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the Senate and committee hearings are available at

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SITTING DAYS—2009

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FORTY-SECOND PARLIAMENT
FIRST SESSION—FOURTH 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 Stephen Shane Parry

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 Fiona Nash
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
Chief Government Whip—Senator Kerry Williams Kelso O’Brien
Deputy Government Whips—Senators Donald Edward Farrell and Anne McEwen
Chief Opposition Whip—Senator Stephen Shane Parry
Deputy Opposition Whips—Senators Judith Anne Adams and David Christopher Bushby
The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert
Family First Party Whip—Senator Steve Fielding

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

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

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

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

Prime Minister
Hon. Kevin Rudd, MP

Deputy Prime Minister, Minister for Education,
Minister for Employment and Workplace Relations
and Minister for Social Inclusion
Hon. Julia Gillard, MP

Treasurer
Hon. Wayne Swan MP

Minister for Immigration and Citizenship and Leader of
the Government in the Senate
Senator Hon. Chris Evans

Special Minister of State, Cabinet Secretary and Vice
President of the Executive Council
Senator Hon. John Faulkner

Minister for Finance and Deregulation
Hon. Lindsay Tanner MP

Minister for Trade
Hon. Simon Crean MP

Minister for Foreign Affairs
Hon. Stephen Smith MP

Minister for Defence
Hon. Joel Fitzgibbon MP

Minister for Health and Ageing
Hon. Nicola Roxon MP

Minister for Families, Housing, Community Services
and Indigenous Affairs
Hon. Jenny Macklin MP

Minister for Infrastructure, Transport, Regional
Development and Local Government and Leader of
the House
Hon. Anthony Albanese MP

Minister for Broadband, Communications and the
Digital Economy and Deputy Leader of the
Government in the Senate
Senator Hon. Stephen Conroy

Minister for Innovation, Industry, Science and Research
Senator Hon. Kim Carr

Minister for Climate Change and Water
Senator Hon. Penny Wong

Minister for the Environment, Heritage and the Arts
Hon. Peter Garrett AM, MP

Attorney-General
Hon. Robert McClelland MP

Minister for Human Services and Manager of
Government Business in the Senate
Senator Hon. Joe Ludwig

Minister for Agriculture, Fisheries and Forestry
Hon. Tony Burke MP

Minister for Resources and Energy and Minister for
Tourism
Hon. Martin Ferguson AM, MP

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<td>Hon. Bob Debus MP</td>
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<td>Assistant Treasurer and Minister for Competition Policy and Consumer Affairs</td>
<td>Hon. Chris Bowen MP</td>
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<td>Minister for Veterans’ Affairs</td>
<td>Hon. Alan Griffin MP</td>
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<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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<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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<td>Parliamentary Secretary for Climate Change</td>
<td>Hon. Greg Combet AM, MP</td>
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<tr>
<td>Parliamentary Secretary for Defence Support and Parliamentary Secretary for Water</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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<tr>
<td>Parliamentary Secretary for Disabilities and Children’s Services and Parliamentary Secretary for Victorian Bushfire Reconstruction</td>
<td>Hon. Bill Shorten MP</td>
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<tr>
<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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<tr>
<td>Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Trade</td>
<td>Hon. Anthony Byrne MP</td>
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<td>Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector</td>
<td>Senator Hon. Ursula Stephens</td>
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<td>Senator Hon. Jan McLucas</td>
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<td>Hon. Laurie Ferguson MP</td>
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<td>Parliamentary Secretary for Government Service Delivery</td>
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SHADOW MINISTRY

Leader of the Opposition
The Hon Malcolm Turnbull MP

Shadow Minister for Foreign Affairs and Deputy Leader of the Opposition
The Hon Julie Bishop MP

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

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

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

Shadow Treasurer
The Hon Joe Hockey MP

Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House
The Hon Christopher Pyne MP

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

Shadow Minister for Finance, Competition Policy and Deregulation
Senator the Hon Helen Coonan

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

Shadow Minister for Energy and Resources
The Hon Ian Macfarlane MP

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

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

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

Shadow Minister for Health and Ageing
The Hon Peter Dutton MP

Shadow Minister for Defence
Senator the Hon David Johnston

Shadow Attorney-General
Senator the Hon George Brandis SC

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

Shadow Minister for Employment and Workplace Relations
Mr Michael Keenan MP

Shadow Minister for Immigration and Citizenship
The Hon Dr Sharman Stone

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

[The above constitute the shadow cabinet]
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<td>Shadow Minister for Financial Services, Superannuation and Corporate Law</td>
<td>The Hon Chris Pearce MP</td>
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<td>Shadow Assistant Treasurer</td>
<td>The Hon Tony Smith MP</td>
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<td>Shadow Minister for Sustainable Development and Cities</td>
<td>The Hon Bruce Billson MP</td>
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<td>Shadow Minister for Competition Policy and Consumer Affairs and Deputy Manager of Opposition Business in the House</td>
<td>Mr Luke Hartsuyker MP</td>
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<td>Shadow Minister for Housing and Local Government</td>
<td>Mr Scott Morrison</td>
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<td>Shadow Minister for Ageing</td>
<td>Mrs Margaret May MP</td>
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<td>Shadow Minister for Defence Science and Personnel and Assisting Shadow Minister for Defence</td>
<td>The Hon Bob Baldwin MP</td>
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<td>Shadow Minister for Veterans’ Affairs</td>
<td>Mrs Louise Markus MP</td>
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<td>Shadow Minister for Early Childhood Education, Childcare, Status of Women and Youth</td>
<td>Mrs Sophie Mirabella MP</td>
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<td>Shadow Minister for Justice and Customs</td>
<td>The Hon Sussan Ley MP</td>
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<td>Dr Andrew Southcott MP</td>
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<td>Senator the Hon Ian Macdonald</td>
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<tr>
<td>Shadow Parliamentary Secretary for Roads and Transport</td>
<td>Mr Don Randall MP</td>
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<td>Shadow Parliamentary Secretary for Regional Development</td>
<td>Mr John Forrest MP</td>
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<td>Shadow Parliamentary Secretary for International Development Assistance and Shadow Parliamentary Secretary for Indigenous Affairs</td>
<td>Senator Marise Payne</td>
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Wednesday, 11 March 2009

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

TEMPORARY CHAIRMEN OF COMMITTEES

The PRESIDENT—Pursuant to standing order 12, I lay on the table a warrant nominating Senator Bernardi as an additional Temporary Chairman of Committees when the Deputy President and Chairman of Committees is absent.

COMMITTEES

Legal and Constitutional Affairs Committee

Meeting

Senator O’BRIEN (Tasmania) (9.31 am)—by leave—At the request of the Chair of the Senate Standing Committee on Legal and Constitutional Affairs, Senator Crossin, I move:

That the Legal and Constitutional Affairs Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1.45 pm.

Question agreed to.

FAIR WORK BILL 2008

Second Reading

Debate resumed from 10 March, on motion by Senator Ludwig:

That this bill be now read a second time.

upon which Senator Hanson-Young moved by way of an amendment:

At the end of the motion, add:

“but the Senate calls on the Government to bring forward amendments to its industrial relations legislation to provide for paid parental leave in this year’s budget”.

Senator CROSSIN (Northern Territory) (9.32 am)—I rise this morning to continue my contribution in this chamber on the Fair Work Bill 2008. This bill is of course based on the corporations power, not the conciliation and arbitration power as was previous industrial relations legislation in this country. This means that the new workplace relations system will cover all employees of employers who are trading corporations. Awards will no longer be the result of the arbitration of interstate industrial disputes but common rules for industries or occupations. Also, unions will not have to apply to vary every award each year for a national wage case.

I now turn to some of the main issues that I have heard my colleagues opposite raise. Perhaps two most significant areas were raised during the hearings of the Senate Employment, Workplace Relations and Education Legislation Committee. Bear in mind that, out of all of the chapters of the legislation and all of the changes that are proposed under this system, it is interesting that the opposition chose to home in on the right of entry and access to records. Let me address those two areas. The Work Choices legislation clearly marginalised unions—there is no doubt about that—and it clearly alienated workers in the workplace who wanted to or would have liked to join a union. Work Choices clearly impinged on the employee’s freedom of association rights, but the Fair Work Bill enshrines in law what was allowed before Work Choices came into force, though with strict rules regulating it. It gives right of entry for unions to hold discussions with members and potential members, and this cannot be removed by a non-union agreement. There is no such concept as a union or a non-union agreement under the Fair Work Bill. It states that employers must respect an employee’s right to be represented and enhances protections for freedom of association. It ensures that rooms for meetings during workplace visits must be fit for purpose.
and not be intended to intimidate and discourage attendance.

My office received complaints regarding a workplace in the seat of Solomon, where a trade union official visiting a workplace in Palmerston was invited to sit in what was no more than the cleaner’s closet in order to try and meet with trade union members. Under this bill that will not occur. A submission to the Senate inquiry into the Fair Work Bill by the Textile, Clothing and Footwear Union of Australia detailed an instance where a union organiser was directed to meet workers in the female toilets area, forcing the organiser to stand in the doorway of the toilets in order to have access to female workers at that workplace. This legislation will ensure that ridiculous and inhumane situations such as those experienced by trade union organisers, delegates and their members around this country do not happen again.

The right of entry provisions in the bill were a point of contention. As I said, that was brought up by employers during our Senate hearings. We heard that some employers see union involvement in the workplace as potentially destructive, either by unions competing with one another for potential members or simply by unions being able to enter the workplace. The committee majority believes, and I agree, that this concern is unfounded. There is no evidence, and there was no evidence provided, to show that that is the case. In fact, we had evidence to the contrary. Section 480 of the bill states:

… establish a framework for officials of organisations to enter premises that balances:

(a) the right of organisations to represent their members in the workplace, hold discussions with potential members and investigate suspected contraventions of:

(i) this Act and fair work instruments …

(b) the right of employees to receive, at work, information and representation from officials of organisations; and

(c) the right of occupiers of premises and employers to go about their business without undue inconvenience.

This bill does that; it balances the rights of the trade union organisation, the rights of the employee in a workplace to seek to be represented by that trade union and the rights of the employer—quite legitimately so—to not have their business interrupted during the day or during the evening for that matter. Throughout the committee hearing process, we did not hear any substantial evidence to the contrary. In the first instance, there are strict compliance rules that unions must follow if they wish to enter a workplace. The legislation specifically states the entry rules that unions must comply with. These rules include that, if a union wants to enter the workplace, the individual must be a valid permit holder, must provide the employer with at least 24 hours notice and must comply with the conditions on entry. The bill protects and puts in place what WorkChoices did away with: an organisation’s right to represent its members in their workplace, an employee’s right to be represented by their union and the employer’s right to be able to continue to conduct their business without interruption.

It is no secret that the former government sought to eradicate unions from the workplace. It is not a line that is popularly swallowed by the majority of people out there. A lot of people may not choose to join a union, but a lot of people certainly respect and appreciate the work that trade unions do. WorkChoices proved, though, that the clear intention and main aim of one of those bills was to diminish the effectiveness of trade unions representing their members. WorkChoices thoroughly restricted union entry and inspection rights, with the aim of preventing unions
from accessing and helping their members in the workplace. It even removed an employee’s right to meet with their union in their workplace if they were covered by an AWA or a non-union agreement. The Australian Council of Trade Unions point out in their submission to the Senate committee:

The right of workers to have access to their representatives is recognised by the International Labour Organisation (ILO) as an integral element of the right of workers to freedom of association and collective bargaining.

The right-of-entry provision in this bill ensures that this right is protected. Unions have a proven history of helping their members ensure that their rights and entitlements are protected. In order to achieve this, unions must have access to their members in their workplace, and this bill will guarantee that.

I will now just touch on access to records, another area that was raised during the Senate’s hearings. The committee heard from employers voicing concerns that allowing unions access to employee records would breach the privacy of non-union members or of the members themselves. There is the view among some employers that, under this legislation, unions are given free reign access to employee records and that that is open to abuse. That view is, in fact, incorrect. If you read the legislation, you will see that there are very strict rules that unions must comply with when accessing employee records. With regard to the second concern, I quote the committee majority report:

The committee heard of no instance—absolutely no instance; on the committee hearing days that I attended, when I asked employers to provide me with examples of where access to employees’ records had been abused, nobody could provide me with examples of that—of misuse or abuse of employee records … No allegations were put before us. The majority report goes on to say:

The committee majority also notes that the protections for personal information are stronger and more comprehensive under the Fair Work Bill than under WorkChoices and there are also heavier penalties for the unauthorised use or disclosure of employee records.

During the Senate committee hearing on the 27 January, I asked an advocate from the Queensland Council of Unions if, to their knowledge, there had been a misuse of records obtained by trade union officials in Queensland. The response from Ms Deborah Ralston was this:

No, and what is important to bear in mind, as I indicated earlier, is that in the Queensland context authorised officers are not subject to a fit and proper person test. Yet the authorised officers that operate within the Queensland environment indirectly apply such a test because they adhere to very high standards in relation to the rights and responsibilities they have in accessing a work site.

I then asked again:

So you are not aware of any allegation or case or proceedings or complaints whereby a person has misused employee information?

I asked if anybody was aware of any allegation, case, proceeding or complaint whereby a person had misused employee information, and the answer was no. Union access to employee records was in place prior to Work Choices; the government has simply protected this in legislation and, in fact, gone further. This government has put in place strict rules that unions must follow if they wish to access employee records.

The Fair Work Bill before us today balances the needs of employers, employees and unions. This bill will ensure that Australia is competitive and prosperous without compromising workplace rights and guaranteed minimum standards. It will ensure that employees’ freedom of association in the work-
place is protected. But it will also ensure that employers and employees have access to transparent, clear and simple information about their rights and responsibilities. On that basis, I commend this bill to the Senate.

Senator BOYCE (Queensland) (9.43 am)—I also would like to make some comments on the so-called Fair Work Bill 2008. I can stand here and insist that Senator Farrell, for instance, is the Chesty Bond of the Senate. I can stand here and insist that I am the Nicole Kidman of the Senate. But simply saying it does not make it so. The Fair Work Bill is not about fairness. The Fair Work Bill is not fair. It does not matter how many government members say that it is; saying it does not make it so. Saying it is fair does not make it fair. Amending the bill can make it less unfair, but that is all. In fact, in the form that the government said that the bill absolutely had to be passed—that is, the Fair Work Bill mark I—it was about reintroducing the very worst of adversarial industrial relations to Australia and to Australian workplaces.

Now the demure Deputy Prime Minister is saying—though just saying it does not make it true—that she will accept some amendments to the Fair Work Bill. Of course, she has not yet provided the amendments that she is intending so that they can be scrutinised or checked for unintended consequences. She would just like a blanket approval. We in the coalition, however, are very happy to spell out the amendments that we believe would assist in improving the fairness of the so-called Fair Work Bill. We are seeking amendments to the clauses relating to union access to non-union member records, the expanded right of unions to enter workplaces, compulsory arbitration provisions when enterprise bargaining fails, the right of multitudinous unions to participate in greenfields agreements, and the transition of business provisions and the unfair dismissal provisions that are included in the bill. If our amendments are accepted, some of the more combative, adversarial aspects of the bill will have been removed. Then and only then will the bill begin to approach fair.

Just as pathetic as the word games that the government has been trying to play with the word ‘fair’ have been the attempts of the demure Deputy Prime Minister to play mind games with the word ‘mandate’. Every time the government says mandate, the coalition is supposed to throw up its hands in defeat and accept the bill as though it were holy writ. Even the amendments to the supposedly unchangeable holy writ are supposed to be accepted holus-bolus, without examination, without any forethought. As Senator Humphries so ably explained yesterday, that was not the attitude that the Labor Party adopted to ‘mandate’ when they were in opposition. Back then, the Labor Party had a bit of a ‘mandate, schmandate’ attitude. They had not yet discovered their reverence for mandates. The Howard government had a mandate for the sale of Telstra, for the introduction of the GST and for the introduction of our unfair dismissal legislation more than once. I am afraid I have to say that back then the Labor Party did not revere the mandate; in fact, they opposed our mandated legislation at every turn. Whenever they could, they even—shocking as this may now seem to the current government members—delayed and blocked legislation that was there because of a mandate.

Could the government please stop playing silly games with this legislation? In any economic climate, the consequences of this dramatic change to the workplace relations landscape would be serious. We have stories in the press today of restaurants that are unlikely to succeed because of the changes that are proposed and of many other small businesses that are likely to fail in the coming months, when we already have enough
potential failure around us. Right now, with rising levels of unemployment and increasing numbers of company failures, it is irresponsible and disgusting that the government wants to continue to play games around this legislation. There is no doubt whatsoever that this legislation can be improved, that the Fair Work Bill can do a much better job of approaching fairness. I attended a number of the Senate committee hearings into the bill as a participating member. The evidence of dozens of witnesses was that the bill could be improved, that the bill could be less lop-sided and less adversarial. For Australia’s sake, let us make it better.

When the ALP took office, the budget was $19.7 billion in surplus, the government had no debt and held net assets of $42.9 billion. Importantly, the economy of Australia was experiencing its 17th year of growth. Gross domestic product was growing at just under four per cent per annum. After just 15 months of the Rudd government, we had had our first quarter of negative growth in 17 years. Economists across Australia are already claiming that we are in recession, yet we have had no recognition from the Minister for Employment and Workplace Relations that Australian employers and Australian workers are even facing difficulty. Newsflash to the government: if you make workplace relations just another red taped jackboot that you can kick small business with, in the current circumstances a lot of those employers will simply stop employing. They will themselves join the growing queues of the unemployed.

As an indication of what may be to come, we have the ANZ job data for February, which came out yesterday. The data provides proof that job advertisements in newspapers and on the internet fell by 10 per cent in February when compared to January, which is generally one of the slower months. They are down by almost 40 per cent when compared to February 2008. This is the biggest drop in advertisements in the history of the ANZ job advertising survey. It seems that many employers will lay off workers that they currently have. It does not matter how much so-called fairness the government tries to pile onto employers; the bald fact is that, if you make sacking staff too difficult, companies will simply shut up shop.

The latest Dun and Bradstreet National Business Expectations Survey, which came out today, shows that 27 per cent of firms said they plan to cut back staff in the June quarter this year. What is this government doing to assist those people other than putting up wages and creating conditions that make it impossible for employment to continue? The Dun and Bradstreet survey reports that businesses are being prepared for worse times ahead. Clearly, many businesses are looking at the actions of the government and showing no confidence whatsoever that they will be able to employ workers or even retain current workers. In this climate, in the midst of this uncertainty, the government has chosen not to approach this bill with goodwill or with an attitude of negotiating the best outcome. It has stuck resolutely to its election promises—in fact, it has gone past its election promises, stressing its mandate. It has gone much further than the policies that were outlined in Forward with Fairness.

Other coalition senators yesterday did an outstanding job of spelling out the amendments that we seek and why it is in Australia’s best interests that they be accepted, so I would like to spend a little bit of time looking at the so-called unfair dismissal provisions in this so-called Fair Work Bill. The bill would give businesses with fewer than 15 staff a 12-month exemption from meeting the government’s dismissal code when they dismiss a staff member. The Senate hearings that I attended heard evidence that these changes to the unfair dismissal provisions
would be a serious disincentive to employment and almost impossible to implement in industries where labour demand is prone to fluctuate or is seasonal. In fact, even the unions had concerns about the unfair dismissal provisions.

Firstly, the figure of 15 staff includes all workers; it is a head count. It is not just the number of full-time equivalent workers. So you have the crazy situation where a busy sandwich bar with just two full-time staff, for example, would not fit the exemption criteria if they employed 13 part-timers—a very common experience in small businesses which have peak times of busyness and otherwise. The Local Government Association of Queensland noted that our workplace relations system should not discourage employers from increasing their workforce beyond 15 for fear of attracting unfair dismissal claims. Many, many business groups raised concerns about this definition and all manner of suggestions were made, from the very basic suggestion that the number of 15 should at least apply to full-time equivalent staff right through to the idea that the current figure of 100 should be retained.

