federal Police have been doing in this area. I do not think many Australians appreciate just what a world leader the Australian Federal Police are. They have been leaders in the international fight against online child sexual exploitation, and when the virtual global task force was set up, the
24/7 taskforce dealing with paedophilia on the internet internationally, the AFP were there at the forefront. They have continued to lead in that regard. When I was in the United Kingdom in July this year, I visited the child protection agency and in particular their online child protection section, and they acknowledged the great work that the Australian Federal Police are doing in this regard. They too are partners with NAPCAN in this regard. The AFP have developed great technology in assisting in areas such as this. The Australian High Tech Crime Centre, which has now been transferred into the high-tech operations centre, is a crucial part of this, and the AFP continues to work with people such as the FBI, the Royal Canadian Mounted Police and the United Kingdom authorities as well.

The internet knows no geographical boundaries, and when a child in Australia accesses the internet they could be talking to anyone in any country in the world. That is why we need this international effort. What is so important with NAPCAN is that they are appealing directly to the children themselves and raising that awareness, informing them and giving them this crucial assistance they need in dealing with the internet. The industry in turn is providing chat rooms which are safe and secure and have moderators who can more or less peer over the shoulder of a child accessing that chat room. I think that is something for the future which can provide security and assurance for parents who are concerned about their children who access the internet. Certainly I am in that number. The internet is a source of great education, great benefit for Australia’s children, and it should not be cut off from them. What we have to ensure as a responsible parliament is that, with the partnership of the private sector and law enforcement, we put in place those measures which can provide safety for our children in accessing the internet.

I urge all parliamentarians to access SOSO, ‘Smart online is safe offline’. It is a great initiative, and I certainly commend the work that the recently formed Parliamentarians against Child Abuse and Neglect are doing and wish them well in the future because they have a broad challenge in front of them but perhaps one of the most important challenges in this parliament. I think it is fair to say that this is one of those truly bipartisan areas that we see in the Senate.

Mr Cecil Angus ‘Mick’ Boston

Senator WILLIAMS (New South Wales) (11.15 pm)—I rise tonight to present my first adjournment speech to this parliament and to talk about a friend who passed away last week—Cecil Angus ‘Mick’ Boston, aged 87. Mick was born in Naracoorte in 1921, the son of dairy farmers Alan and Alice and brother to Thomas and Roma. He adopted the name ‘Mick’ while attending high school because he felt that Cecil was far too sissy for a boy. Mick was one of those types back in that generation who were brought up to work hard during tough times, but who appreciated life. During the Depression in the 1930s, the kids would get out of bed early to take the dairy cows out to the rented paddocks, delivering fresh milk along the way, and in the afternoon take them back in for milking.

Mick Boston loved his cycling and took part in four South Australian championships and twice started in the legendary Melbourne to Warrnambool race. Mick’s first job after school was with the South Australian Railways, and that is where he came across a wonderful young lady in Elma Alice Lewis, who was working in the refreshments rooms at Wolseley Station. They were married in 1945. They moved to Adelaide while still with the railways and Mick studied to get a
diploma in automotive engineering. He ended up working with Maughan Thiem Motors in Adelaide. He became a brilliant mechanic—in fact, he was the only mechanic allowed to work on the boss’s car. About this time his first sons, Richard and Deane, were born, but unfortunately a third son, Trevor, only lived for a few months. Mick became manager of the bus service between Jamestown and Riverton, and the family moved to Jamestown, the very community where I was privileged to grow up. His daughter, June, was born in 1955 and his other son, Greg, or as we know him, ‘Lofty’, came along in 1957.

Mick was a bit of revhead, and he built and drove his own speed car. He was also a brilliant engineer, and in 1956 he designed and constructed the largest bus in the Southern Hemisphere—44 feet long and seating 54 passengers. He got the chassis of a Mack truck and another chassis of an Albion truck and joined them together to construct this big bus. I recall a night when I was sitting in the Jamestown hall having a beer with Mick during one of the local cabarets. He was telling me how he went down to a hardware shop in Adelaide to buy the rivets for this bus. He took a sample and he said to the chap behind the counter, ‘Do you have any of these rivets?’ The young fellow said: ‘Yeah, we’ve got some of them, sir. How many would you like?’ Mick said, ‘I’d like 31,000.’ The young fellow said, ‘Thirty one thousand; what are you doing?’ Mick said, ‘I’ve got to make a bus. I’ll have to hold it together somehow!’ This was Mick Boston, the engineer and the designer. He sold the bus company and started Boston Motor Repairs in 1962 in Jamestown. It was in 1964 that he lost his great partner, Elma, and Mick went on to run his business and rear his children. His son Deane joined his mechanic shop soon after. I remember being at school one day when the teacher said, ‘Boston, for all the good it does you being at school, you might as well not be here.’ The next day he was not at school; he was in the mechanic shop pulling spanners, under the stern guidance and direction of his father, Mick. I can say that Deane went on to become, I would say, one of the best mechanics this nation has ever seen.

In 1967 Mick took on the Ford franchise in Jamestown. To this very day his eldest son, Richard, still runs Boston Ford. Mick worked hard. I remember the time he had a crook back, I think because a car dropped on him from a tow truck when something went wrong. Mick would walk around the shop like a half opened pocket knife with this terrible back, but he would never stop. He was always there to do his job and to help people. In 1968 he married Rosemary Koop, who was to be his partner for the rest of his life, and he inherited two lovely stepdaughters in Colleen and Nina. Nick was very involved in the Freemasons and was master of the Victoria Lodge in 1974 and later had more honours awarded to him.

Mick was a great contributor to the Jamestown community and got involved in local government. He became deputy mayor of Jamestown and then mayor for 15 years to lead up the Jamestown Council. He was Australia Day Citizen of the Year for the Northern Areas Council in 1999 and the same year was awarded an OAM. I think that that says a lot about him. During his funeral the other day there was a cartoon of him that was typical Mick. Mr President, you would recall the old hand pumps above the underground wells, or perhaps you are not old enough. You would use the hand pumps to pump the water out. In the cartoon, Mick was holding one of these pumps above the bonnet of a car. The car had done its water pump and Mick was saying, ‘Well, it’s not the right type of pump, but I’m sure I can make it fit.’ This was typical of him; he was a talented
man. As I said, he was a brilliant mechanic and a brilliant engineer. There was not much that he could not do. I think Len Jones, one of the local identities, said it all at his funeral the other day. He said:

… locomotive fireman, motor mechanic, coach builder, engineer, businessman extraordinaire, Mayor, Master Mason and town identity. Known by all, and loved by those who knew him best. I think the only reason he left us was that there was little left for him to achieve. Mick, your lamp may be out but your light shines on …

As I said, Mick was a talented man, and a man I can proudly say built a better community in the town of Jamestown where he lived. I give my best regards and condolences to his family.

Ms Joy Palmer

Senator MOORE (Queensland) (11.21 pm)—Tonight I want to pay tribute to a strong woman trade unionist. Last month in South Australia, Joy Palmer, a good woman and a strong woman, lost her battle with breast cancer. I first met Joy Palmer in the 1980s. During that period there was massive restructuring in the Australian Public Service. Joy was then a national office bearer and state secretary of her union, the then Australia Public Service Association. This was the union that looked after fourth division members in the Australian Public Service, particularly women who worked in clerical assistant and keyboard areas.

During the 1980s, there was massive restructuring in the Australian Public Service, which led to an improved public sector that gave greater job opportunities and career opportunities to people from the fourth division, making a more streamlined and career focused public sector. Joy Palmer led that battle. During that battle, she was able to be a role model and an inspiration for many women in the public sector. That is what I like to remember about Joy. She made us feel that any job was able to be done by a woman and that we all had the opportunity to have training and development and to take a place in all debates and negotiations. These skills were her strength, and they also provided so much inspiration to so many people.

My union, the Community and Public Sector Union—which was formed out of the then Australian Public Service Association and my old union, the Administrative Clerical Officers Association—owed a lot to Joy Palmer. She took on the role of one of the first national presidents of that union after struggling for several years to engage members across the public sector and to sell the values and the effectiveness of a combined union. There was great opposition to that particular idea at the time. People felt that somehow we would lose our identity and that there would be a loss in forming an amalgamated association. Joy understood that a unified, strong public sector union would be the way of the future and also, most importantly, would give everyone an opportunity to have careers and to form a focus for themselves that would lead to a better functioning public sector with a role for all the members. She took that battle across Australia. I well remember going to public meetings across this country where, against some opposition, she was able to sell the attributes of this unified association and how it would better operate. She won that battle, as, indeed, she won many battles in her life.