Let’s look at why we have those figures. Where on earth did they come from? What are we trying to achieve with this? The exemption from unfair dismissal for small business was meant to recognise the fact that many smaller businesses simply did not have the resources to check legislation, to see that they had it right, to understand the regulations and to work their way carefully through the provisions—and often this required legal advice. It was meant to be a recognition that without those resources small businesses in particular were fearful of taking on extra staff. Evidence has suggested that the relaxation of the unfair dismissal laws to incorporate the concerns of small business led to an increase of about 7,000 jobs per year—7,000 people became full-time workers when in other circumstances the small business operators may have decided to just work longer hours themselves and not expand their businesses as quickly as they might have. I thought the idea of exempting small business was about accepting that small business simply does not have the same resources as big business.

The question then becomes: when does a company begin to reach critical mass and have the resources to be confident that they understand the regulations and that they understand how to meet them? We are not talking about employers who are sacking for the hell of it. Certainly during the times of high employment that we had under the Howard government no employer in their right mind sacked someone for the hell of it, because they knew how difficult it would be to replace them.

Our definitions of small, medium and large business are certainly something of a mishmash at the moment. The Bureau of Statistics defines a small business as one with fewer than 20 full-time equivalent employees. That is a start, but what the hell has it got to do with the figure of 15? Absolutely nothing. Where the number 15 was plucked from is still something of a mystery if the objective of this is to assist small business. We need to define small business. By international standards, the figure of 20 in our definition of small business is very, very low. The World Bank, the OECD, the European Union and even the ACTU’s favourite organisation, the ILO—which is hardly a bastion of neoliberalism—define a small business as one with fewer than 50 full-time equivalent employees and an annual turnover of less than about A$20 million.

The coalition leader, Mr Turnbull, has said we will work with the non-government senators—and with the government if they can wake up and pay attention—to arrive at the
best possible result for Australian small business in this legislation. I would personally like to encourage the use of the overseas definition of a small business—that is, one with fewer than 50 full-time equivalent employees and a turnover of less than $20 million—not just because it would be good for international consistency but because it would be good for Australia and for the creation of Australian jobs, which is what one hopes this parliament is all about.

I note that the Deputy Prime Minister this morning claimed that she was not prepared to negotiate on the head count of 15 for exemption from the unfair dismissal laws. You have to ask why—what is she trying to achieve? Is the true agenda here simply to make the number as low as possible so that as many people as possible are caught by this net? It is certainly not about trying to assist small business to go about doing its job of employing Australians in the particularly difficult economic situation we are in. At a time of economic crisis such as we are experiencing, this government should be doing everything to protect the jobs and livelihoods of Australian workers. If the Senate passes the bill in its current state, any job lost as a result of the new system will not be 'fair'; it will be a dark stain on the hands of this government. Any employer who decides that the transaction costs of employing have risen so dramatically that he or she cannot afford to engage new employees and thereby add to the productivity of the economy can rightly lay the blame for that inability at the door of this government. We urge the government to consider our amendments and to negotiate fairly for a fair outcome on a bill that currently is certainly not fair.

Senator Ryan (Victoria) (10.00 am)—Like Senator Boyce I had the opportunity to participate in the committee hearings examining the Fair Work Bill 2008. I went to almost all of the hearings around the country, and it became particularly apparent that this bill represents nothing less than an attack on jobs. Senator Boyce referred to how employers in recent times would be out of their mind to remove employees, because it was actually hard to find replacements. Sadly, it appears that under this Labor government that is not the same problem that it once was. This Orwellian-titled Fair Work Bill should actually be called the ‘ACTU Thank You Bill’ or the ‘Union Return-the-Favour Bill’ because what this bill represents is an attempt to use the force of law to breathe life into a movement that is dying of irrelevance, with roughly one in six private sector workers being a member of a trade union. This represents an attempt by the ALP to put their paymasters back in the box seat and to effectively coerce members of the Australian workforce into once again being supporters of the trade union movement. Importantly, as Senator Boyce and other speakers on this side have outlined, the bill does not enact what Labor promised before the election. That is clear. It goes a lot further. I will mention a few of those examples this morning.

Firstly, with respect to right of entry, this bill goes substantially further than was promised by the Labor Party before the last election. As has been outlined in the committee report, in a speech delivered in April 2008 the minister stated:

… the current rules in relation to right of entry will remain. With the right to enter another's workplace comes the responsibility to ensure that it is done only in accordance with the law.

And another example:

We will make sure that current right of entry provisions stay. We understand that entering on the premises of an employer needs to happen in an orderly way. We will keep the right of entry provisions.

What happened in the committee hearing is that the department itself conceded:
The bill removes the existing requirement for a union to be bound to an award or agreement applying in the workplace as a condition of entry. That is a substantial change from the law as it existed several years ago. When it comes to accessing employees’ records, the coalition firmly believes that those records should only be accessed, as we outlined yesterday, if they relate to members of unions or people who give their permission or where a tribunal orders such access. It should not be as of right for a trade union. The bottom line here is that, if the Commonwealth Bank cannot get access to those records, why on earth should the CFMEU be able to? That is a major inconsistency in this bill and it is a substantial change from previous law.

Secondly, we have transmission of business. Hidden away in the back of this bill and retitled ‘Transfer of business’ this represents a fundamental change to settled law that has over decades gone right to the High Court of Australia. It represents an attack on the settled law to the extent that we heard evidence that it will directly cost jobs. It changes what was an asset test and a test based on business character to a transfer of work. We heard from the Australian Industry Group unequivocally that the provisions are anti-employment and would create a huge incentive for companies not to employ workers of businesses they take over. I cannot think of a worse measure to introduce in the current economic environment than to actually provide a disincentive for companies to take on employees of businesses that are taken over or that otherwise change hands through contracting arrangements. For the party that talks about the need for an independent umpire: there is an independent umpire in the High Court of Australia. It has settled this law over and over again. In essence, what this bill does, when the unions have not been able to get their case up through the courts and tribunals of Australia, is say, ‘We’ll change the rules.’ For the party that talks about an independent umpire, that represents a spit in its face. What it does is say, ‘We are just going to change what the umpire said.’

Thirdly, we have compulsory arbitration. We heard that there would be no compulsory arbitration. We heard evidence that it changed the rules. It was not vague; it was explicit. We were told that people would not be forced to sign or adopt agreements to which they did not concede. This bill does not do that. This bill allows Fair Work Australia to make orders to force people into agreements that they otherwise do not concede to, and that represents a retrograde step. Through that provision and others this bill will cost jobs.

We hear much confected, contrived outrage from the Prime Minister and the government, but it is nothing more than spin. We hear more about the previous government’s policies than we do about the detail and impact of their own—they do not want to discuss them, they do not want to defend them and they do not want to be held to them. The coalition will do just that. Unlike our opponents, we will not stand in the way of the electorate—and that has been made clear—but we will hold the government to account and we will hold them to that which they promised in their policy.

The ultimate test of this legislation is: does it create jobs? Does it support job creation? While the previous government oversaw the creation of two million jobs, this government will oversee job destruction—as we heard in evidence to the committee. Quite frankly, that is consistent with the history of the labour movement in this country, who have never cared about unemployed people. Over many years they have sought to hold conditions at the expense of jobs. I recall an example from my youth, when the then Secretary of the Victorian Trades Hall Council
went to the Shepparton Preserving Company in the last recession that Labor oversaw in this country—which hit particularly hard in my home state of Victoria. Rather than allow the workers at SPC, as it was, to voluntarily alter their conditions, in came the Victorian Trades Hall Council. With state government support, it actually prohibited them from changing their working conditions to keep their jobs through what was then the worst recession since World War II. That shows the intent of the labour movement, and that is actually reflected in this bill.

Senator Farrell last night specifically spoke about trolley collectors and how the SDA had apparently saved trolley collectors, which I found interesting. I was once a trolley boy. I spent several years at high school and university as a trolley boy, and when I was not a trolley boy I was a freezer boy at the local Safeway or independent supermarket. Do you know what the SDA did for me? The SDA ensured, because it did not like youth wages, that when one turns 21 one had to graduate to adult wages. The SDA made sure that everyone lost their job when they reached 21. The day I turned 21, up went my pay rate and the supermarkets all said, ‘Thank you very much.’ I was only a casual. All the SDA represented was a notice board in the tea room or lunch room of a supermarket. I never saw nor heard from them. When I turned 21, I lost my job. I lost my job because of the unions not allowing flexibility in the workplace. I had no say in that; I had to go and find something else. Maybe some 15- or 16-year-old kid got the job. But how on earth is that job growth? That does not represent job growth. That goes to show what the labour movement has been about: protecting conditions of existing employed people at the expense of those who have no job. And that is exactly what is being undertaken in this bill.

This government says one thing and does another. It says that this bill represents a forward step. The department admitted in the first committee hearing here in Canberra a fact that was very interesting. This bill removes a right of employers that was granted by the Laurie Brereton act of 1993. In 1993, both unions and employers were given the right to take protected industrial action. Under this bill, the right of employers to do so is limited. It is limited so it can only be done in a reactive sense. This bill does not just take us back beyond the Workplace Relations Act 1996; it takes us back beyond 1993. That is another example of how, despite the government using the word ‘fair’ over and over again, as currently constructed the bill is simply not fair.

The bill uses award modernisation as the excuse to govern the union right of entry rules. The unions get to define when they are eligible to go into a workplace. One day, you could have the AWU knocking on the door; the next day, you could have the AMWU; and on a really bad week you might get the CFMEU. The unions can change their own rules to determine which workplaces they cover. That is a not a recipe for industrial peace, that is not a recipe for cooperation in the workplace and it is not a recipe for jobs.

This morning when I was preparing my speech, my attention was brought to the Forward with Fairness document, dated April 2007. The interesting thing is that if one searches through this document, apart from a very obscure reference to trying to promote economic growth and the future economic prosperity of our nation, there is nothing about promoting jobs. There is no promise here that this will deliver economic growth and 10, 20 or 50 thousand jobs—or maybe even two million jobs, like the previous government did. There is nothing in here about a test that will define the success of this policy by whether people keep or get jobs. That
goes to show just how far removed from economic reality this government is. It simply does not understand that in changing economic circumstances, whether they are good or not so good, having flexible employment arrangements and ensuring workplace cooperation is the best way to ensure employment growth. It was not a Liberal, I believe, who said that fairness starts with a job; I think that was former British Labour Prime Minister Tony Blair. This policy fails that most basic test.

We often hear from people a sentiment, with which I disagree, about our horse and buggy Constitution. This is a horse and buggy industrial relations policy. It is a throwback. As we have seen, it goes back beyond the 1996 Workplace Relations Act in so many ways, which the government will not admit. It goes back even beyond the Laurie Brereton Industrial Relations Reform Act 1993. The Australian people will not fall for the sort of Peter Mandelson-New Labour inspired spin and newspeak of this government. Just by putting ‘fair’ in front of something does not make it so. It will not work. This bill represents overreach from this government. The scoreboard of jobs growth will be the test against which it fails. Taking a modern application of George Orwell, this government’s slogan might well be that unemployment means jobs, unfair is fair and some workers—some jobs—are more equal than others.

The amendments that the coalition will move to the provisions of this bill will strengthen its ability to support jobs growth. The test for this place has to be: are we putting anyone out of work? If there is a single provision in this bill that will cost someone in Australia their job, that will affect a family. They could lose their home. That is something which we should eternally oppose.

Senator LUDWIG (Queensland—Minister for Human Services) (10.07 am)—There are no further speakers. I rise to sum up on the Fair Work Bill 2008. If a democracy is to mean anything, this debate on the Fair Work Bill 2008 can only be judged by how it answers this basic question: will the Senate respect the overwhelming call of the Australian people given to this parliament in November 2007? The Australian people voted for the balanced workplace relations policy set out clearly in the Forward with Fairness document. This bill delivers on each and every commitment in that policy. The bill finally removes the extreme Work Choices laws that were overwhelmingly rejected by the Australian people.

The bill creates a fair and simple workplace relations system that strikes the right balance between employers and employees. The bill will bring our workplace relations system back to the centre, where Australians clearly want it to be. Consistent with the government’s commitment to cooperative workplace relations, a thorough consultation process was undertaken to assist the government in developing the bill. This included providing the committee on industrial relations—comprising unions, employers and government representatives—a thorough opportunity to examine the draft bill in detail. The government considered all feedback received as a result of these extensive processes in the course of developing the Fair Work Bill.

The final stage of the consultation process for this legislation was the recently concluded Senate Standing Committee on Education, Employment and Workplace Relations inquiry. The government welcomes and supports the Senate inquiry process, which both complemented and completed the extensive consultations conducted in the development of the new laws. The government has carefully considered the Senate inquiry
committee report, as well as each of the 154 detailed submissions to the committee’s inquiry.

The government has consistently indicated its willingness to consider technical amendments that are consistent with the policy that would improve the operations of the Fair Work Bill. As senators are aware, the government has recently announced its intention to make a number of technical amendments to that bill that improve the operation of the new system. The government’s amendments will improve the operation of the new system by removing uncertainty and unintended consequences while ensuring consistency with the policy mandate given to the government to implement Forward with Fairness.

However, let me state this very clearly: we are committed to implementing the Forward with Fairness policy, which was approved by the Australian people at the last election. We are not prepared to bargain away the will of the Australian people. No one stakeholder group—employer or employee—will be 100 per cent satisfied with every provision in the bill, but the government’s aim from the beginning has been to get the balance right on workplace relations. We need a stable, balanced and truly national system to meet the needs of the country in the decades to come.

I will now turn to the debate that was had over the past two days. Senators have debated the bill, obviously vigorously, and, while there has been much debate of a rhetorical nature, a few matters of concern have been identified. However, some of the claims made in the debate are quite frankly without substance or are plainly misleading and I cannot let them stand unchallenged on the public record.

One of those claims—we will call it claim 1—is that the Fair Work Bill will increase unemployment. I will first respond to claims that the Fair Work Bill will endanger job creation. There are a variety of factors that affect employment levels in our economy, but what the government is saying very clearly is that we are not immune from the global financial crisis and everything we have done has been intended to keep this nation in front and to protect jobs. But one of the things we also need to do is ensure that we do not leave employers and employees in legislative limbo and uncertainty about what the workplace relations laws of this country will be. In these difficult times we should be delivering certainty, stability, productivity and flexibility, and that is what this bill does.

Employees need to have confidence that their pay and conditions are secure, and this bill guarantees just that. The Fair Work Bill sets out a fair and balanced system that is designed to meet the country’s needs both in the good and the bad times. Businesses and employees need a fair and effective enterprise bargaining system and the support of Fair Work Australia to help them negotiate creative and flexible arrangements that can help business through the difficult times ahead so that the employees can keep their jobs. During these difficult times Australian families need to know that their basic workplace rights are secure and certain. They need the security and protection against unfair dismissal, they need a fair safety net of basic wages and employment conditions that cannot be stripped away and, if the worst happens, they need redundancy pay to tide them over. The government does not believe that providing a fair safety net for employees with basic minimum standards like redundancy pay, public holidays, rest breaks and penalty rates for weekend work will result in increased unemployment. Employers make decisions to hire employees based on a range of reasons related to the needs of sustaining and growing their businesses. This will not change under the new system.
Turning now to claim 2, which is that unfair dismissal laws cost jobs. The employment related concerns about providing proper protection against unfair dismissals are not supported by the empirical research in this area. For example, the OECD has found that there is no clear link between stricter employment protection legislation, including unfair dismissals, and employment.

We make the shape of our new unfair dismissal system crystal clear in Forward with Fairness and we believe that it strikes the right balance between providing an avenue for unfair dismissal claims and certainty to business on potential claims arising from dismissal. Requiring employees, before being able to claim unfair dismissal, to serve the minimum qualifying period of six months for large businesses and a full 12 months for small businesses balances the right of employees to have protection from unfair dismissal with the need for employers to have an adequate opportunity to determine whether or not an employee is suited to their job and to the employer's business. Additional special arrangements will apply for small businesses, including the Small Business Fair Dismissal Code. Small business employers will be fully supported under the Fair Work Bill to make reasonable and fair decisions in managing their employees. And we make it clear in Forward with Fairness that the small business arrangements will apply to businesses with fewer than 15 employees. Senators should note that Forward with Fairness did not define a small business as 20, 25 or 50 employees. Under the Fair Work Bill good employees who have proved themselves under a full six or 12 months of service will have the right to challenge a dismissal that is harsh, unjust or unreasonable.

Looking now at claim 3, which concerns the Fair Work Bill and compulsory arbitration. Compulsory arbitration is not a feature of the new system—far from it. The focus of the new system is to encourage employees and employers to bargain in good faith and reach agreement voluntarily. This is the way that most bargaining takes place, quite frankly. Employers and unions must bargain in good faith and this means that they must meet, exchange positions and refrain from capricious or unfair conduct. But good faith bargaining does not require either side to make concessions or to make an agreement. The new system is not about delivering access to arbitration at any time that parties get into a disagreement during the bargaining process—far from it. Parties can take a tough stance in negotiations.

Workplace determinations can only be made in limited and clearly defined circumstances: for example, when industrial action is causing significant harm to the national economy or threatening the health and safety of the community; or where a protracted dispute is causing significant economic harm to the bargaining participants; or in the low-paid bargaining stream, subject to very strict criteria; or where a party has engaged in serious and sustained breaches of good faith bargaining requirements and is, quite frankly, flouting the law.

We know that numerous studies show that collective agreement making is good for business and good for employees. Bargaining allows employers and employees to examine ways to improve productivity and efficiency and make workplaces more flexible. This encourages growth in real wages and living standards through bargaining underpinned by real labour productivity growth, which of course helps to control inflation. Work Choices coincides with a poor productivity performance. Annual productivity growth averaged only 1.2 per cent between March 2006 and September 2007, compared with the annual average over the previous two
decades of 2.3 per cent. This bill delivers to the Australian people what we promised them: fair bargaining and a productive workforce.

Another claim made during the debate on this bill was that low-pay bargaining will drive up costs for employers. We will keep tabs on that, claim 4. There is a clear commitment in Forward with Fairness to help low-paid employees and their employers to gain access to enterprise bargaining and the benefits it brings. We want to allow as many Australian employees and employers as possible to receive the benefits of enterprise bargaining. We know that there are people who have been left behind in sectors like cleaning, community work and security. Fair Work Australia will be able to convene conferences, help identify productivity improvements to underpin an agreement and generally guide parties through the negotiating process. This process is not about building another safety net on top of the modern award safety net; it is about helping those employers and employees who we know have had difficulty getting into a bargaining culture to generally make enterprise agreements. Agreements in this stream will be the subject of genuine negotiation and exchange, where a wage increase is given in exchange for changes in work practices that deliver productivity or improved service delivery.

When bargaining fails and agreement cannot be reached for a particular employer or employers, then Fair Work Australia, in very limited circumstances, can make a workplace determination to resolve the issues in bargaining. But, in doing so, Fair Work Australia must give consideration to issues of workplace productivity and the competitive position of the employer. This framework delivers on our election commitment and, quite frankly, could only be opposed by those who are not at all distressed by the circumstances of the low paid in our community.

I will turn to another claim that has been made during the debate: the bill gives unions excessive rights in bargaining. We are now up to claim 5. Forward with Fairness outlined that we would fully respect the rights of employees to join and be represented by a union or not to do so—as they wish, quite frankly. We are implementing our policy to the letter. There are no longer union or non-union agreements. All agreements will be made directly with employees. Where 50 per cent of employees approve an agreement, the agreement is made even where a union representing some of the employees may have urged a vote against it. Employees can, of course, be represented in the bargaining process by their union or by any other person they nominate.

Another claim made in the debate: the bill opens up a union right of entry to workplaces. That is claim 6. The government outlined our right of entry commitments in detail in the Forward with Fairness policy implementation plan. We promised that our right of entry laws would strike a balance between the right of employees to be represented by their union and the right of employers to run their business. Forward with Fairness set out in considerable detail that the bill would, first, ensure that only fit and proper persons hold a right of entry permit and that permit holders understand the right to enter premises comes with significant responsibilities. We are doing just this. Second, it would ensure that there are appropriate arrangements in place to enable duly authorised permit holders to meet with those workers who are eligible and who want to meet with them. We are doing this. Third, it would allow union officials who have a right of entry permit from the Australian Industrial Registry to visit employees in three circumstances: to investigate breaches of industrial
laws, awards or agreements, to hold discussions with employees who are members or are eligible to be members of the union or to investigate breaches of occupational health and safety law. The bill does all of this. On any reasonable examination, arguments that the bill does not comply with our election policy are plainly false. We make no apology for respecting the fundamental right of employees to join and be represented by a union. This means having access to advice and information from a union. No-one can be made to join the union: no-one can be made to attend a meeting. Our right of entry policy was detailed and is being implemented, and it is a policy that is essential to meet the most basic principles of freedom of association. Employees are entitled to join and be represented by their union.

Another claim, claim 7, was about inspection of nonmembers’ employment records. A significant amount of debate has occurred on the question of whether a union permit holder should be permitted to inspect employment records relating to nonmembers. Much of the debate was ill-informed and inaccurate and requires correction. Laws that ensure compliance with awards and agreements are important both for employees and for the vast majority of employers who comply with the law. Employees should not be underpaid, and employers doing the right thing by their workers should not be undercut by competitors who are not. Unions have a longstanding role, going back many decades, in ensuring compliance with awards and agreements—and this is provided for even under Work Choices. Subject to strict requirements, union permit holders are currently entitled to enter work premises in order to investigate suspected breaches of awards and agreements and to take recovery action to ensure employees receive their correct entitlements. To carry out this compliance role, unions must be able to examine relevant workplace records.

We have heard in the Senate today and yesterday wild and, quite frankly, hysterical prophecies of union officials dancing through bedrooms with photocopiers under their arms or jumping out of people’s cornflakes. Claims have been made that a union permit holder can look at every employee’s pay records, from the managing director down, to satisfy some intellectual curiosity. Let us take a reality check here. Of course under the Fair Work Bill a right to investigate breaches of the law should come with strict responsibilities, and it does. The bill retains the right of entry permit system, and strict obligations apply concerning the giving of notice to the employer and the permit holder’s conduct while on the premises.

The bill also strengthens the existing provisions by introducing for the first time the application of the Privacy Act regime to the handling of documents and information obtained under the provisions and by introducing new penalty provisions for any misuse of records. The Office of the Privacy Commissioner made a submission to the Senate committee suggesting some amendments to the bill to improve its operation. The Deputy Prime Minister has foreshadowed that the government will move amendments that fully address the issue raised by the Privacy Commissioner on how the operation of the provisions can be best improved. The amendments will include a new broad anti-disclosure penalty provision which will impose heavier penalties if any information obtained in the course of right of entry is misused. Amendments will also make it clear that the right of entry for the purpose of holding discussions may only be exercised for the purpose of talking to employees and not independent contractors.
In order to correct the record I will now clearly set out the operations of provisions of the bill concerning the inspection of documents and what a union permit holder can actually do and not do under the bill. First, to enter premises the permit holder must reasonably suspect that a contravention of an award agreement or the act is occurring or has occurred and that a breach must actually affect a member of the union. Let us be very clear: the union cannot enter a workplace or look at any record unless the union reasonably suspects a breach of the law that affects one of its members. There are serious penalties if a permit holder makes any representation that he or she suspects a breach when he or she does not, or that the union has a member affected by a suspected breach when the union does not. The onus of proving that a person has a reasonable suspicion of such a breach falls on the permit holder.

Second, before seeking to enter, the permit holder must give written notice to the employer, including details of the alleged breach. The employer is able to challenge this notice to Fair Work Australia if it does not believe that the strict criteria I have outlined are satisfied. It is only once these strict requirements are met that we even get to the question of what documents can be examined by the permit holder in order to investigate the alleged breach. A permit holder is able to inspect documents directly relevant to investigating the alleged breach that affects their members in respect of which they hold a reasonable suspicion, a suspicion they carry the onus of proving and in respect of which they have given notice and particulars to the employer. (Time expired)

Question put:

That the amendment (Senator Hanson-Young’s) be agreed to.

The Senate divided. [10.37 am]

(The Acting Deputy President—Senator RB Trood)

| Ayes.......... | 7 |
| Noes.......... | 48 |
| Majority...... | 41 |

AYES

Brown, B.J. Fielding, S.
Hanson-Young, S.C. Ludlam, S.
Mihne, C. Siewert, R. *
Xenophon, N.

NOES

Arbib, M.V. Barnett, G.
Bernardi, C. 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. Crossin, P.M.
Eggleston, A. Farrell, D.E.
Feeney, D. Ferguson, A.B.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Furner, M.L. Humphries, G.
Hutchins, S.P. Kroger, H.
Ludwig, J.W. Lundy, K.A.
Macdonald, I. Marshall, G.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Nash, F.
Parry, S. Polley, H.
Pratt, L.C. Ronaldson, M.
Ryan, S.M. Sherry, N.J.
Stephens, U. Sterle, G.
Troeth, J.M. Trood, R.B.
Williams, J.R. * Wortley, D.

* denotes teller

Question negatived.

Original question agreed to.

Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for the next day of sitting.
Debate resumed from 15 May 2008, on motion by Senator Ludwig:

That this bill be now read a second time.

Senator RONALDSON (Victoria) (10.42 am)—I welcome the opportunity to speak on the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009] this morning. The first thing that I will say about this is that I think it is entirely inappropriate that we are debating this matter today. In fact, I think that it is totally inappropriate that we are debating it at all prior to comprehensive electoral reform. I remind the Senate that back in March last year it was the coalition which initiated a comprehensive terms of reference to go to the Joint Standing Committee on Electoral Matters, which was supported by the then Democrats, the Greens, Family First and us, and opposed by the Labor Party. I am not going to go through that again because I have done that in this place ad nauseam but it was a comprehensive proposal which addressed all the matters which we believe need to be included in a comprehensive campaign finance reform. Again I put on the record that we are very, very strongly supportive of comprehensive reform. I put on the record that it was actually the coalition parties that initiated this process with the reference to the joint standing committee. I reiterate the point that it was the Australian Labor Party that opposed that. So anything that they are doing at the moment has to be seen through the prism of March 2008 and what has been done from there.

I take the government at face value—that they are committed to campaign finance reform. I assume that they also acknowledge that we are likewise. But, as the minister knows and as the chamber knows, we have objected quite passionately over a number of months—in fact nearly 12 months now—because this cherry-picked campaign finance reform is an animal that has come with many coats, initially in relation to the tax deductibility part of a bill that was introduced as part of another package and then that was withdrawn and introduced on its own. The tax deductibility question and the disclosure question are two issues that the government has chosen to pull out of comprehensive campaign finance reform for its own purposes.

I will not go through the reasons again because I am on the public record in relation to this matter. But the question has got to be: if you are convinced about comprehensive finance reform, why were we debating the tax deductibility bill previously, why would we be debating this bill today, when these measures clearly should be part of comprehensive reform?

I have got some other things to say about those who might have influence in relation to the Labor Party but it begs the question, when every commentator in this country has talked about the level of influence of unions, third parties and large corporate donors, of why those issues were not also a part of these measures. The reason that was not done was that the Labor Party views these two isolated pieces of campaign finance reform as good for them and bad for everyone else in the political process. Well, so be it. But why not just be upfront about it and say, ‘Well, we’re trying to get a couple of bits of reform through which we think will be bad for the opposition parties and good for us.’ Just say it, because we all know it is true. Just acknowledge it and say, ‘Despite that, we’re now convinced that we should have comprehensive campaign finance reform.’
I will indicate at the outset that the opposition will be supporting the government’s suite of amendments, the great bulk of which came out of the Joint Standing Committee on Electoral Matters. I will have more to say about that because we do indeed have some concerns about administrative burdens. Nevertheless, despite the issues in New South Wales in relation to reporting dates et cetera, which we understand both major parties are finding very difficult to manage, we are prepared to see whether it can work any better in a federal sense.

We also believe that there should be stronger penalties for infringements of the Commonwealth Electoral Act but we note that most of these electoral abuses are actually committed by the Australian Labor Party itself, such as the multiple cases of electoral fraud in Queensland which resulted in the Shepherdson inquiry, the Gino Mandarino fraudulent enrolment, the Christian Zahra fraudulent enrolment and the Wollongong council sex and bribery scandal. Indeed, when you look at what started the frenetic media attention to this long overdue requirement for campaign finance reform, it was actually the Wollongong sex and bribery scandal—the most obscene abuse of responsibility, the most obscene abuse of matters of principle, the most obscene abuse of a whole range of acts you could ever see. The Wollongong sex and bribery scandal is up there in shining lights, showing what is wrong with the system. But do we get any response to the Wollongong sex and bribery scandal in these two cherry-picked pieces of legislation? No, we do not. Do we see anything in relation to the excessive influence of the trade union movement on the political process? No, we do not.

I note with great interest, just to reinforce the point, that it is now common knowledge that the Australian Labor Party received in excess of $30 million from the trade union movement in the run-up to the last election, and, of course, if you look at the government’s so-called Fair Work Bill, guess who picks up $30 million worth of thanks? It is the union movement. What we have objected to in relation to the government’s bill is the right of unions to come in and demand access to records. If you look at all those issues which we object to, which were not in the government’s initial procrastinations in relation to their changes to industrial relations, all of them not part of the mandate, they revolve around giving to the union movement $30 million bucks worth of thank yous.

I have a lot of friends in a whole variety of places and I have been very lucky to be given some financial statements of the New South Wales branch of the AMWU—very lucky, from off the back of a truck. Under the heading ‘National Council Political Fund’, it is all neatly typed out with some nice green on it indicating the stuff I am going to talk about today; it is all there and all public. On page 3, I note the following item: affiliation fees, $401,846. Now I might be terribly wrong—and I will be publicly flogged if I am—but I would hazard a guess that that was not affiliation to the Liberal Party or Family First, probably not even affiliation to the Greens. We know who those affiliation fees were paid to. Donations, $209,591. Again, at the risk of a public flogging, I suspect that those donations were not made to the Liberal Party, or the Greens or Family First. Election advertising, $8,120. That brings in total, in one year, overtly political expenditure to over $620,000. But the best is left till last because there is a specific line in these accounts which says: ‘Marginal seat campaign’, $150,352. I will say that again. From a leaked document from the New South Wales branch of the AMWU under ‘National Council Political Fund’ there is $150,352 in marginal seat campaigning alone for the Australian Labor Party. Quite frankly,
as I have said before, who pays the piper? This is what we have seen now for some time.

Senator Conroy—Julian McGauran pays the piper.

Senator RONALDSON—Senator Conroy can jump in as much as he likes. I think he would be better employed spending a bit of time with Senator Feeney and others and perhaps trying to convince me and others that he and Senator Carr are not the bosom buddies they are alleged to be, because no one believes that. I rather suspect that even Senator Conroy himself does not believe that, because they would be the strangest of bedfellows.

So there is $30 million going to the Australian Labor Party. It is so overtly in this document for marginal seat campaigns. You do not need to look any further than the Fair Work Bill 2008 to see that it is all coming home. It is all coming home because all of the non-mandated part of this bill just happens to be about excessive union powers and giving the rights to unions to interfere in the lives of Australian workers and their employers. This is just the $30 million square-off for the union movement’s massive financing of the Australian Labor Party in the run-up to the last election. The question is: why was this not part of some cherry-picked legislation before comprehensive campaign finance reform was addressed by this chamber and indeed the other place as part of a comprehensive piece of legislation? No-one believes that the status quo is appropriate. Everyone believes that we need to do something. The fact that it was sparked by an incident such as the Wollongong sex and bribery scandal is probably neither here nor there. But it does indicate some of the bona fides in relation to this matter.

We put again on the public record that we want to work with the government to make sure that we get something decent out of this. We have an unprecedented opportunity to make dramatic improvements to the system of electoral funding. With a broad consensus across the political system that our electoral funding system requires serious reform, substantial enhancements to the transparency and credibility of our political system are within our reach. But this bill does nothing to account for or limit the influence of trade unions—or indeed industry associations, advocacy groups or other well-funded third-party entities—on the political process. Regardless of who is in government or in opposition, the Electoral Act needs to be fair, open and neutral, as it outlasts governments and oppositions as well as political parties. It should serve as a facilitator of democracy, not as a government’s prejudicial tool.

I again ask the government, the Greens and the Independents to give this bill the opportunity to be debated when we have in front of us comprehensive legislation for campaign finance reform. I do not in my heart of hearts believe that the Greens or the Independent senators believe that it is appropriate in any measure to be debating this matter outside the context of comprehensive finance reform. We have an opportunity still to delay this bill until after that has been put on the table. It should be put on the table and we believe that there is no reason that, with appropriate levels of goodwill, we cannot collectively get a system that will make it better for the Australian community now and into the future.

I want to make a couple of other comments. The amendments that will be moved by the government—as I said earlier on—are supportive. We also have to make sure that what we do enables the system to be workable, because unworkable systems are often the systems that get abused. This is not just about a set of principles; comprehensive campaign finance reform is actually about
making sure that all the dots are joined up, because when the dots are not joined up someone will join them up somewhere else. That is why we saw things like the Wollongong sex and bribery scandal, where someone got the dot and drew it elsewhere, and abused the system.

Let us work collectively in relation to this. Let us not allow the government to cherry pick parts of that reform for its own cheap political purposes. This issue is too serious to be debased by having cherry-picked legislation. I repeat my call to the Greens and Independent senators to make sure that this bill does not proceed today and is debated in the context of comprehensive reform, because in my view, quite frankly, to do otherwise would limit an enormous opportunity for this to be done in toto and not with pieces pulled into it and out of it. I end where I started: we are committed to comprehensive campaign finance reform. We are willing and anxious to work with the government and other parties in this place to ensure it, but can it please be done on the back of legitimacy? It is not legitimate to pull pieces out of campaign finance reform. If it is going to be done legitimately then let us do it in toto.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.01 am)—The Greens will support the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009]. I listened carefully to Senator Ronaldson’s plea that the legislation not be supported until we get comprehensive legislation into the parliament, but that is not the example that was set by the Howard government over the previous 12 years. In fact, piecemeal legislation which increased the ability of donors to the political system to be hidden and not identifiable was the order of the day. It is a good thing that we now have legislation that is reversing that order.

We look forward to consequent legislation in this parliament, and I hope that will be this year, to clean up the electoral processes in Australia, and that means quite massive and comprehensive changes to electoral laws. The Greens would like to see Australia going in the same direction as Canada, which effectively banned political donations—except those with a limit of $1,000 from individuals, but it banned those from corporations, unions and all the entities that Senator Ronaldson listed—back in the 1990s, following a series of corruption scandals in that country. It is a pretty sad thing that the current conservative government in Canada apparently wants to unwind that electoral system. The quid pro quo for getting rid of the corrupting influence of donations—and they are effectively utilised by the lobbyists who come into this parliament—as a lever is, I have no doubt, public funding. That is always a big matter for governments to take up, but it would improve the electoral system if we had a wholly publicly funded electoral system. It would provide a much less corruptible and much more accountable electoral system for voters.

We are in a world in which wealth is power, and that power is leveraged right around the world to buy democracies. The most insidious thing that democracies face is, effectively, a plutocracy which buys political favour and political leverage through making massive donations to political parties and individuals. It is something that we have to bring to an end. If we really believe in the fundamental principle of democracy being one person, one vote, one value, then we have to ensure that people have an equal say in a democracy. You cannot do that if millions of dollars are being passed into the political system and that ultimately means that those who have the most money have the most power. That defrauds democracy. There is a very big challenge here to stop that process. This planet is in real trouble because of
the power of the wealthy elites. They have their sway not only through autocracies, and that means through political systems that have dictatorships or police state regimes, but also through democracies.

It is a massive challenge for us, a century later, to act on the fears of American President Cleveland when he saw the mounting influence that corporations were having on Washington. One has to worry about President Obama, and all the hopes of the world that go with his new presidency, as he faces 80,000 political lobbyists, backed by a huge amount of money and not least by entities like the armaments industry. They pervert and corrupt the political system and the ability of democracies to carry out the highest tenet of the inherent hope of democracy—which is to give some sense of equality and a fair go to all citizens who work and live under a democracy and whose hopes are based on the democratic system.

This legislation lowers to $1,000 the threshold for donations which have to be disclosed. The Howard government lifted it to $10,000 and, through indexation, it is now at over $10,500. As we know, people could donate to each of the state and federal entities and get away with donating more than $100,000 to political parties without it being made public. The new threshold will put an end to that and the Greens support it. The legislation removes the loophole for donation splitting so that donations to political parties have to be put forward as having been made to a single entity and not eight or 10 as I just described. It would make foreign donations unlawful. I do not think there is anybody in this place who wants to oppose that. The bill also introduces new offences to the reporting and disclosure regime and increases the penalties for those offences. It tightens up public disclosure and the framework for lodging returns and disclosing gifts and expenditure by donors, candidates, political parties, associated entities and third parties.

Then there is something you have to put a lot of thought into while we have a system supported by donations, and that is anonymous donations. The Greens supported this amendment by the government, though it does impose quite onerous accounting mechanisms. The smaller parties and Independents standing for electoral office will know that you depend on a lot of donations. If you are going to run a campaign, you have to get money. There is not the great wither since the big parties, with huge corporate and union donations. It depends on raising money from the public and on lots of little gifts coming in. We saw Obama take the path of appealing to the public rather than to the big corporate sector, and his campaign was massively based upon $5, $10, $20 or $100 donations. Here a limit of $50 has been set before the donors must be revealed. The fundraisers—people taking around the bucket, for example, at a public meeting—must take responsibility for ensuring that no one attempts to donate more than $50 or they risk strong penalties. At fundraising dinners, the organisers must ensure that the amount raised does not exceed a donation of $50 multiplied by the number of people present. If you have 1,000 people, you must make sure that there is not more than $50,000 raised or obviously you are infringing upon the restriction of $50 per person without the donations being specified. That is a rule that will need to go out. You can see the difficulties for people handing around the bucket at public meetings or at some sort of fundraising concert in making sure that nobody puts $100 in the bucket. It is going to be interesting to see how well that is governed.

Then there is the claims based funding framework for public electoral funding. The Greens understand the purpose of the measure and support its intention, which is to ad-
dress the problem of profiteering, which can occur under the current system. However, the claims based system, and, in particular, the time frame—that is, you can only claim public funding for election expenditure after the writs are issued and during the actual election period—is very restrictive for smaller parties in particular. The big parties can claim the full limit of their public expenditure by simply putting their TV advertising bills in and saying: ‘Pay for this. Out of our own private funding, we will pay for all the administration.’ For the smaller parties and Independents, that is not the case. They do not have massive media advertising campaigns, because they cannot afford them. But they do have comparatively large administrative expenses. They have to have offices, pay for office equipment and employ people during campaigning times. This will prohibit claims being made for parties that set up an office, employ somebody and get in computers and phones before the writs are issued for an election. It is quite obvious that we are going to have an election within the next 18 months—those are the electoral rules in this country—but if a political party moves now to set up an office and get the bones of a campaign going, and all parties know that you need to do that not when the writs are issued but months or years out, the smaller political parties will not be able to claim that expenditure. It does not affect the big parties, because, as I said, they will simply put in their maximum claim with their media advertising receipts, but it will affect the smaller parties.