Her own union career started in 1967 as a clerical assistant in the old Telecom. She almost immediately became a workplace representative for her union and also a member of the section committee. That began an association with workers that lasted for over 40 years. During that time, she actually held positions across a range of union associations not just within the public service but also within the South Australian trade union movement. Throughout that process, Joy consistently worked to ensure that members
had better opportunities and were able to find their own place in the trade union movement and in the wider community. There were many battles in which Joy was a leader. One of the things she was able to do very early on in her area was to look at the role of permanent part-time work in the Australian Public Service. That was an issue that, up until then, had tended to be a women’s issue and had been pushed aside. Women’s issues were consistently not given the same value in debates as other workplace issues. This was not an argument that stood well with Joy Palmer. In fact, with a number of women across the movement, she was able to ensure that strong arguments could be put forward that would be effective in any negotiation. It was so much the better if those arguments were put forward by women.

The union, the CPSU, posted a webpage where people were able to put forward their memories of Joy and give messages of support and sympathy to her partner, Peter Christopher, and their son, Matt. There were a number of messages from men and women—but particularly women—who remembered the inspiration that Joy gave them to find their own place in the labour movement. I want to quote one of my friends, Kate Coleman, who was also the secretary of the union in South Australia. She said of Joy: Her passion was irrepressible and it was easy to believe that with enough determination and hard work, anything is possible. Joy was a very special woman to very many people.

Louise Persse, who is the current CPSU National President, remembers many meetings where these discussions were held. I think this sums up the kind of inspiration that Joy gave to so many of us:

The presence of people like Joy in the early part of my union membership made it seem natural to me that women should take on leadership roles in the union—in my youth, I don’t think I realised what a pioneer she was.

Indeed, we now know that Joy Palmer was a real pioneer and gave such hope and inspiration to so many of us.

After Joy left the mainstream CPSU, she went on to work in a range of organisations supporting women in the community, but, most importantly, one of her real passions was the issue of superannuation and the establishment of equity in this area. Joy was particularly focused on women’s entitlements in this process. We know that over many years there has been a lack of opportunity for women to have solid access to superannuation entitlements. Joy acknowledged this. She worked very strongly to make sure that there was equal access to superannuation and, more importantly, that people understood their own entitlements. She worked tirelessly to make sure that people understood the way that superannuation operated and to train and encourage people to learn more about this great workplace condition and to demand equity of opportunity. When Joy died, in newspapers throughout South Australia there were various statements made. A couple of them were put in by the superannuation bodies for which she had worked. They stated just how much value she had given to making superannuation better understood and to entrenching the right to superannuation in workplace conditions.

Joy Palmer worked for over 40 years for workers. She ensured that there were practical outcomes for workers across all areas of the industry, but particularly where her heart was—in the Australian Public Service. I remember Joy working tirelessly in the area of repatriation hospitals. Repatriation hospitals were being sold in the 1990s. She ran many meetings across this country, working with the people who were caught up in the process of restructuring and sales and who were concerned and fearful about their future and worried about what was going to happen to
them. Joy remained strong and resolute throughout the process and fought through negotiation to ensure that people were treated with respect.

One of the things that Joy was involved with was advocacy for the development of effective employment policies and programs in the APS. You would remember, Mr President, how important it was during the 1980s and early 1990s to ensure that there were effective planning processes put in place in workplaces. I remember that one of the issues on which she worked was that of sexual harassment in the workplace. Again, she made sure that there was effective training and education and that workers had genuine knowledge about their entitlements and that there was no worker who would be victimised by conditions in their workplace.

We need women like Joy Palmer in the trade union movement. We respect the work that she did and we miss her now that she has passed away. But memories of her will continue to provide the inspiration that will ensure that the kinds of sentiments that I have mentioned this evening will not be forgotten and that her leadership, through her various roles as state and national office bearers in the union and also her work in superannuation, will not be forgotten. Her legacy is that there are large numbers of women who now accept that there is no role that they cannot fulfil and that they have rights and responsibilities in their workplaces.

We miss you, Joy. We also want to pass to Peter Christopher and Matt our condolences and assure them that Joy’s memory will not be forgotten.

Veterans Entitlements

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.30 pm)—Earlier in the debate this evening on the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008, Senator Scullion asked me a question about the number of people who had contacted the Department of Veterans’ Affairs to express concern about the changed arrangements for the partner service pension. Inadvertently I did not provide an accurate answer and I want to correct the record by saying that approximately 120 individuals contacted the Department of Veterans’ Affairs to express concern about the proposed changes to the partner service pension. I wonder if the Opposition Whip could make sure that Senator Scullion is aware of that.