I move the following second reading amendment:

At the end of the motion, add “but the Senate calls on the Government to introduce truth in advertising measures in relation to elections so that voters are not deceived”.

I am very keen that we do not permit the current system, whereby people can attack candidates or parties at election time using lies and deception, to continue. There used to be a truth filter. If you wanted to put an ad on TV 10 years ago, that ad had to go to the regulatory authority set up by the private networks and you had to be able to show that it was truthful. I know that, because there were very contentious forestry issues in Tasmania. Every time the Greens put up an ad talking about the destruction of forests that was going to occur if the Labor or Liberal parties were elected—and that is still going on—we would have some objection from the logging industry. We had to be able to show that the claims were true and that the area that was flattened and that the smoke rising from the previous life-filled rainforest was, in fact, dinkum. We could do that.

But that has been removed. There is no longer any arbiter. Senator Fielding’s Family First party ran a series of ads the election before last claiming that Senator Brown—that is me—wanted to give drugs to children. That was an outright lie—it was defamation—and it was played hundreds of times across television networks in this country. Effectively, there was nothing I could do about it. But I have broad shoulders, and I have tackled Senator Fielding on that in private since then. He has made no correction, and the onus is on him to accept or reject that. However, what is wrong is that electors are deceived by such advertising on the way to the ballot box. If a democracy is going to be healthy, it has to ensure that the advertising that informs people about the competing claims is true. The Greens want to see in the more comprehensive legislation coming down the line—and I hope it will be this year, Senator Ronaldson, so that we can look at it and pass it into law before the next election—the Electoral Commission, or a body set up under the aegis of the Electoral Commission, vet contentious advertising to make sure that it is true. Surely that is fundamental
if you are going to have a fair dinkum and honest political campaign.

There is a matter at hand that I address in the time left to me: the article in today’s Mercury under the headline ‘Labor smear bid backfires’. This is by Sue Neales, chief reporter. Yesterday in the state parliament, the Attorney-General, the chief law officer of Tasmania, made a series of allegations about a donation to the Greens from some very decent people that I know in New South Wales—Susie Russell and Greg Hall—who have been forest campaigners for decades. They are very committed to the protection of forests and have been successful in helping, for example, the World Heritage rainforest areas of northern New South Wales to be protected. They made donations to the Tasmanian Greens because of the campaign against the Gunns pulp mill, which would, were it to be built, log some 200,000 hectares of Tasmanian forests full of wildlife.

These are good people who are motivated and see that, if they can help protect forests elsewhere, other than in their own neighbourhood, they would do that; but, according to the Attorney-General of Tasmania, their donations to the Greens at the last election left ‘serious and unanswered questions’. This is a $45,000 donation. Amongst the claims were that Ms Russell was an employee of Ian Cohen, the upper house MLC in New South Wales—she had been till 2003 but has not been since then, so that claim was true—and that the address given on the donation disclosure form was for a vacant bush block. It happens to be the home address of these two very fine people in northern New South Wales. Ms Giddings made implications as to whether the names of the real donors had been disguised, and yet they are there on the donation forms.

I have things to say about this. First, yes, let us get rid of private donations—but you cannot expect any political party to survive without them, and under our current system good people will be open in putting forward the money they can get. Apparently this money from Susie Russell and Greg Hall came from an inheritance. Most people would think about spending that money on themselves. They put forward what for individuals is a large amount of money to help save Tasmania’s forests. They put it into the public good out of their own private domain and, as a result, the chief law officer ran a smear campaign through the parliament yesterday, apparently on the basis that if you throw enough mud some will stick. I would have thought much better of the Deputy Premier of Tasmania; I held her in higher regard than this. It was a cowardly thing to do, and it is ultimately counted against the chief law officer of Tasmania. What a sad reflection it is that it turns out that Labor Party operatives had spent some time digging all this up to put falsely before the parliament a claim against two very fine people who should never have been subjected to that sort of false vilification by an Attorney-General in Tasmania—or anywhere else in a democratic system. Yesterday was a pretty sad day for the Tasmanian government and the Tasmanian Labor Party.

By the way, the Tasmanian Greens leader, Nick McKim, was hit with that without warning and did a remarkably fine job of defending these people. I know them; I do not know whether Nick McKim knows them, but I hope one day he gets to meet them. I rang Ms Russell this morning, and she has invited me to come and stay at their place, because they bought a couple of photographs out of an exhibition I had in Hobart over the weekend—let me disclose that right away. I had great pleasure telling her I would love to come and stay at her place. I think they are fantastic people who do not deserve the
treatment that Lara Giddings dished out yesterday.

That said, I am glad this legislation is here. It is a big step forward. I hope the opposition will reconsider any potential for opposing it, because it is a step forward. It may be cherry picking, but they are important cherries. I look forward to the more comprehensive legislation. Finally, I pay tribute to Senator John Faulkner. He is driving a review of our electoral laws, which do need fixing up. That is tough. There will be huge debate within all political parties—I have no doubt there will be within his party, as there is within the Greens and as there will be everywhere—about the pros and cons of any move to change the electoral system, but it must be changed. He has the courage and tenacity to make that change. I appreciate that. He is the right person to be doing this, and I wish him great success.

Senator PRATT (Western Australia) (11.21 am)—Today I rise in support of the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009]. This bill is part of a series of Rudd government measures that are designed to clean up government in this country. We cannot have clean government unless we have a strong and healthy democracy, and we cannot have a strong and healthy democracy unless we protect the integrity of the Australian electoral system. We cannot protect the integrity of the Australian electoral system without robust and transparent public funding for election candidates and robust and transparent regulation of political donations. Our commitment to better regulation of public funding and private donations was made crystal clear prior to the last election. The government has put forward these objectives, and they will be furthered in the bill that we have before us today. However, today I would like to focus my comments specifically on political donations. Perhaps the most significant of the reforms before us is our proposal to reverse the Howard government’s cynical attempt to hide donations and thus undermine the integrity of the electoral process by lifting the disclosure threshold from $1,500 to $10,000 and then indexing the threshold. On this point, the policy Labor took to the election could not have been clearer:

Labor supports public transparency of political donations. Labor will therefore reverse the outrageous changes instituted by the Howard Government to limit public disclosure of political donations. Labor will not support millions of dollars being hidden from public scrutiny.

Indeed, this policy cemented Labor’s position in relation to the Howard government’s mis-titled Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006, which raised the disclosure threshold. In this place, my colleague Senator Carr was categorical in his rejection of the coalition’s bill, stating that it should be rejected out of hand. The dissenting report on the bill by Labor members of the Joint Standing Committee on Electoral Matters stated the reasons for our objection. As the dissenting report outlined, the underlying principle behind our opposition to the Howard government’s bill was that the public has a right to know who is donating to political parties. Support for this principle entails support for all practicable measures that further it. It is clearly possible for political donations of $1,000 or more to be disclosed. It may be found inconvenient by some parties and candidates to have to disclose all donations above this threshold, but it is not impractical. Prior to 2006, the disclosure threshold was $1,500, and this did not prove impractical. I know—I have done the paperwork. In addition, most other states and territories, including my own state of WA, have similar thresholds, and these do not prove impractical.
The simple fact is that the Howard government did not want to be embarrassed by its donors for fear of the political consequences and it did not want its donors embarrassed by their donations for fear that they would stop donating. So the Howard government was prepared to sacrifice the principle that the public has a right to know who is donating to political parties to save embarrassment all round. The fact that the existing act allowed donors to donate to more than one branch of a political party provided each individual donation was under the threshold meant that an individual could contribute tens of thousands of dollars to a political party without being identified. Once again, there is no need for this loophole, and I am delighted that the Rudd government aims to close it via this bill.

Indexing the threshold also had an obvious, immediate and practical impact on disclosure—namely, it became harder for those making and receiving donations to be sure what the threshold was. Every year the threshold changed when indexation was applied, and after the first year it was no longer a round figure. To meet their obligations under the act, those collecting donations, many of them volunteers, must keep in mind this very difficult to recall threshold level—a threshold level that, what is more, keeps changing. Furthermore, potential donors, who have a right to know whether or not their donations are going to be made public, must be made aware of this difficult to recall and frequently changing figure. Once again, this is directly contrary to the principle that, when it comes to political donations, the public’s right to know should be protected by taking practical steps to facilitate disclosure.

I have worked on returns under both the Howard government’s system and the previous system and, from my point of view, it is much easier to have a transparent relationship with campaign donors—one where they are clear in their expectation that their donation will be disclosed and fundraisers are not obliged to have the conversation with them, ‘If you donate this much you are over and this much you are under.’ Such conversations are, frankly, better avoided. They are easier to avoid when the threshold is a fixed, round and low figure. So I say the expectation of disclosure from the outset is a good thing. Furthermore, having people split up donations to avoid disclosure makes a mockery of disclosure rules. Any substantial donor that does not want to be on the public record should not be making a donation.

Once again, I am delighted that the bill before us will remedy the Howard government’s defective approach to this issue. The Howard government’s arguments in support of raising and indexing the threshold were weak indeed. The Liberals argued that the old, low, flat threshold of $1,500 discouraged donations from small businesses and ‘ordinary individuals’. Yet these are the very donors likely to be put off by the confusion caused by indexation. The Liberals also argued that 90 per cent of donations received would still be disclosed under the new regime. This argument was based on the total amount of funds received and not on the number of donors. It was calculated to present a reassuring picture to the public of the impact of the changes. However, the public wants to know who all of a party’s significant contributors are, not just who contributed the largest amounts. Recent figures released by the AEC on donations have confirmed that, under the Howard government’s new threshold, the number of donor returns has plummeted.

Finally, the Liberals argued that $10,000 was really not enough to buy political influence. With respect, that is not something politicians should be judging. We all need to acknowledge that we have a potential conflict of interest here. It is far better to set the
threshold as low as is practically possible and then let the public decide whether or not a donation is sufficiently large as to warrant concern regarding undue influence.

Once again the Liberals seem to be missing the point on these issues. They seem to be missing the very principle at stake—one hesitates to say, perhaps deliberately. So let me repeat it: when it comes to political donations, as far as is practicable, the public has a right to know. If the Liberals’ arguments in favour of raising and indexing the threshold are weak, the opposition’s arguments against this current bill are no more credible. The Liberals argue that Labor members are hypocrites in supporting this legislation because it seeks to ban overseas donations and the ALP has accepted overseas donations. Yes, like many branches of the Liberal Party, some branches of the ALP have received overseas donations. But the opposition raise a completely specious argument. It is a red herring. Just because a team plays by the existing rules does not mean that those rules are ideal. Nor does it mean that a team cannot credibly argue in favour of reforms to the rules to make the rules fairer. It is ridiculous to say that we have somehow ‘accepted’ existing laws by working within them and therefore we should not argue for reform. Senator Bob Brown and I agree on this point. That argument could be used against any reform of any law.

The opposition also argues that Labor members are not serious about campaign finance reform because Labor relies on union donations. Again, yes, Labor receives union donations and indeed affiliation fees. It also receives corporate donations, as does the Liberal Party. And, yes, Labor benefited from the union movement’s Your Rights at Work campaign, just as the Liberal Party stood to benefit from campaigns by big business in favour of Work Choices. In fact, returns show that the National Business Action Fund spent $13.2 million in political expenditure in 2007-08 and the Business Council spent $2.3 million. The fact is that the Australian public simply was not convinced by your arguments in favour of Work Choices. Why don’t you accept the fact that you fought a fair fight and you lost? Again, this is just a red herring. The proposed changes will affect union and corporate donations equally.

After this bill was introduced in May last year the opposition endeavoured to delay its passage by 12 months by sending it to the Joint Standing Committee on Electoral Matters for report in June this year. The stated justification for this? The Rudd government’s own green paper on electoral reform. The Liberals argued the bill should be delayed, that it should be sent off to a committee until the green paper process was complete. Indeed, Senator Ronaldson was arguing this just now. Never mind that the green paper process is designed to look at reform of political donations, funding and expenditure from all angles and to consider the options for electoral reform both in the short term and in the long term. Never mind that the bill before us is designed to fix a significant and very specific set of problems created by the coalition’s recent changes; it is not about implementing a wide-ranging reform program. Never mind that not being able to implement a perfect system now is no excuse for not repairing obvious and damaging holes in the existing system immediately. And never mind either that the Joint Standing Committee on Electoral Matters had already canvassed most of the issues pertaining to donation and disclosure during its previous inquiry into the Howard government’s changes to the threshold.
It is little wonder that when the Joint Standing Committee on Electoral Matters called for submissions on the bill before us, only one stakeholder other than the Liberal Party responded—and they supported the bill. The few, relatively minor issues arising from the committee’s report have been addressed by the government’s own proposed amendments. As for submissions to the green paper process, the deadline for submissions on donations funding and expenditure was the 23rd of last month. Forty-nine submissions were received from organisations and individuals. As expected they put forward a wide range of possible options for future reform in this area, most of which went beyond the scope of the bill we have before us today. Where submissions did touch specifically on proposals that pertain to this bill, the response was generally positive—although, as expected, many of those submitters expressed their hope that this bill will represent the beginning and not the end of a much needed reform process. The government agrees with that sentiment. But it is not an argument against this bill; it is an argument in support of further reform.

I would like to sum up by using the words of Professor George Williams of the Centre for Public Law at the University of New South Wales. He concluded his submission to the green paper process:

In regard to the reforms already proposed, I strongly support the measures set out in the Commonwealth Electoral Amendment (Political and Other Measures) Bill 2008.

These measures are essential reforms that should help pave the way for larger reforms to bring about a fairer electoral system in Australia. This bill is one step in an ongoing process to help strengthen Australia’s democracy. I commend the bill to the Senate.

Senator POLLEY (Tasmania) (11.37 am)—I rise on this occasion in the Senate to speak on the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009]. We are a proud nation blessed with a democratic system of government, a system that allows all voters to express their wish without fear of retribution. Many nations throughout the world strive to achieve the freedom we have in terms of the right to free speech and the right to contribute to electing a government to rule their land. The concept of democracy allows for the formation of political parties and for their respective members and other Australian citizens to contribute to the process. This, however, comes with responsibilities and the need for transparency in the eyes of the Australian public to ensure that the funding for political parties is an open process and not secretive or deceptive—hence the need for these amendments. This bill is needed because of another example of the cynical political exercise of the former Liberal Howard government.

Over many years, there has been criticism from the Australian population regarding the amount of money donated and spent during election campaigns. In order to ensure that this process is open and transparent, certain standards are necessary to ensure that the declaration and reporting of donations is honest and fair. The Australian population deserve to know where donations have been received from, be it from public or private sources. As many Australians are also shareholders in Australian companies, they also have a right as shareholders to know whether the company concerned has donated to a political party.

The bill endeavours to ensure that the Commonwealth Electoral Act is respected as a means to maintain transparency, accountability and integrity in the eyes of the Australian population. The proposed amendment bill will come into effect from 1 July 2009. The bill has several main features. It is proposed that the donation disclosure threshold
Presently, political parties have up to 20 weeks from an election date to meet reporting obligations. It is proposed that this period be reduced to eight weeks. This change aims to ensure that the Australian public receive more timely information for perusal and consideration. Access to up-to-date information is essential for the many decisions we make in our lives, and this case is no exception. Potential investors may wish to know whether an organisation in which they intend to invest their valuable resources has been associated with a political party. This information should be easy to find and in a format that is easy to understand. This proposed change to the act ensures that it is also available to be considered.

The existing act requires ‘donors, political parties, associated entities and people who have incurred electoral expenditure to furnish returns within eight weeks of the end of the six monthly reporting periods’. At present, donors, political parties and associated entities and people are required to report annually, and this can be done up to 20 weeks after the end of the financial year. The current guidelines meant that the reporting from the 2007 federal election needed to be submitted by 2 February 2009—that is, 14 months after the date of the election. This does not provide timely information for decision making to the Australian public and other key stakeholders.

The bill seeks to ban donations from overseas. This area can be broken into several aspects, each requiring consideration. The banning of donations from overseas seeks to ensure that all parties and candidates commence campaigning on a level playing field. In Australia’s quest to be seen as a fair and just nation, all candidates should have access to the same level of support. Whilst this in reality is not the case, donations from overseas could significantly distort the final out-
come of campaigning during the intense time leading up to a federal election.

The Australian public are hungry for information to enable them to vote in the knowledge that they are selecting the party and candidate who will best serve them. Should, for example, overseas donations enable the disproportionate advertising of a particular party’s policies, then the information the voter may receive could be distorted in terms of quantity and quality. It could also be argued that Australians would expect that funds for political expenditure be generated from their own economy and not brought in from overseas. Overseas donors, no matter how good their intentions may be, should not have the ability to give any party an advantage over another, especially given that a party’s ability to ultimately form government could be affected.

This change seeks to bring Australia into line with other countries—for example, the United States—where overseas donations are unlawful. There have been cases where overseas donations have been received by associated entities and other third parties purely for the purpose of incurring political expenditure. Whilst I acknowledge that several of the major parties received overseas donations—including the Labor Party, as was declared in the returns released on Monday, 2 February—the Rudd Labor government wants to put an end to this practice. At the appropriate time, it would be enlightening to find out where the opposition now stands on this matter.

A further change included in the bill is the requirement that public funding be genuinely associated with campaign expenditure and genuinely incurred during the period of an election campaign. This could be defined as the period from the issuing of the writs to the close of polls. The inadequacy in the existing law has resulted in some political parties and candidates making a profit from public funding. This unfair practice would be frowned upon by the community and would be seen as a rort. Given that public funding is derived from taxpayers, the public have a legitimate expectation that it be expended on genuine campaigning costs associated with the election. They would also expect that funding be provided only to the extent that it covered the actual cost of running the campaign. With good reason, the Australian people expect sound financial management of the funds to which they have contributed through taxes from their hard-earned income.

This bill also introduces changes to the offences and the levels of penalties under the existing act. Some of the new offences cover areas such as failing to lodge returns, lodging incomplete returns and providing false or misleading information for the purpose of increasing the level of public election funding. The current penalties have remained unchanged since 1983 and over time have become an inadequate deterrent against not meeting the current requirements of the act. In addition, the current penalties no longer reflect the magnitude and seriousness of the offences. As Australians are expected to be honest with the submission of their tax returns and associated income declaration and expense claims, a corresponding standard is being placed on political parties and candidates to ensure the same level of honesty and integrity is maintained. The Australian public deserve nothing less.

The Joint Standing Committee on Electoral Matters report delivered in October 2008 recommended several amendments. One of these was the issue of anonymous donations and whether or not they could be accepted. The committee recommended that some small, low-scale, anonymous donations be allowed and this recommendation has been accepted by the government. Anonymous donations of an amount up to $50 may
now be received at public fundraising activities such as fetes and street stalls or at private fundraising events such as trivia nights, barbecues and dinners. Various records are required to be maintained for provision to the Australian Electoral Commission for these types of events. These include the nature of the event, the total number of attendees, the total amount of the donations collected and details regarding the personnel collecting the money. It will also be an offence to knowingly create or keep misleading or false records of these facts.

An additional amendment has been proposed to ensure that third parties cannot receive anonymous donations purely for the purpose of avoiding the existing reporting requirements, yet it will allow the recipient to incur expenditure directly related to an election campaign. Organisations that incur particular types of political expenditure above the threshold level in a reporting period will be required to declare anonymous donations targeted towards the purposes of conducting a political campaign.

A further aspect of debate has been the element that may be legitimately included as political expenditure for the purpose of claiming public funding. This was the other main recommendation of the committee, and the government has since approved it. There are several additional approved expenditures that are now able to be offset by public funding. The first is the rental cost of premises dedicated solely to the running of the campaign. This may be a commercial office or a shop located in a major shopping centre or strip. The location of a campaign office or shop can be crucial to increasing public awareness of candidates and the party and policies they are supporting. A constituent may feel more comfortable asking a question in a friendly, campaign environment rather than approaching the office of a local member of parliament. The second is the employment cost of hiring staff who are dedicated to working on the campaign. This may include people with media and public relations skills, secretarial skills, project management skills and general organisational skills. Campaigns as we all know are extremely busy times, usually with tight time frames and much work to be completed. The ability to hire staff with professional skills allows the campaign to run more smoothly whilst providing a better service to constituents and more effective publicity throughout the electorate.

The third is the provision of office equipment, whether by purchase, hire or lease. As each of the senators in this chamber would be aware it is a necessity that the campaign office be able to produce local media publications, constituent brochures, information leaflets, policy fact sheets, letters and a myriad of other material for distribution to their electorates. The timely production and distribution of these items is critical in providing information to the voting public, who wish to make the best informed choice of a member for their respective electorates. Reliable office equipment is essential for the sound operation of any office, particularly during times of high stress levels such as election campaigns. As is the case where the government is providing public money for other purposes, the Australian people should expect nothing less than transparency, integrity and accountability when providing public funds for the purpose of electoral campaigning.

In summary, the general public have a right to know where their contribution, through taxes to the government, is being directed and how it is being expended and, in addition, they have a right to information regarding the amount and the source of donations. I reiterate that this information is also of more value if it is provided to stakeholders in a more timely manner, hence the
changes to the reporting period time lines. Australia is a great nation with a fair system of government. The strengthening of laws in regard to the declaration and reporting of political donations can only serve to provide a better level of information to the Australian people. I would like to commend Minister Faulkner for his leadership in this very important area and I commend this bill to the Senate.

Senator XENOPHON (South Australia) (11.51 am)—I can indicate that I will be supporting the second reading of the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009] and am quite supportive of the measures contained in it. I acknowledge the concerns of the coalition: they say that it is a piecemeal approach and that we should wait until the more significant, comprehensive changes are dealt with. Whilst I understand that position, I think it is preferable to deal with the issues contained in this bill now. I note that it is the intention of the government to bring in legislation in the coming months and I look forward to this matter being dealt with by no later than the end of this year.

I am on the record as being a strong supporter of electoral finance reform. Amongst my proposals on this to the Joint Standing Committee on Electoral Matters, I suggested that there ought to be a mechanism in place so you could have continuous online disclosure of donations. I think that is the preferred course. It gives a level of transparency, particularly in the course of an election campaign, when I think the public ought to know who is donating what and in what amounts. That is quite important. I also think that public funding should be linked to expenditure and having restrictions on donations.

I have spoken publicly about the need for sensible approaches to disclosure and tax exemption for political donations to candidates, Independent members and parties. That is why I support the Greens amendments, proposed by Senator Ludlam, for a $1,500 ceiling for tax deductibility but that it would only apply to individuals and it was not appropriate for it to apply to corporations. Political donation schemes need to be transparent and they must be structured in such a way that they foster democracy. They should not be an avenue to give incumbents and political parties an unfair advantage, nor should they be a mechanism for donors to exert undue influence on decision making.

Can I indicate in relation to the issue of donations at the last election that I offered, after getting advice from senior counsel, a moneyback guarantee to donors so that they would receive a proportion of their donations back as a proportion of the level of federal funding I received. I did in fact refund a significant amount of money to donors in accordance with that guarantee. Some did not want their money back, and that was used to run a skeleton office from the time of the election to the time I started in this place. I think that is important. I also think it is important to address the concern about rorts with respect to some candidates whose campaigns may have cost them next to nothing but who then pocket the windfall. That is inappropriate, and I welcome the reforms with respect to avoiding those windfall payments.

In relation to foreign donations and gifts from foreign companies, I think it is appropriate that those donations be excluded. I note that in other jurisdictions such as the United States that is banned. The provision relating to more frequent disclosure—from 15 weeks to a period of eight weeks after polling day—is appropriate, as is the requirement for disclosure twice a year. You often get the situation where people do not know who has made a donation for 15 months or thereabouts, depending on when
the election was held, because of the time lags involved. I think that is inappropriate. I look forward to discussing with the government the possibility of having more continuous disclosure mechanisms.

I believe we need to get on with these particular amendments, which I welcome, but we also need to look at the big picture in terms of comprehensive reforms. Even Senator Faulkner’s critics would acknowledge that he has been very genuine and has put in an enormous amount of work on reforming electoral laws in this country on donations and funding, and that is welcome. I think our current laws are inadequate. This is one step that will make a difference, and that is appropriate. I do not want us to go further down the path of the United States, where you have the best democracy that money can buy. The enormous amounts of money that are involved in US election campaigns, even for Senate or congressional races, are just mind-boggling. We need to have a good hard look at that, otherwise only the very wealthy will be able to run. We also need to look at the issue of public funding and donations in the context that if you take public funding you then elect to be circumscribed in the level of donations you receive, both the quantum of donations overall and the individual donations. I do not think you should have your snout in both troughs, so to speak, in terms of public funding and non-public funding from private or other sources.

With those few words, I indicate my support for the second reading of this bill. I look forward to the committee stage. I am also looking forward to further and comprehensive reform of electoral funding and disclosure laws in the coming months.

Senator FIELDING (Victoria—Leader of the Family First Party) (11.57 am)—Australia is often described by people as ‘the lucky country’. Unlike many other nations, since Federation the Australian people have known only one form of government—democracy. Even though there are plenty of countries around the world that are democratic, our democracy is special. Just like anything special in life, we need to protect it from harm’s way and make sure that it is safe and sound. That is why we have laws regulating how democracy works. It is too important to be left to operate without boundaries or controls. Power is vested in political parties, and these same parties are responsible for setting the rules for themselves. This makes it all the more important that, as self-regulators, we do everything we can to retain the public’s trust. The Australian people place a lot of trust in their elected representatives and we owe it to them to demonstrate the principles of responsible government.

A vibrant democracy is a democracy where people have confidence in the system. It is a democracy which is free from corruption. That is why I joined the Parliamentary Joint Committee on the Australian Crime Commission. Rooting out corruption is something I feel very passionate about. I have always taken a strong stand on this issue because, for me, it is black and white; there can be no grey. Corruption must be exposed, no matter what shape or form it comes in.

One of the biggest opportunities for corruption arises under public funding for federal election campaigns. Without proper controls it can easily turn into a set of kickbacks for the major political parties. Public funding of federal election campaigns began for a legitimate reason: to provide for the reimbursement of legitimate campaign expenses—and fair enough. The key word here, of course, is ‘legitimate’. But since this legislation was introduced in 1984, it has been rife with rorting, rife to the degree that public funding of federal election campaigns has skyrocketed by more than 55 per cent over
the last four elections. In real terms that means that public funding for the major political parties has spiralled. It was $28 million of public funding—and that was excessive enough—but it has jumped to an obscene $43 million of public funding for election campaign spending. That is $43 million of hard-earned taxes paid by ordinary Australians that is spent by political parties to brag about themselves and what they have done and what they are going to do. It is all about them.

Times are enormously tough for so many in Australia and our leaders are telling us to expect tough times to continue. We have even heard the grim news from one of the Rudd government ministers that no job is safe. So how can political parties justify taking that money given to them by hardworking Australians and then excessively spending that money to tell those same Australians how fantastic their political parties are? If political parties want to spend huge amounts on election campaigns they can dig into their own pockets and get their hands out of the public purse. Australian families should not be expected to fund excessive spending by the major political parties. We are sick and tired of being bombarded with excessive TV ads every night and having our letterboxes stuffed full of excessive campaign mail during every election especially when we end up paying for it—that is, taxpayers are paying for it.

The government’s Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009] fails dismally to address this rorting. Labor has only proposed to limit public funding of political parties to actual campaign expenses. This will stop profiteering but will do nothing to rein in the excessive campaign spending. That is why Family First is moving to cap the amount that each major political party can claim from the public to fund their election campaign to a maximum of $10 million.

Let us be real: $10 million is more than enough for any one political party to spend in each election. Having this cap of $10 million will save the taxpayers over $20 million per election. So by capping how much each political party can claim to be funded by taxpayers to $10 million, this will result in stopping political parties rorting the system and will save taxpayers $20 million per election. This saved $20 million could be spent on giving a fairer go to veterans and pensioners and giving more funds to hospitals and schools. All Australians would agree it would be better to spend the $20 million on these services rather than seeing it spent on politicians telling us again and again how good they are. Let us stop the real political rort and stop political parties from spending excessive amounts on the election at taxpayers’ expense. Ten million dollars is enough money for that. Let us use the rest for something much more important.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (12.04 pm)—I thank all those senators who have contributed to the debate on this important piece of legislation, the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009]. In March last year, the Prime Minister told the 7.30 Report that the ‘time has well and truly come for Australia to have comprehensive campaign finance reform’. This bill is the start of the process.

The first group of measures to start this process concerns the disclosure threshold and reporting periods. This bill will reduce the disclosure threshold from the current CPI indexed amount of $10,900 to a non-indexed amount of $1,000. This will restore proper public scrutiny to donations of this size. The bill will improve transparency in the funding
and disclosure regime by requiring participants in the electoral process to report every six months rather than every 12 months.

The bill will also provide consistency by reducing the deadline when the participants in the political process have to lodge disclosure returns with the AEC to a consistent period of eight weeks. This measure will replace the haphazard deadlines currently in the Electoral Act which range from 15 weeks, 16 weeks or 20 weeks, depending on the person or the entity.

To ensure that the new $1,000 disclosure threshold is not avoided by a person giving multiple amounts below the threshold to various branches or divisions of the same political party, the bill will treat donations to different branches of a political party as if the donations were given to the same political party.

The second group of measures concern from whom donations may be received. The bill prohibits the receipt of a gift of foreign property or an anonymous gift outright for some people and entities while for other people and entities it will be unlawful to receive a gift of foreign property or an anonymous gift if that gift is used for political expenditure.

In response to a recommendation from the Joint Standing Committee on Electoral Matters, the government’s amendments will allow low-level anonymous donations—that is, anonymous donations of $50 or less—to continue where they are received through fundraising activities or events.

Finally, the bill seeks to prevent the possibility that some candidates and other groups may obtain a windfall payment of election funding by tying electoral funding to the actual electoral expenditure incurred. Again, in response to a recommendation from JSCEM the government has expanded the definition of ‘campaign expenditure’ to ensure that it does not favour one form of campaigning over another.

As I have outlined, the bill contains urgent measures to address critical weaknesses in the Commonwealth Electoral Act relating to the funding and disclosure regime. I provided details of these measures as long ago as 28 March last year. These measures are very critical and important reforms, although small in number, and they are targeted to deliver a more transparent and accountable electoral system in this country.

In terms of the second reading amendment that Senator Bob Brown has moved on behalf of the Australian Greens, I acknowledge the interest that has been consistently demonstrated by Senator Brown in addressing issues about our electoral system. I acknowledge also Senator Brown’s and the Greens’ interest in this particular issue over a long period of time. It is also true to say that the concept of truth in advertising has had a long and complicated history. Indeed, previous reports of JSCEM have identified the difficulties of legislating in this area and have argued that voters remain the most appropriate arbiters of the worth of political claims that are made. That is just one of the reasons the government does not support this amendment at this time. I do acknowledge, as I think senators would expect me to, that this is an issue which warrants further and detailed consideration for this reason: the question of truth in advertising is being examined as part of the second green paper on electoral reform, which will be released later this year.

I commend to the Senate the government’s view that the green paper process—in other words, considering this issue as part of a raft of broader issues surrounding the campaign process and then having these issues subject to consultation with the public, the states and territories, political parties and others in-
involved in the political process as well as other interested people—really is the best way forward to deal with this important issue. I can indicate to Senator Brown, the Australian Greens and of course to the Senate that the government will examine the question of truth in advertising in that green paper process. As I indicated earlier in my contribution, the government does believe that this bill is a critically important first step in the electoral reform process and I have much pleasure in commending the bill to the Senate.

Senator RONALDSON (Victoria) (12.14 pm)—by leave—The opposition fully understands the principle behind Senator Bob Brown’s comments. It is potentially an extremely difficult area and it is probably something better dealt with in the fullness of time as opposed to through this very simple amendment. The opposition does not support Senator Brown’s amendment, although we do support the principles that underpin his amendment.

Question negatived.

Question put:

That the bill be now read a second time

The Senate divided. [12.19 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes............ 32
Noes............ 32
Majority........ 0

AYES

Arbib, M.V.  Bilyk, C.L.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Cameron, D.N.
Collins, J.  Crossin, P.M.
Evans, C.V.  Farrell, D.E. *
Faulkner, J.P.  Feeney, D.
Forshaw, M.G.  Furner, M.L.
Hanson-Young, S.C.  Hogg, J.J.
Hurley, A.  Hutchins, S.P.
Ludlam, S.  Ludwig, J.W.

McEwen, A.
Milne, C.
Pratt, L.C.
Siewert, R.
Sterle, G.
Xenophon, N.

NOES

Barnett, G.
Birmingham, S.
Boyce, S.
Bushby, D.C.
Colbeck, R.
Eggleston, A.
Fielding, S.
Fifield, M.P.
Humphries, G.
Joyce, B.
Macdonald, I.
McGauran, J.J.J.
Parry, S.
Ronaldson, M.
Scullion, N.G.
Trood, R.B.

Bernardi, C.
Buswell, R.L.D.
Brandsis, G.H.
Cash, M.C.
Cooman, H.L.
Ferguson, A.B.
Fierravanti-Wells, C.
Fisher, M.J.
Johnston, D.
Kroger, H.
Mason, B.J.
Nash, F.
Payne, M.A.
Ryan, S.M.
Troeth, J.M.
Williams, J.R. *

PAIRS

Carr, K.J.  Cormann, M.H.P.
Conroy, S.M.  Heffernan, W.
Marshall, G.  Minchin, N.H.
Moore, C.  Adams, J.
O’Brien, K.W.K.  Abetz, E.

denotes teller

Senator Wong did not vote, to compensate for the vacancy caused by the resignation of Senator Ellison.

Question negatived.

TAX LAWS AMENDMENT (TAXATION OF FINANCIAL ARRANGEMENTS) BILL 2008

Second Reading

Debate resumed from 12 February, on motion by Senator Sherry:

That this bill be now read a second time.

Senator COONAN (New South Wales) (12.22 pm)—I rise to indicate that the coalition will be supporting the Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008. This bill clarifies the
tax treatment of financial arrangements such as futures, options and forward contracts which have been developed over the last two decades. This bill is the final part of the former coalition government’s taxation reforms into financial arrangements. The reforms were modelled in four stages. Stages 1 and 2 were legislated under the coalition government. Legislation for stages 3 and 4 was introduced by the coalition government but lapsed due to the 2007 election.

The bill provides certainty on the tax treatment of financial arrangements. Currently the tax treatment of financial arrangements is based on the legal definition rather than the economic reality of the financial arrangement. The differential tax treatment between revenue and capital often causes financial arrangements with a similar economic outcome to in fact be treated differently. This has reduced the efficiency of financial markets as some financial arrangements are more attractive due to their more favourable tax treatment. Currently there are no specific rules for treating financial arrangements for tax purposes. Entities must determine whether a financial arrangement is capital or revenue according to the legal nature of the arrangement. This can often be different to the way the arrangement is treated for accounting purposes. This bill removes the requirement to make such a distinction. This bill introduces rules for treating financial arrangements for tax purposes. As a result of this bill, financial arrangements will be taxed based on their economic substance rather than requiring a complex legal distinction between capital and revenue. This will align the tax treatment of financial arrangements with the accounting treatment of financial arrangements used by entities.

Financial arrangements may be entered into for revenue purposes or capital purposes. To use an example, shares purchased and sold by a bank may be treated as revenue or capital depending on the purpose and legal form of the arrangement. Generally, the shares would be treated as revenue for accounting purposes. However, often the shares are legally determined as capital for tax purposes. This results in a discrepancy between the accounting treatment and the tax treatment of shares. This occurs because the tax law as it currently stands has not accommodated the evolution of financial arrangements and their use. This bill will remove this discrepancy by aligning the tax treatment with the accounting treatment of the shares—that is to say, the shares would be treated as revenue for tax purposes and accounting purposes.

The bill provides six methods for determining the treatment of gains and losses arising from financial arrangements. The bill removes the distinction between revenue and capital as the deciding factor in determining tax treatment of financial arrangements. These are broken down into two general classes: elective and non-elective. There are four elective methods and two non-elective methods. The four elective methods are the elective hedging method, the elective financial reports method, the elective fair value method and, finally, the elective foreign exchange retranslation method. For those who do not choose to make an election, the non-elective methods apply and they are the accruals method or the realisation method. These reforms will be compulsory for some taxpayers, such as approved deposit-taking institutions and superannuation funds and managed investment schemes that have assets over $100 million. Taxpayers who are not required to adopt the TOFA rules may elect to do so voluntarily.

As mentioned previously, these reforms were initiated by the previous coalition government. The whole TOFA process of reform is a decade in the making. Stage 1 of these
reforms, which related to debt and equity measures, was legislated back in 2001. Stage 2, which related to foreign currency conversion rules and the realisation of foreign currency gains and losses, was legislated in 2003. The previous coalition government released the draft legislation for the final stages in 2005 and then engaged in an extensive consultation process with relevant taxpayers, industry groups and professional associations.

As the Senate will appreciate, this is a very complex and somewhat esoteric area of the tax law that has taken some time for stakeholders and successive governments to progress to this final stage. The final reforms were introduced in a bill into the other place in September 2007. As mentioned, however, the previous bill lapsed because of the federal election. So there have been a number of years of extensive consultation. They have been necessary and have resulted in the reforms that this bill seeks to finalise. These reforms reflect the coalition’s longstanding commitment to ensuring the integrity of the operation of our tax system.

I will mention very briefly an issue that I know my colleague Senator Joyce may raise further in more detail shortly. The coalition, whilst we are supporting this bill, do flag a concern about the broadening of the aggregated turnover threshold test. As noted in the coalition senators’ additional comments in the report of the Standing Committee on Economics into this bill:

Coalition Senators are concerned that the expansion of this test into three threshold tests may unintentionally burden small to medium sized entities (SMEs) with increased compliance costs. As many SMEs across Australia are currently challenged by the fallout of the Global Financial Crisis, it would be wrong for government to burden them further with inappropriate reporting requirements.

So I do flag these concerns for the attention of the Minister for Superannuation and Corporate Law, Senator Sherry, and ask that during the committee stage he indicate the rationale for broadening the aggregated turnover threshold test. I would also ask him, if he would, to detail for the chamber what assessment of the regulatory burden has been undertaken by the government and/or Treasury in this regard. That being said, and as I have said before, this is a supported piece of legislation and I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Hurley)—Senator Coonan, could I clarify whether you want to have a committee stage or third reading stage of the bill.

Senator COONAN—No, not really. I have flagged it as a matter for the minister. I am not seeking a committee stage.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (12.29 pm)—I am going to give one of the briefest speeches in the history of the parliament. I would just like to concur with the comments made by Senator Coonan on the Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008. I look forward to the committee stage of the bill for reasons of fleshing out some of the issues that she brought up.

Senator Coonan—I have asked him to clarify them in the committee stage.

Senator Joyce—if you are just going to clarify them, that will do.