Senator adjourned at 11.32 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


Broadcasting Services Act—

Broadcasting Services (Anti-terrorism Requirements for Open Narrowcasting Television Services) Standard 2008 [F2008L04443]*.

Broadcasting Services (Anti-terrorism Requirements for Subscription Television Narrowcasting Services) Standard 2008 [F2008L04444]*.

Civil Aviation Act—

Civil Aviation Regulations—Instrument Nos CASA—

558/08—Authorisation, permission and direction – helicopter special operations [F2008L04277]*.

627/08—Direction — number of cabin attendants [F2008L04468]*.
629/08—Designation of airspace for broadcast requirements – aerodrome with certified air/ground radio services [F2008L04530]*.


Commissioner of Taxation—Public Rulings—
Taxation Ruling—Notice of Withdrawal—TR 2000/12.


Environment, Protection and Biodiversity Conservation Act—
Amendments of lists of exempt native specimens—
EPBC303DC/SFS/2008/32 [F2008L04453]*.
EPBC303DC/SFS/2008/39 [F2008L04532]*.

Heritage theme for prioritising nominations for assessment for the National Heritage List for the assessment period commencing 1 July 2009 [F2008L04416]*.

Excise Act—
Excise By-Law (Amendment) 2008 (No. 1) [F2008L04519]*.

Excise By-Law Nos—
155 [F2008L04515]*.
156 [F2008L04516]*.

Higher Education Support Act—
Other Grants Guidelines (Education) 2008 [F2008L04362]*.
Other Grants Guidelines (Research) 2008 [F2008L04398]*.

National Health Act—
Arrangements No. PB 122 of 2008—Botulinum Toxin Program [F2008L04527]*.

Instruments Nos PB—
113 of 2008—Declaration and determination – drugs and medicinal preparations [F2008L04383]*.
114 of 2008—Determinations – pharmaceutical benefits [F2008L04397]*.
115 of 2008—Determination – responsible persons [F2008L04412]*.
116 of 2008—Determination – prescription of pharmaceutical benefits by authorised optometrists [F2008L04414]*.
117 of 2008—Determination – drugs on F1 and drugs in Part A of F2 [F2008L04415]*.
118 of 2008—Price determinations and special patient contributions [F2008L04418]*.
119 of 2008—Determination – conditions [F2008L04420]*.
120 of 2008—Special Arrangements – highly specialised drugs program [F2008L04413]*.
121 of 2008—Special Arrangements – Chemotherapy Pharmaceuticals Access Program [F2008L04422]*.
123 of 2008—Special Arrangements: Special Authority Program – Trastuzumab [F2008L04428]*.

Social Security Act—

Social Security (Australian Government Disaster Recovery Payment) Determination 2008 (No. 4) [F2008L04534]*.


* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Liquified Petroleum Gas Vehicle Conversion Scheme
(Question No. 785)

Senator Abetz asked the Minister for Innovation, Industry, Science and Research, upon notice, on 11 November 2008:

In regard to the Liquified Petroleum Gas Vehicle Conversion Scheme:

1. What is the value of grants paid to date for the 2008-09 financial year
2. What is the total number of grants paid for the (a) $2000 retrofit and (b) $1000 new car fit
3. Has any request been made to the Minister for Finance and Deregulation or the Department of Finance and Deregulation, to rephase the scheme’s funding from the forward estimates period to the 2008-09 financial year; if so (a) on what date was the request made; (b) how much was requested to be brought forward; and (c) has a response been finalised; if so (i) when was the response finalised, and (ii) was the phasing approved.
4. (a) If no request has been made to rephase the scheme’s funding from the forward estimates period to the 2008-09 financial year, why not; and (b) will such a request be made during the 2008-09 financial year; if so, when and for how much.

Senator Carr—The answer to the honourable senator’s question is as follows:

1. The value of grants paid to 16 November 2008 for the 2008/09 financial year is $88.689 million.
2. (a) The total number of $2000 grants paid to 16 November 2008 is 184,656.
   (b) The total number of $1000 grants paid to 16 November 2008 is 1,382.
3. It is not appropriate to comment on Budget processes.
4. It is not appropriate to comment on Budget processes.