Senator HURLEY (South Australia) (12.29 pm)—As Senator Coonan said, the taxation of financial arrangements has been a longstanding area of reform for consecutive governments. The changes in the taxation of income from financial arrangements were first announced by the Keating government in 1992. Then in 1999 the review of business taxation, the Ralph review, recommended that the taxation of financial arrangements be
changed. Stage 1 of those reforms, disinguishing between debt and equity, was introduced in 2001. Stage 2 of the reforms, clarifying the taxation of foreign currency gains and losses, was introduced in 2003. Further reforms recommended by the Ralph review concerning the tax treatment of commodity hedges were announced in 2005. The Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008 implements stages 3 and 4 of the taxation of financial arrangements reforms dealing with hedges and tax timing of other arrangements. It is a complicated but important part of fiscal law. Treasury believes it will bring our treatment of taxation of financial arrangements up to par with other major developed countries.

For the purposes of this bill, a ‘financial arrangement’ is a right to receive or an obligation to provide a benefit that is monetary in nature, non-monetary in nature but may be settled by money or a money equivalent or is in substance and effect monetary in nature. The above definition seeks to cover the elements common to a wide range of modern financial instruments such as futures, options, credit swaps, forward agreements and other financial products. It also covers more established arrangements like loans, promissory notes and debentures. Notwithstanding some of the problems that those instruments have created recently, I am sure that the financial markets will make full use of these and other instruments in future. New financial products have been devised and used by business and industry at a rapid pace over the past two decades. The use of modern financial instruments such as futures, or hybrid debt/equity securities, has increased as business has sought new ways to protect itself from the risks of an increasingly global market. It is recognised that innovations in financial markets have outpaced the taxation framework governing them and that what is required is a reform of tax laws that shifts the emphasis from the legal form to the substance of financial arrangements. The current emphasis on the legal form of the arrangements has favoured the use of some types of financial arrangements over others due to more favourable tax treatment, adversely affecting pricing, risk management and the efficient allocation of financial resources.

This bill amends the Income Tax Assessment Act 1997 so that the taxation of various financial arrangements occurs by an appropriate method. I will not go into the specific ways in which the legislation does this. I simply say that the legislation does not generally apply to individuals or superannuation funds with assets under $100 million. It does not apply to authorised deposit-taking institutions with an annual turnover under $20 million and other entities with an annual turnover under $100 million, financial assets under $100 million and total assets under $300 million. The ATO estimates that there are around 1,800 businesses with turnover exceeding $100 million to which this legislation will apply. Whilst they may incur some initial costs in changing software and paying advisers, they should also reap gains from aligning tax and accounting reporting and from hedging arrangements being less subject to disruptive tax effects.

The committee considered the impact of this legislation on smaller businesses. Government members of the committee think that these kinds of arrangements and the limits set are sufficient to deal with concerns expressed during the committee process. The government undertook an extensive consultation process over a 12-month period before the committee process. The government listened during that consultation period and that resulted in a number of changes to the legislation that effectually dealt with a lot of the concerns arising out of the bill. The bill is very complex; however, it affects only large taxpayers and, given the extensive consulta-
tion process that was implemented, those affected will have gained some familiarity with it. The ATO is putting in place procedures to advise on and assist taxpayers in complying with the new requirements.

Most of the people consulted during the committee process were very supportive of the immediate passage of the bill. Many submitters to the Senate Standing Committee on Economics inquiry noted that some review process of the bill should occur after implementation to allow for later technical amendments. This has been acknowledged by the government, with the minister noting that, given the complexity of the law, monitoring the implementation of the reform would be required and any refinements needed would be dealt with as they arose. The Tax Laws Amendment (Taxation of Financial Arrangements) Bill introduces a comprehensive new framework for the taxation of financial arrangements. It is designed to reduce tax induced distortions in investment and financing, facilitate efficient risk management and reduce compliance and administration costs. It is a significant bill which will provide certainty, clarity and equity to the tax treatment of financial arrangements. It represents the final stage of reform in this area undertaken by two previous governments. I commend the bill to the Senate.

(Quorum formed)

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (12.39 pm)—in reply—I thank senators for their contribution to this debate. The Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008 represents an important reform of Australia’s financial taxation system. Firstly, the passage of this bill will enhance efficiency in financial decision making by taxing financial arrangements according to their economic substance rather than their legal form. Secondly, it will reduce tax distortions to managing financial risk by introducing extensive tax-timing and character-hedging rules. Thirdly, it will reduce compliance costs by increasing the certainty of tax treatment of financial arrangements and by more closely aligning tax and financial accounting outcomes. The TOFA rules will not be applied on a mandatory basis to individual and small-business taxpayers, except where significant tax deferral is involved.

The bill has benefited from extensive consultations with industry and professional associations and is much anticipated by the business sector. As Senator Coonan touched on in her contribution, the bill had its genesis under the former Liberal government. We acknowledge the extensive work that commenced, as I recall from Senator Coonan’s contribution, as far back as 2003. So there have been some five to six years from the original announcement of these proposals through to the very extensive consultation. One of the results of recent consultation was the government’s decision to implement a soft and hard start date. Entities keen to receive the benefits of the reduction in compliance costs can elect to apply the new tax rules for the income year starting on or after 1 July 2009. Other entities may need more time to prepare for the new rules, which will apply to affected entities on a mandatory basis for income years starting on or after 1 July 2010.

This is a significant bill which will provide improved and needed coherence to the tax treatment of financial arrangements. As has been pointed out by Senator Coonan and other contributors to this debate, the bill is a complex one, and it will need very careful monitoring. There are likely to be issues that need to be considered. Certainly industry in their consultation, while broadly welcoming and supporting the legislation and the detail,
nevertheless rightly pointed out that, as is often the case with changes to tax treatment, there is a series of complex issues that will need careful consideration. The government understands this and industry understands it. Those who wish to apply the rules do understand the complexities of the process that is going to flow as a consequence of this legislation.

I think it was Senator Joyce—I was not here but Senator Coonan flagged it and I want to take this opportunity to discuss the issue—who expressed the concern of the coalition, the Liberal and National parties, whilst supporting this particular piece of legislation, of the broadening of the aggregated turnover threshold test and the related issue of the compliance applications and the impact that would have on business as a consequence of the broadening of that aggregated turnover threshold test.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Workplace Relations

Senator HUTCHINS (New South Wales)—(12.45 pm)—Today I take the opportunity to refer to aspects of the Fair Work Bill 2008 that has been introduced into the Senate in the last few days. I did not have an opportunity to speak in the second reading debate, for a variety of reasons—as I think you would know, Madam Acting Deputy President Brown, being a government senator. One of the things I did have a chance to do was have a read of some of the coalition’s contributions—particularly Senator Fisher’s contributions to the legislation last night—and it struck me that they are like the Bourbons. Talleyrand said the Bourbons ‘have learned nothing and forgotten everything’ once they were restored to power. That is what happened. The coalition have learned nothing and forgotten everything.

One of the main reasons that Labor won power at the last election was not the power of the trade union movement or its mobilisation—did we not mobilise in 2004, 2001, 1998, 1996, 1993 and 1990? Why could we not then shift the population that shifted in 2007? One particular individual contributed to that shift. That is a lady called Annette Harris, who is now retired and who worked at Spotlight, up in Coffs Harbour in New South Wales. Mrs Harris worked at that company and had worked there for some years but, as a result of the introduction and passage of the coalition’s workplace legislation in the last government, her employer presented her with a document to sign which allowed her to receive, in exchange for $90 a week that she would lose, 2c an hour extra. This is what the document that she was asked to sign had in it: all penalty rates on late nights and weekends would be abolished, all penalty rates on public holidays would be abolished, all overtime penalty rates would be abolished, all tea breaks would be abolished and some public holidays and rostering rights would be abolished.

Mrs Harris was a member of the Shop Assistants Union. She was, like some union members, though not all of them—a majority of them are not—a lifelong Liberal voter. This is what Mrs Harris said to the Australian in July 2007:

…John Howard was always my hero. I thought the world of him. I thought he was a good prime minister. But now it has totally changed my way of thinking as far as he’s concerned…

As I said, the opposition have learned nothing and forgotten everything. They do not understand that people like Mrs Harris, lifelong Liberal voters, voted for us for the first time in their lives last election. Why was that? The answer is clearly that the former
government decided to move away from state intervention into the workplace and leave it up to whatever happened there—the weak would look after themselves. Once they moved away from state intervention, lifelong Liberals deserted them en masse.

They get themselves tangled up with the trade union campaign. They think the trade union campaign contributed to their defeat. What contributed to their defeat was the fact that they walked away from intervening in the workplace, which we had done in a bipartisan way in this country for almost a century. This had been done by both our side of politics and theirs. They were committed to the compulsory arbitration system almost right up until John Howard got in in 1996. They were well aware and did that opportunistically. What was the reason that these conservatives were prepared to go into the workplace to employ state intervention? You can take a look at history. Particularly in Europe, conservative parties saw the results of the chaos and crisis that were caused by civil unrest. They did not want that to occur in their country. In many cases they introduced some of the welfare state provisions that we enjoy today. They were introduced and sustained by conservative governments.

When you look at Mrs Harris, who said she was a lifelong Liberal voter, why did she desert the party that she had been voting for all her adult life? The reason is clearly that they abandoned the workplace to people who were unscrupulous. There were too many employers being unscrupulous in the use of the Work Choices legislation. Almost immediately after the legislation was passed, a Cowra abattoir wanted to sack all their workers and rehire them on less wages and conditions. That happened because this parliament passed legislation to make it possible to take those conditions away from those men and women and their families. I imagine that a number of those people out there were probably lifelong National Party voters, and they walked away from their party as well. The coalition walked away from these people. For a century, the coalition or their equivalents elsewhere in the Western world were quite prepared for the state to intervene to regulate. Whether it was the introduction of free education, universal medical services or social security, all of these matters were introduced often in a bipartisan way or through pressure from conservative governments.

I go back to why. For most of the 19th and 20th centuries, conservatives were looking at the chaos and crisis that had occurred as a result of the dislocation from the French Revolution and then, in the 20th century—from 1917—from the Russian Revolution. They did not want that chaos, that violence, occurring in their country. So they made concessions. But John Howard and his ilk walked away from that intervention. That is why people like Mrs Harris and the Cowra abattoir workers—after seeing what these workplace changes did in some of those places—walked away from voting for the party that they had been voting for for many years.

When I look at the coalition’s contribution I get a little confused because, as I said, they have homed in on the trade union movement’s campaign. I am an ex-trade union official. I contributed to trying to unseat the coalition at the last election and at every one I could from the time I was able to vote, in 1974 or 1975. Since then I have done everything I have been able to to make sure that they have not been on this side of the chamber. I am not proud to say this—and the coalition are still wrapped up in this—but at the height of the Your Rights at Work campaign, when there was so much money being spent on advertising and workplace visits, union membership declined. At the same time as union membership was declining, our votes
were going up. Why was that? I go back again: the coalition walked away from ‘Howard’s battlers’. They walked away from them in droves, and they were repaid for that.

In my contribution today I want to commemorate Mrs Harris, who probably more than any other individual in this country contributed to the coalition being on that side of the chamber. A lifelong Liberal voter, she was being asked to exchange her penalty rates and conditions for 2c an hour. She walked away like many others did in that period. We are seeing again the terrifying spectacle of the coalition not understanding that they have had for almost a century this compact to be involved in the state, to support regulation. They have walked away from it. Look at the doormats in the National Party and some of the things that they put up with from their Liberal colleagues. Jack McEwen would be turning in his grave over some of the things that the National Party allow the Liberals to stand over them on. Mrs Harris should be commemorated not just by the labour movement but by Australians generally for ensuring that this government will re-enter the workplace to make sure that there is no unfairness, there is no injustice and people are not bullied or bludgeoned into accepting conditions that they do not have to. For that, we owe Mrs Harris a deep debt of gratitude.

**Great Southern Region**

**Senator CASH (Western Australia)** (12.55 pm)—I rise today to speak on an issue that is relevant to Western Australia. I rise to support the proposed rescue plan put forward by the Premier of Western Australia to assist the people of the Great Southern mining town of Hopetoun, Western Australia, and the wider region, which is currently facing an acute economic downturn as a consequence of the closure of the BHP Billiton nickel mine. The proposed rescue plan put forward by the Premier includes the construction of a tourist access road for the Fitzgerald River National Park from Hopetoun to Bremer Bay and will provide a significant financial injection for the local area and for local infrastructure. The construction of the proposed tourist road would commence with the sealing of the ends of the track at Hopetoun and the very popular coastal tourist town of Bremer Bay. This would be followed by the construction of the middle section of the road through the Fitzgerald River National Park. An adventure walk trail, which is permitted by the park’s management plan, would also be constructed through the centre of the park between the construction of stages 1 and 2.

Senators will be aware of the decision and the announcement by BHP Billiton that its Ravensthorpe lateritic nickel mine has been closed as a direct consequence of the continuing fall in the global price of nickel. The impact of the decision to close the mine has had a significant effect on the town of Hopetoun. It is expected that at least 1,800 jobs will be lost. This will no doubt have a significant economic effect on the communities in Ravensthorpe and Hopetoun and indeed the wider area.

I recently had the opportunity of discussing the proposed rescue plan with the Premier of Western Australia, Colin Barnett. In our discussions the Premier canvassed with me the objectives that the Western Australian government have in respect of the proposal. They are: (1) to protect jobs in Western Australia jeopardised by the economic downturn by investing in infrastructure, (2) to provide tourism infrastructure to support the economic sustainability of the Ravensthorpe regional area following the closure of BHP Billiton’s nickel operation and (3) to responsibly manage tourism in this highly environmentally sensitive and valuable area by
controlling tourist access to the Fitzgerald River National Park. The Western Australian government have announced a visionary plan which will see tourism within this area boosted. The tourism potential of the road has already been likened to that of Victoria’s popular Great Ocean Road. It is intended that the proposed Hopetoun-Bremer Bay road will form the first link in what will eventually become a world-class tourist destination in Western Australia’s southern coastal area, to be known as the Southern Ocean Drive.

The state government’s action plan, which has significant merit, will bring great benefits to the people of Hopetoun in particular but also to the wider area in Western Australia. It is estimated that the proposed road when fully completed will cost in excess of $120 million, and it will require federal funding. The road would be constructed in two stages, with the first stage costing approximately $40 million. When the Western Australian Premier, Colin Barnett, seeks federal funding—which I understand would be based on an equal federal-state joint arrangement—I would encourage the federal government to support such a request, as it would undoubtedly represent a significant boost to transport infrastructure in this area at a time of great need.

I am aware that Premier Barnett is acutely conscious of the environmental issues that are involved in the construction of the tourist road, and as such he believes that there is a need to stage the construction to enable proper consideration of the environmental issues that are raised. Stage 1 would consist of sealing and upgrading the existing tracks at either end of the Fitzgerald River National Park at a cost of approximately $40 million. Construction of this stage could begin in late 2009 and would be completed in 2011. Stage 2 would involve constructing the middle section of the road through the Fitzgerald River National Park, at a cost yet to be finalised but estimated to be in the vicinity of $80 million. Premier Barnett has made the point that he acknowledges the environmental sensitivity of the area and that the stage 2 section would no doubt require amendments to the park’s management plan and may also require state and federal environmental considerations.

I was pleased to read in Kalgoorlie Miner on 31 January 2009 that Tourism WA’s ‘Australia’s Golden Outback’ manager, Mr Lance Hardy, advised that ‘Tourism WA would certainly be supportive of a coastal road which had iconic significance’. Given the federal government’s desire to generate additional infrastructure projects, and having regard to the objective interests of the Great Southern economy, I would urge and encourage the federal government to work closely with the Western Australian government to provide the necessary joint financial assistance.

Those senators who have had the opportunity to visit the Hopetoun-Bremer Bay area of my state will know that it is an area which has magnificent—indeed, stunning—scenery and which, if properly managed, has the potential to become an important tourism attraction for the region. To quote the Western Australian Premier, Colin Barnett, in an article on the Perth Now website on 27 January 2009:

It is a spectacular area, a most spectacular coastline and we are confident that it would become an important tourist route.

This is an opportunity to have a superb national park, available for people and properly managed. More importantly, the road will also assist in revitalising Hopetoun, which has been effected by the closure of the BHP nickel mine there.

The park needs to be opened up so the public can get proper access. If the road is built from Bremer Bay to Hopetoun that will become in my view a very successful tourist route …

I am also aware that the proposed tourist road will traverse some areas of significant
conservation value. It will run through the Fitzgerald River National Park, a UNESCO listed biodiversity hotspot and 330,000-hectare conservation area. I recognise that the Fitzgerald River National Park and biosphere reserve is estimated to contain about 2,000 vascular plants which are said to be native to the region and that within the park there 78,000 hectares of land zoned for wilderness protection. I also recognise that, like a number of our national and regional parks in Western Australia, some areas are protected from public access to reduce the spread of dieback disease. I am a strong supporter of responsible park management that is designed to protect our environment.

There have been suggestions, however, that the coastal road would not be environmentally friendly, that it may do more harm than good to the national park. I remind senators that across Australia there are many roads that traverse national parks and A-class reserves and that the existence of well managed roads has opened great tourist opportunities and allowed Australians and international visitors to enjoy the wonders of our great country, with its unique scenery and wide open spaces. It is fallacious to claim, as some have, that constructing a new sealed road will destroy the wilderness value of the area. The reality is that currently, because there is no properly engineered and sealed road, you have people taking their four-wheel drives into the park and indiscriminately criss-crossing wherever they like on an ad hoc basis. They have no regard for the environment. This indiscriminate use of four-wheel drive vehicles, in particular in environmentally sensitive areas, has the potential to damage the environment and it should not be condoned.

It is my view, and the view of a number of people whom I have talked to and who have lived and worked in the Great Southern region of my state and who have a remarkable knowledge of the local area, that a dedicated and properly sealed coastal road would ensure that this type of environmentally damaging behaviour is stopped, with vehicles being limited to the sealed road. I again remind the Senate that the Western Australian Premier has made it quite clear that any road would be subject to the strict environmental approvals that we have in Western Australia.

It always interests me to hear the Greens, who are opposed to this proposal put forward by the Western Australian Premier, arguing for fewer mining projects and more ecotourism projects and yet, when the crunch comes and we are faced with the closure of a mine and the loss of 1,800 jobs but we are also presented with an opportunity to expand the ecotourism opportunities of the area, the Greens find every reason to oppose any development, notwithstanding that in this case a dedicated sealed road would lessen the current environmentally damaging ad hoc four-wheel drive vehicle behaviour by limiting vehicles to the sealed road.

I am of the view that to adopt a do-nothing approach in the Ravensthorpe-Hopetoun areas, given the job losses that currently confront those communities, is not a solution to the problem and only adds to the difficulties that the area is facing. I should also say that we as Liberals on this side of the chamber are conscious of the need to protect the environment and it would be totally wrong of other parties to think that they are the only ones in this chamber who care for the environment. But the difference between the Liberal Party and the Greens is that, when we are faced with a significant economic downturn as a consequence of a global financial crisis, we as Liberals are all about seeking and promoting responsible solutions to assist affected people while the Greens are content to adopt a do-nothing approach, irrespective of the pain and suffer-
The Rudd Labor government has recognised the need to stimulate the Australian economy through investment in community infrastructure. Mr Rudd is on the record as stating that the government was focusing on infrastructure because it was a major driver of economic growth. Indeed, in November 2008 the Prime Minister announced that a $300 million investment in community infrastructure had been brought forward to stimulate the economy during the global economic crisis. When making this announcement, Mr Rudd called on local councils to begin a speedy rollout of local infrastructure that would deliver an immediate boost to the economy, along with long-term community developments. The federal Minister for Infrastructure, Transport, Regional Development and Local Government agreed that investment in local infrastructure would deliver both economic and social benefits to communities across Australia.

The Fitzgerald River National Park Road project represents just that: an investment in local infrastructure in Western Australia which will stimulate the economy and deliver both economic and social benefits not only to the people of Western Australia but to the people of Australia. The road will be labour intensive. It will make use of local contractors within the Great Southern area, providing much-needed jobs. I strongly urge the Rudd government to work with the Western Australian government to proceed with construction of stage 1 of the Fitzgerald River National Park Tourist Road. I wish the Western Australian government all the very best with this proposal and I am sure that when the road is built it will become a successful tourist route and will provide long-term benefits to both Hopetoun and the Great Southern region.

Let us not forget that the farmers, miners, business operators and government workers who have all provided vital services to the region and added much to the economic prosperity of the state over many years are entitled to be remembered in their hour of need. I congratulate Colin Barnett as Premier of Western Australia on taking positive, visionary action to assist the people of Hopetoun and the Great Southern region during their time of need.

Paid Parental Leave

Senator HANSON-YOUNG (South Australia) (1.10 pm)—I rise today to speak about the need for the government to support Australian mums and dads by introducing a paid parental leave scheme in this year's budget. For more than 30 years, Australian women have been campaigning for the introduction of a universal paid parental leave scheme and yet, in 2009, the clock is still ticking on whether the Rudd government will act on this vital issue of workplace support for working families before the May budget this year.

Members of the chamber would know that today I moved a second reading amendment to the Fair Work Bill 2008 calling on the government to bring forward amendments to its industrial relations legislation to provide for paid parental leave in this year's budget—and, surprise, surprise, both the government and the opposition voted it down. I did not include any number of weeks; I did not include any stipulation. All I said was that the government needed to include paid parental leave in workplace entitlements. Where is the commitment to Australian families? Where is the recognition of the benefits of a parental leave scheme to mothers, fathers, children, families as a whole, the economy and businesses? Only last month the Productivity Commission handed down its final report to the govern-
ment on paid maternity, paternity and parental leave, and yet we are still awaiting a formal response from the government on a proposal for 18 weeks. We are still waiting for the government to release the commission’s report into the public domain so that we too can see what the recommendations were.

Blaming this lack of commitment on the current financial crisis is an excuse that is starting the wear thin. It seems to be the excuse for inaction on everything these days. It is not good enough for the government to continue to hide behind the economic downturn in order to delay a decision which is vital to supporting working families. We all acknowledge the impact the financial crisis is having on the economy and on what people are spending. Yet we have just seen two stimulus packages pass through parliament in the last six months with not a single thought going towards helping new parents balance their work and life commitments. If you wanted people to go out and spend money, helping parents with new babies would have been a good way to do it. Babies are expensive.

Despite our strong record on educating women, Australia—shamefully—has one of the lowest levels of workforce participation for women in the OECD, ranked 23rd out of 24 countries, which further cements our push for a paid parental leave scheme to be introduced under the new industrial relations framework currently before the Senate. According to the National Foundation for Australian Women’s submission for the Productivity Commission’s report into parental leave ‘the lack of a national system of paid maternity or paid parental leave is widely recognised as a factor adversely impacting on Australia’s potential for increased female workforce participation’. Paid parental leave is a basic pillar of workplace attachment and is cost beneficial for both workers and employers alike. According to employers, the cost of replacing staff—including recruitment and skills acquisition—appears to be at least $10,000. The cost is higher for more highly skilled and higher salary positions, further highlighting the need to include any paid leave support for working parents in our workplace relations system. It is and should be a workplace entitlement, not something seen purely as a welfare issue.

In 2007 Australia recorded its highest ever number of registered births, with over 285,000 babies born into our community that year. My daughter was one of those statistics. Yet year after year we have seen this important issue either ignored or delayed by subsequent governments, and time and again we have heard excuses made. It is now time to bite the bullet, take leadership on this essential workplace entitlement and act to support working families, working mums and dads, and invest in the healthy lives and education of our youngest generation—an investment that is worth it and that should not be viewed purely as a cost.

While I congratulate the individual initiatives of companies such as Myer, ANZ and Coles for leading the way by introducing paid maternity leave for their female employees—highlighting how far we have come in this debate—it is time for the government to take leadership on this issue and finally provide mums and dads with the support they have been calling for for decades. The Prime Minister himself said six months ago that it was ‘time to bite the bullet’ on paid parental leave; well, it is, and the time is now.

It is interesting to note that, while we have seen the rates of availability of paid parental leave grow in both the public and private sector in the 2002 to 2007 period, the fact that public sector employees are still more likely than their private sector counterparts to have paid parental leave available to them
again points to the need for governments to support parents and their children through family-friendly policies and to take the burden away from businesses. It is a role of government to provide this support. The Productivity Commission’s own inquiry into paid parental leave found that the proportion of women who took paid maternity leave in the period 2003 to 2005 was 75 per cent of mothers working in the public sector and only 25 per cent of mothers in the private sector. It is a government responsibility. Kevin Rudd must bite the bullet.

Legislating for paid parental leave provides much needed financial assistance and security to Australia’s working families by offering long-term productivity benefits to the Australian economy, as well as allowing parents time off to bond with and nurture their child in the first weeks of its life. It is such an important investment in the children of the future. The World Health Organisation, the Australian Breastfeeding Association and the Public Health Association all advocate six months paid leave for mothers to be supported through childbirth, recovery from birth, a healthy period of breastfeeding and, of course, essential bonding. A number of unions, including Unions NSW, the Community and Public Sector Union, the National Tertiary Education Union and the Liquor, Hospitality and Miscellaneous Union, are also calling for six months paid parental leave at a minimum. The ACTU are running a campaign for paid maternity leave, and we ask that this campaign focus on the need to deliver this now, not in a staggered, staged or phased-in process.

Every other nation in the developed world bar Australia and the United States has some form of paid parental leave for its workers, with Canada offering 28 weeks, Greece offering 34 weeks, the United Kingdom offering 39 weeks and Sweden offering a very generous 47 weeks. Yet here in Australia families have been left to ‘pay’ for their maternity and parental leave through the use of their personal holidays, long service leave and sick leave. Paid parental leave must be a workplace entitlement.

On Sunday, to coincide with International Women’s Day, I launched the Greens Mother’s Day card campaign, calling on the Prime Minister to implement a government-funded paid parental leave scheme in the upcoming budget. Mothers around the country are sending a message to this government that it is time to commit to investing in the future—the future of their children, the future of our communities and the future of our economy. At an estimated cost of $500 million, according to the Productivity Commission’s 18-week proposal for paid parental leave, what is the delay? We know it is affordable. We know that Australian families want it. What we are asking for is the political will.

A recent YWCA survey was sent to all MPs asking whether paid parental leave should be included in this year’s budget. Only 32 MPs responded; however, 18 out of those 32 agreed that now more than ever it is time to bring in a paid parental leave scheme. I wonder how many of those 18 or 32 members were sitting in this chamber when both Labor and the Liberal-National coalition voted against the introduction of paid parental leave. Belgium, New Zealand, Luxembourg and Japan have all managed to provide support for working families, and yet here we are, well into the 21st century, still awaiting a decision from the government.

Labor’s own platform, agreed to at their 2007 national conference, clearly stated: Labor believes that it is economically and socially responsible for governments to assist mothers with the financial costs associated with the birth of their children. In particular, mothers need to be able to spend time with their newborn babies and have time to recover from childbirth.
Labor will aim, over time, to introduce a paid maternity leave scheme for all mothers with no cost burden to small business.

How much longer are Australian mums going to have to wait? Considering part of Labor’s success at the last election was to go to the electorate with a commitment to introduce, over time, a paid maternity leave scheme for all mothers, it is really disappointing to see that every excuse under the sun is being used to avoid making an announcement on the issue and taking that step. 

As I have mentioned many times before, we all acknowledge the dire state of the global economy, but this is the time that we need to be supporting our working families. This is the time when mums and dads with new babies need cash in their pockets to cover the enormous cost of a new baby. It is time to include a paid parental leave scheme in this year’s budget. It is time to acknowledge that paid parental leave should be and must be a workplace entitlement. The government must stop dithering on support for working families and introduce a paid parental leave scheme in this year’s budget. Of the OECD countries, only Australia and the United States do not have such a scheme. Kevin Rudd could beat Barack Obama to the game. Let us see Australia do something before the US does.

**Nation Building and Jobs Plan**

**Workplace Relations**

Senator STERLE (Western Australia) (1.22 pm)—I rise to make a contribution to the matters of public interest discussion. I know that MPIs and second reading debates are far ranging, which is good and encouraging. I have to make some comment on Senator Cash’s contribution, some 15 minutes prior to Senator Hanson-Young’s. As a proud West Aussie I was absolutely rapt to know that something that is going to be put into Western Australia could improve Western Australia. By the same token I have to admit that I was absolutely bamboozled to hear a member of the opposition publicly acknowledging the global financial crisis when only two weeks ago in this chamber they voted against any stimulus package. There was a look of horror on their faces on Thursday night when Senator Xenophon came in the chamber and sat on their side. You could hear them groaning.

Then Senator Cash talked about the environment. This is from the party that have been environmental sceptics for the whole Howard era. No wonder I am confused. But, mind you, I am not as confused as they are because of the ghost of Peter Costello. But, anyway, we will get to that later.

I heard Senator Cash promoting Prime Minister Rudd’s stimulus package and saying—and I jotted down some notes—how wonderful that stimulus package will be because it will boost infrastructure investment in local communities, providing economic and social investment. This is the same mob who two weeks ago were going ghostly white when Senator Xenophon joined them on that side of the chamber to vote against our stimulus package. They also talk about how great it would be for farmers but they voted against our $900 aid to farmers that was in that same stimulus package.

Senator Cash began her speech by talking about the grossly shocking exhibition by BHP in Hopetoun in the bottom half of WA where 1,850 jobs were lost. I want to see a road built down there. If it improves tourism in the bottom end of WA that would be fantastic, but there will not be 1,850 people employed on that job. She promoted the fantastic effort of Premier Barnett and said what a wonderful job he has done. As a West Aussie I watched Premier Barnett when BHP announced they were closing the mine and 1,850 jobs would go. He was like a rabbit in
the spotlight. He had absolutely no idea what to do. In fact, his minister—I think it was Norman Moore—was even accused of sitting on his thumbs and doing nothing. They did not even ring BHP to see how they could rescue the situation.

Senator Cash, promote Western Australia—please do—but be a little fairer on the reporting of exactly who does what. When all is said and done, you can put as many hundreds and thousands as you like on a manure sandwich but once you bite it it still has that horrible taste.

Senator McLucas—How would you know?

Senator STERLE—I have heard that is the case, Senator McLucas. Some 1,850 jobs will be gone in that part of the world.

I would like to talk a little bit about the Fair Work Bill and what a wonderful week this will be for working Australians. Regardless of what those opposite wish to think, the Rudd Labor government has a mandate, unlike the Howard Liberal government in 2004, who espoused that they had a mandate to bring in Work Choices. They did not have a damn mandate. There was no mandate. We clearly went to the election saying that, if we were elected, the Rudd Labor government would get rid of Work Choices once and for all. I am very proud to say I am part of the government that took it to the people in the election. This week, with all the best efforts and concerns, we will be relying on the Senate to give the Australian people their mandate and let us get rid of Work Choices.

I would like to home in on one aspect of Work Choices that is dear and close to my heart. I want to talk about how Work Choices has affected the road transport industry—surprise, surprise! For years—and I do speak with some authority here, and I would welcome any interjection from those opposite who would like to take the challenge—

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—Please do not encourage interjections, Senator Sterle.

Senator STERLE—On long-distance transport I welcome any interjections. I will be listening intently if someone wants to have a crack.

Senator Mason—No-one has a louder voice than me.

The ACTING DEPUTY PRESIDENT—Order! Senator Mason, please do not take the bait.

Senator Mason—I was asked.

The ACTING DEPUTY PRESIDENT—I am running this chamber at this moment. Please do as I ask.

Senator STERLE—I will come to an agreement: I will ignore Senator Mason’s interjections and I will not talk about his legs that I have to confront each morning in the gym. You should see him in a pair of shorts, Madam Deputy President. I know it is a frightening thought.

It has been well known in this country since the evolution of the round wheel that there is a very close association between rates of pay for truck drivers in the long-distance transport industry and safety on the road. I want to quotes some figures that were supplied to me. They are well known as they have been around for all this year. In the year to June 2008 there were no fewer than 263 fatalities as a result of heavy truck crashes, an increase of approximately 8.7 per cent over the previous year. Over the three years to June 2008 the average annual number of deaths involving truckies or other road users increased by, unfortunately, five per cent per year. Any death is regrettable. We have to do everything we can to diminish the number of deaths. Doing everything we can to diminish the number of deaths is going to take some maturity from the trucking industry. I say
that with my hand on my heart. I stress that not only are there some fantastic Australians employed in the road transport industry behind the steering wheel but there are also some very honourable employers. There are employers who put their family home on the line to achieve the best outcome they can to improve not only their lives and those of their children and grandchildren but also the lives of working Australians.

Senator Bushby—That’s a common thing with small business right across Australia.

Senator STERLE—Yes, and big business too. There are some very decent employers who do honestly want to improve the safety of not only truck drivers but other road users. Unfortunately, there is also the other end of the scale. At the other end of the scale there is the ratbag element. In trucking terms they call it the cowboy element. Do not be fooled by the cowboy element; cowboys were also heroes of mine when I was growing up. There is a ratbag element, but you do not expect the main employer group of the road transport industry to have a ratbag attitude towards the rates of pay of long-distance truck drivers and the safety of those truck drivers and other road users. Unfortunately, in this country they do. I am going to have a crack at them, because that is what they need.

I am talking about the Australian Trucking Association, and I would welcome any conversations with them. They do not want to accept that safety on the roads for truck drivers and other road users is directly linked to rates of pay. I will simplify it for the Australian Trucking Association. It is a well-known fact that if long-distance truck drivers are remunerated correctly the roads are safer not only for them but, just as importantly, for other road users. As an ex long-distance road train operator from Western Australia, running through to the Northern Territory, I can tell you that there is nothing worse than a truck driver who is under the pump, whether it be financially or for whatever reason, who is being pushed to the maximum and beyond by an unscrupulous employer. If an employer is fair dinkum about the health and safety of not only his employees but also other road users, he will never hesitate to pay his truck drivers properly, whether those truck drivers are employees or owner-drivers.

Safe truckies are what we want out there. We do not want a busload of schoolchildren coming down a highway when there is a truck driver who is not being paid correctly, who is not adhering to fatigue management and who is under the pump to get that freight to the other side of the country or to another town because his employer is screwing his wages down. I do not know how the Australian Trucking Association can barefacedly tell the Australian public that there is no correlation between safe rates of pay and hours driven. I say what a load of bull! It is disgraceful that they even have the audacity to say that they represent the transport industry. The likes of the Transport Workers Union will take the fight up to them, as will members on this side of the chamber. I urge members on that side of the chamber to take that fight up. If your daughter or son is heading for schoolies in a car, I am sure you will hope and pray that every truck driver coming down that highway is well rested and well remunerated so that there is no need to drive ridiculous hours at ridiculous speeds.

I will go back to my reason for the link to the Fair Work Bill. As part of it, back in July 2008, Julia Gillard, our Deputy Prime Minister and Minister for Employment and Workplace Relations, together with Anthony Albanese, the Minister for Infrastructure, Transport, Regional Development and Local Government, and of course Dr Craig Emerson, the Minister for Small Business, Independent Contractors and the Service Econ-
Chamber, jointly announced that the National Transport Commission, the NTC, would investigate and report on driver remuneration and payment methods in the Australian trucking industry and make recommendations for reform. That was all done. The ministers’ media release stated:

The trucking industry prides itself on being highly competitive and efficient. However, the industry’s strength can also be its weakness, with truck drivers often finding themselves in a weak bargaining position and unable to maintain safe work practices.

The results of the NTC inquiry, referred to as the safe payments inquiry, were reported by the National Transport Commission in October 2008, just recently. In brief, the inquiry, conducted by the Hon. Lance Wright QC and Professor Michael Quinlan, of the University of New South Wales, found:

This Review finds that the overwhelming weight of evidence indicates that commercial/industrial practices affecting road transport play a direct and significant role in causing hazardous practices. There is solid survey evidence linking payment levels and systems to crashes—
as I have said.

The sad part is the Australian Trucking Association’s response to the safe payments inquiry. They said:

… the consensus view of the ATA is that the most effective and appropriate way to further improve the industry’s on-road safety performance is to implement and enforce the impending Driving Hours and Fatigue Management effectively and that establishing a “Safe Rates” regime is unnecessary and would be ineffective and unsustainable.

It is with a heavy heart that I have to read that. I cannot believe that that tripe is being peddled by those who claim to be the major employer representative for the road transport industry. Can you imagine if the likes of Qantas and Virgin had that same attitude to pilots? There would be uproar—absolute uproar. We would not put up with it. But in the trucking industry it is quite all right. Is it a case of ‘out of sight, out of mind’? I really do not know, but it does absolutely disturb me that they would muddy the waters like that.

As I said earlier, this is an exciting week for workers because we are able to overturn the Work Choices legislation to implement fairness and decency in the workplace. I could go on and talk about this for hours, but time is against me. But I also want to take this last minute to stress that we cannot go along with the rhetoric that all employers are baddies. I never, ever have said that. I could never agree with those opposite, or wherever, who might think that all employees are baddies. There are a lot of decent, hardworking Australians, whether they be employees, small business people, big business people or whatever. They all deserve a fair suck of the sav. They did not get that fair suck of the sav when the ratbag element could manipulate the Work Choices legislation.

Senator McGauran—Madam Acting Deputy President, I rise on a point of order which goes to parliamentary behaviour. I question whether ‘fair suck of the sav’ is at all parliamentary.

The ACTING DEPUTY PRESIDENT (Senator Hurley)—There is no point of order, Senator McGauran. Senator Sterle can continue.

Senator Sterle—Thank you very much, Madam Acting Deputy President. Thank you very much, Senator McGauran, and I do congratulate you on your re-preselection. So we will restore fairness, we will restore balance and we will restore decency to Australian workplaces. On that, there are only two prime ministers in the great history of this nation who have had the indignity of losing their seats: Stanley Melbourne Bruce and John Winston Howard.
Why? Because they saw it as their duty to spend all their years in parliament attacking the fair, decent wages and conditions of Australian workers. Good riddance! Let us turn over a new leaf and start again. Let us get back on the right track.

Queensland: Economy

Senator IAN MACDONALD (Queensland) (1.37 pm)—For the first time in my life I am worried not about me and my future but about the future of our country. I have absolutely no confidence that the Prime Minister, Mr Rudd, or the Treasurer, Mr Swan, have the ability or the understanding to do anything about the difficult situation our country is in at the moment. I have absolutely no confidence in the current Minister for Climate Change and Water, who knows better than everybody else but is about to put all of those working Australians that the previous speaker just talked about on the employment scrapheap. I have no confidence in the union movement—a selfish movement of a few people, usually union bosses whose jobs are to manipulate workers so I have no confidence in them—or the party that it controls, the Australian Labor Party, of which the Prime Minister is the leader, in dealing with the problems which confront Australia at the moment. I fear for my own state of Queensland. I have absolutely no confidence in the current Minister for Climate Change and Water, who knows better than everybody else but is about to put all of those working Australians that the previous speaker just talked about on the employment scrapheap. I have no confidence in the union movement—a selfish movement of a few people, usually union bosses whose jobs are to manipulate workers so I have no confidence in them—or the party that it controls, the Australian Labor Party, of which the Prime Minister is the leader, in dealing with the problems which confront Australia at the moment. I fear for my own state of Queensland. I have absolutely no confidence in the Premier, Anna Bligh, and her Treasurer, whose name I cannot recall, in looking after the state in the difficult times that are going to confront Queensland because of the actions of the Rudd federal Labor government.

Madam Acting Deputy President, I do not need to tell you that Queensland is the only mainland state that does not have a AAA credit rating. When you compare that to the basket case of New South Wales and note that Queensland has a lesser credit rating than New South Wales has you ask why. It is because of the incompetent management of Ms Bligh and her team. Queensland will now be paying an extra 0.4 per cent on its borrowings. That means an extra $200 million per annum in interest because of the economic mismanagement of the current government. At a time when we have record borrowings by Queensland of $74 billion, they are increasing those borrowings. We thought it was bad when the previous Labor government racked up $96 billion worth of debt but my own state of Queensland, just one state alone, now has a debt problem almost equal to the Australian debt problem back in 1996. Queensland’s daily interest payments are already $10 million a day. Imagine what we could do with $10 million a day for our failing health system! Queensland has benefited from rivers of gold in royalties over the last 11 years, but what has happened to the Queensland budget? It has gone from a projected surplus of $600 million to a projected deficit of $1.6 billion this year and $3 billion next year.

Madam Acting Deputy President, if you need an example of the inability of the Queensland government to properly manage the state, let me briefly touch on the Traveston Crossing dam. I have spoken before about what an environmental disaster it is and what a social disaster it is, but let me just mention briefly today that it is also a financial disaster. The Queensland government has already spent $570 million on that dam, which does not even have state government approval let alone federal government approval. It is total economic irresponsibility. That $570 million that has been wasted could have been put into 50,000 extra elective surgeries performed over the last two years, but the Rudd government continues to waste money on a project which even its strongest supporters know will not go ahead despite Ms Bligh’s determination to see it go ahead.
I turn to Queensland’s communications. We all know how important communications are to a state, particularly to one as diverse and vast as my state of Queensland. I have no confidence in the federal minister for communications in delivering the National Broadband Network. One only has to see yesterday’s announcement from Telstra to understand that Telstra is going to cut the ground from underneath the National Broadband Network by looking after the high-paying capital city areas. But that means that most of my state will not have an adequate broadband system. If the OPEL contract that the Labor Party cancelled on coming into government had continued, it would have been up and running in Queensland at the moment and we would have had a decent broadband service. But what has Ms Bligh said about it? We have not even heard a pip-squeak from the Queensland government on the stupidity of the federal Labor minister in his mismanagement of national broadband.

Regrettably, you cannot talk about Queensland these days without a reference to the state hospital system. I know the state hospital systems are bad in every Labor state—and that is all of Australia’s states with the exception of Western Australia, who are now trying to deal with the mismanagement by the Western Australian Labor government of the health system—but Queensland’s is the worst. Headlines for the last four years about the hospital in Townsville, the city where my office is, have highlighted the awfulness of the state health system. At the last election, three years ago, we had Ms Bligh promising that all would be fixed up; it would all be sweetness and light. But here we are three years later with the same promises coming out, so how can we possibly believe anything Labor might say about the health system? Queensland has fewer beds per 1,000 people than 10 years ago as the Labor Party in Queensland made a conscious decision to decrease the number of beds available in that period.

The Bligh government have said that Labor will reduce waiting lists. Don’t talk; let’s have a look at your record! They intend to throw $90 million at it. Why didn’t they do that three years ago rather than two weeks before an election? But it is all too little, too late; the horse has bolted. It is a sad indictment on the Queensland government, who seem to see cases as numbers and not people. We are talking about category 1 patients here—cancer and cardiac patients—who should be seen within 30 days but who are on huge waiting lists. There were 34,257 Queenslanders waiting for elective surgery on 1 October 2008. With 7,074 sick people waiting longer than the clinically recommended time for surgery, 10 per cent of people were forced to wait for up to 35 days for life-saving surgery, when the recommended time is much less than that.

In Queensland, there are 94,128 patients waiting for a new case appointment with a surgical specialist. There have been royal commissions, there have been inquiries, we are going through the ‘Doctor Death’ scandal—again an indictment on Labor administration—and nothing seems to happen in Queensland so far as the health system is concerned. Where I have an interest in rural and regional Australia, the Queensland government is cutting back, forcing patients to travel to regional centres for even the most basic health care and maternity, rather than being able to remain with their families and their communities. The patient travel subsidy has fallen back in recent years, but I am delighted to see that Lawrence Springborg has announced that an incoming LNP government in Queensland will be giving real and urgent impetus to that scheme and bringing it up to where it should be.
Our education system is worse than every other state, except for the Northern Territory. Our literacy and numeracy in Queensland schools, after 10 years of state Labor administration, is the worst in Australia. And this government has the hide to go to the Queensland people and say, ‘Re-elect us,’ when we have the worst schools, the worst health system, the worst education system and the worst financial management of any state in Australia—and that is saying something.

I want to conclude by saying what a disaster for my state of Queensland the Carbon Pollution Reduction Scheme will be. The minister knows that better than everybody else here, but she will not listen to people who understand its impact. I cannot understand why the union movement and members of the Labor Party are not there at the front of the campaign to get this minister to listen and understand what is happening. We had evidence at a Senate committee a couple of weeks ago that said that up to 216,000 Queensland jobs are on the line because of the Carbon Pollution Reduction Scheme of their minister, Senator Penny Wong. And she will not listen. Sun Metals in Townsville have made it clear that with the tax on zinc production they will not be able to continue in Townsville. So what will they do? They will sack all of those Townsville workers that the Labor Party and the union movement are supposed to be looking after; they will put them on the scrapheap and move their production centre, their processing centre, over to a place that does not have a Carbon Pollution Reduction Scheme and is unlikely to. So we are not going to help the climate change problem in any way; it will get worse because there will be no rules where those factories go to.

In central Queensland, the coalmining industry employs thousands and thousands of working Australians, and yet the evidence is there that this CPRS will put those people’s jobs at risk. And to make matters worse for Queenslanders, when it comes to free permits, in Queensland’s case they are only going to receive two per cent or $60 million assistance as a trade exposed industry. But hang on! In Victoria, they are going to get 75 per cent support for their brown coal industry. I do not want to be parochial as a Queenslander, but where is our Premier saying: ‘What has Victoria got that we don’t have in Queensland? Why is the federal Labor government favouring Victorian coalmines and ignoring Queensland coalmines?’ I suspect it is because there are more Labor members, more union people in important positions of power in Victoria than there are in Queensland, and so they go where the votes are. But this is just appalling.

Queensland is being attacked by the federal Labor government and the Queensland Premier is not game to stand up for Queenslanders. Why won’t she do something for the state she is supposed to be leading? All of those workers in all of those coalmines in central Queensland, the Bowen Basin and the Mount Isa area, why aren’t they saying something? Why aren’t their union bosses or their union representatives making this an issue for them and saying to Anna Bligh, ‘Do something about this, protect our jobs, look after us.’ But no, we have a Labor government in Queensland not game to take on their Labor mates in Canberra over this ridiculous CPRS.

I know there are many senators sitting opposite me who agree with me that this is a stupid scheme, but why won’t they show some courage, get a bit of backbone and tell Mr Rudd, tell Ms Bligh, that we will not put up with this, that we need to look after workers’ jobs? It would be different if the CPRS were going to do anything about global warming, but all it will mean is that the biggest thermal coal exporter—Indonesia, who won’t have a CPRS—will increase their pro-
duction and put Australian producers out of business and workers out of jobs.

I conclude where I started: I fear for my country, I fear for my state. I only hope that the people of Queensland—I mean the workers of Queensland, the people who are going to be thrown out of business and the people on the hospital waiting lists—will take a small step towards reversing a trend which makes me feel sad for my country and my state.

Workplace Relations

Senator McGauran (Victoria) (1.52 pm)—This is a bigger than normal week in the Senate. We have heard government senators speak, and each one who stands up does so with hubris. We have heard it from senators in this Wednesday lunchtime debate. The way in which the government are treating the Fair Work Bill 2008 is a disgrace. They are treating this bill as sheer victory, as a vindication of all their time, trouble and obedience to Australia’s trade unions.

Senator Sherry interjecting—

Senator McGauran—It just comes back to that. Government senators have shown hubris as they have stood up, and no less a person than Senator Sterle condescendingly threw an aside and said, ‘Well, there are some good employers.’ The truth of the matter is that this has nothing to do with employer-employee relationships. The bill we have been debating today, and will be debating all week and next week, with the Orwellian title ‘Fair Work Bill 2008’, has very little to do with the employer-employee relationships. The bill has absolutely nothing to do with the flexibility and honesty of those relationships, the personal relationships that are struck up in the workplace, but everything to do with the return of union power.

Senator Sherry interjecting—

Senator McGauran—Many on the other side cannot see it, but some can. For those who can see, this is nothing but a return to union power that will cost jobs. That is a fact. We are at a time when jobs are being shed because of the economic crisis, and here we have a piece of legislation that is that big and that thick and it will accelerate the process and make it worse. Those on the other side who cannot see it never will see it because they just take their instructions from the union movement. There are some, like Senator Sherry, who has been persistently interjecting during my speech, who can see it quite well, who can see that jobs will be shed because the flexibility in the workplace will no longer be there, because of the compulsory arbitration being introduced in this bill and because of the pattern bargaining effect this bill will have.

Senator Sherry interjecting—

Senator McGauran—Senator Sherry knows that all those elements being reintroduced into the workplace are going to cost jobs. He knows it only too well, and some others over there do too. But the point is that they do not have the power to change it and they do not care. They do not care about jobs. They have been long enough in government, as we were long enough in government, to know that all decisions in government funnel to one point—that is, the welfare and benefit of Australians, and that begins with a job.

Senator Chris Evans—You want to talk about jobs; we supported you in your job!

Senator McGauran—Exactly—the Leader of the Government in the Senate also interjects. He admits that all decisions in government funnel to one point—that is, getting a job. Yet this bill is anti jobs and, what is more, they know it. The government know that it reduces flexibility and they know that it reduces employability, let alone
privacy. The privacy of employees is being invaded by unions. How is that, Senator Sherry? The right of entry is now open slather for any union, not just the union that may oversee that workplace. Any union can now march in. Worse than that, unions will have access to any employee records held by the employer. The unions can just go to those records whether the person is a union member or not. That is the sort of advancement we have in this bill. That was not the mandate from the Australian people. We have Ms Gillard on record as saying that the right of entry rules will not be changed and that the right of access to records will not be changed from what it was under the previous government. But that has all been turned upside down. It is as fake as the Prime Minister saying that he is an economic conservative. He now rails against economic conservatism, which must be a great relief to Senator Carr and Senator Cameron because they could not have kept up the pretence any longer. For those two particularly, this idea that the Labor Party is economically conservative was really too much to take. So there we have it, to their great relief: the other side are not economic conservatives. Much to everyone’s surprise they are not economic conservatives after all, and they have not kept their word on the so-called Fair Work Bill. Everything they went to the election with is not what it is in this bill. The poor aspect of it, the cruel effect upon their own workers, is the fact that jobs will be lost, in greater numbers than is already occurring.

How can the so-called Labor Party, which began under the ‘Tree of Knowledge’, as they try to sell it, and which I should add is but a dead stump today—it began with the shearers—say that they are all for the workers? Let us consider why it would be that the Labor Party are introducing a bill that they know will accelerate the already frightening unemployment figures. There is only one reason: they are dominated by the unions, who themselves profess to be for the workers but we know they are not. They are for themselves. So this is an exercise in paying back the unions. This is a bill that has gone too far beyond its mandate, and it is going to cost jobs for one reason—because everyone across there has to belong to a union. They are told. They have no sense of their own personal freedom, as we have over here. What sort of sense is that? You are told which union to belong to. You are told what legislation to introduce. If you were given $65 million by the unions—$65 million in third-party advertising, if you like—and individually $9.2 million was given directly to the Labor Party in campaign funds, you are in debt. You are in debt to the unions and this bill is the payback.

QUESTIONS WITHOUT NOTICE

Emissions Trading Scheme

Senator ABETZ (2.00 pm)—My question is to the Minister for Climate Change and Water, Senator Wong. Given that the government has modelled the number of jobs it believes will be created in the renewable energy sector by its emissions trading scheme, can the minister tell the Senate whether the government has also modelled the number of jobs that will be lost in other sectors, such as manufacturing, agriculture and mining?

Senator WONG—If Senator Abetz has the opportunity to consider the Treasury modelling he will see that that modelling does indeed look at the potential effect on different sectors of the Australian economy of the introduction of a carbon price. I invite his consideration of that modelling.

I make the point that, unlike those opposite, we are committed not only to supporting today’s jobs but to building the jobs of tomorrow and to building the opportunities for Australia tomorrow. We are focused on the
fact that tackling climate change is important and also on the fact that there are economic opportunities for this nation as we move to a low-pollution economy.

Those opposite may want to take the view that they should simply oppose what the government does, and we know that Senator Abetz’s position on the issue of climate change is that he does not believe this is real. To those opposite I say that this remains a present and future challenge for this nation and the measure of how people will judge them will be whether they bring to this debate a degree of economic responsibility that understands the economic challenge of climate change as well as the opportunities. For example, we know that the Treasury modelling has said that the renewable sector will grow by about 30 times out to 2050, which will create jobs. We also know that United Nations figures estimate that the environmental products and services sector is projected to double from $1.3 trillion per annum to $2.74 trillion by 2020. Those opposite may want to say that we in Australia ought not to act on climate change—that we ought to forego the opportunity to be part of the millions of dollars of investment that will be there as the world moves to a carbon constraint—but if they do that they will simply confirm that they are still the men and women of the past and they will confirm that the 12 years of inaction by their government, where opportunities did go offshore to nations which were prepared to act on climate change, will be continued. They will confirm that they have nothing more to say on this issue and that they are simply locked into the climate change denial position that characterised the Howard government for so long.

Senator ABETZ—Mr President, I ask a supplementary question. I was not quite sure from the answer whether the minister has indicated to us whether the government has modelled the number of jobs that will be lost in other sectors, such as manufacturing, agriculture and mining, and if the minister could advise whether such modelling has been done. If so, will it be released? If not, why not?

Senator WONG—I repeat that the Treasury modelling that was released publicly last year does look at the different way in which the Australian economy will change as a result of the introduction of a carbon price. Because Senator Abetz is on the public record as saying that he believes that weeds are a greater threat to Australia than climate change, we know where he is coming from in this debate. But the question will be whether his view will be the one that dominates. The fact is that some of those opposite understand that there is a reason why governments around the world are increasingly looking to job opportunities and economic opportunities not only in renewable energy but in the clean technologies of the future. That is because we anticipate great growth in those sectors. (Time expired)

Senator ABETZ—Mr President, I ask a further supplementary question. I ask the minister if her, or the government’s, refusal to provide the modelling is an admission that the government itself knows that its bureaucratic emissions trading scheme will destroy many more jobs than it is going to create?

Senator WONG—This is the problem of writing a supplementary question before question time and not listening to the answer. I have indicated that the Treasury modelling was released last year. The International Energy Agency estimates that the amount of investment that will be required globally by mid-century to achieve the sorts of emissions reductions the world wants and needs is US$43 trillion to US$45 trillion. What Sena-
Senator Abetz is effectively putting in his question—what underlies it—is the position that says Australia should not be part of that, Australia should not do what we need to do now to position ourselves to take those opportunities. And the reason Senator Abetz wants to take that position is that he does not want to act on climate change because, as we know, he thinks weeds are a greater threat than climate change.

Senator Abetz—Mr President, I rise on a point of order. The minister has nine seconds remaining in which to actually answer and be directly relevant to the question that was asked. It was about the modelling and the number of jobs that will be lost as a result of the government’s proposed ETS. It was not about what my policies may or may not be. It was a direct question deserving of a directly relevant answer. Even if it is not deserving, it is required under sessional orders.

Senator Ludwig—On the point of order, Mr President: one of the difficulties in asking for the answer to be directly relevant is the way that the question has been raised, so I would draw you to the question that was asked. First of all, it was framed in the negative—will you refuse to provide?—which makes it very difficult, and the rest then goes on so that it is effectively a loaded question. In fact, it begs the answer itself. When you then try to be directly relevant to that issue particularly, it is incorrect to actually try to do that. If the opposition are going to raise this issue they should raise it in such a way that you can at least identify the question and the answer. Can I also draw the opposition to the answer that has been given. It has been directly relevant, not only to the first sup but also dealing with the second sup.

The President—Senator Abetz was quite correct: there are nine seconds left, Senator Wong, for you to answer the question. I draw your attention to the question that was asked by Senator Abetz.

Senator Wong—Thank you, Mr President. This is a government that has designed a scheme which is focused not only on supporting the jobs of today but building the jobs of tomorrow. (Time expired)

Economy

Senator McEwen (2.08 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Can the minister please explain to the Senate how the government’s stimulus package, the Nation Building and Jobs Plan, is benefiting the Australian economy?

Senator Chris Evans—I thank Senator McEwen for her question—and hope her cold gets better! The global recession, the slowdown in China and the unwinding of the mining boom has serious consequences, as we all know, for Australian growth, jobs and our budget bottom line. In the midst of this global recession it would be irresponsible for the federal government, or any government, not to act swiftly and decisively to support jobs and invest in our nation building. The government’s two major stimulus packages provide comprehensive support for low- and middle-income earners. In times like these, the only certainty is that things would be worse if we did not act.

Approximately 95 per cent of all adult Australians who earn less than $100,000 per annum have received at least one cash payment between the Economic Security Strategy and the Nation Building and Jobs Plan. The payments under the second plan will begin flowing today and they will support local businesses in every community around the country over the coming months. This investment will support jobs and those businesses continuing. The Access Economics retail forecast quarterly report released today says, ‘These measures will lift the spending...’
power of households throughout 2009, providing important support for retailers against the tide of rising unemployment and consumer caution. That is dead right. This package finds the best balance between supporting jobs now and building the homes, schools and roads that we need for future growth. While we get a stimulus out of these payments, three-quarters of this package is directed towards building things that will last, the schools and other infrastructure that will continue to deliver for their communities for many years to come. These packages will help ensure prosperity and jobs in very difficult times. (Time expired)

Senator McEWEN—Mr President, I ask a supplementary question. Could the minister also please explain how the government’s first stimulus package, the Economic Security Strategy, has already helped stimulate the Australian economy?

Senator Abetz—Sunk without a trace!

Senator CHRIS EVANS—Senator Abetz and the Liberal opposition are in denial. The reality is that the first stimulus package has made a significant contribution to the Australian economy. Retail sales rose by 3.8 per cent in the month of December—the strongest increase in eight years. That is proof that the stimulus package helped—

Opposition senators interjecting—

The PRESIDENT—Order! Senator Evans, resume your seat.

Opposition senators interjecting—

Senator Cameron—Jeez you lot are a rabble!

The PRESIDENT—Order, on both sides! Senator Evans.

Senator CHRIS EVANS— Australians know that the retail industry is vital to this country. There are about 1½ million jobs in retail in this country and those payments help protect those jobs. Those payments help families and help jobs in this country. The evidence is in. It does not matter how often the opposition deny it, the reality is that all the evidence proves that stimulus package helped deliver. We know that consumption rose in Australia while it fell around the world. These packages are working to assist jobs in this country. (Time expired)

Senator McEWEN—Mr President, I ask a further supplementary question. Can the minister please detail to the Senate how the government is investing in nation-building infrastructure as a key part of its Nation Building and Jobs Plan?

Senator CHRIS EVANS—As part of this package we continue to invest in our long-term nation-building agenda. We have already set aside more than $26 billion for nation-building funds to finance major infrastructure projects, but we have also put $4.7 billion as part of this package into our roads, rail and education institutions—dividends that will be coming to the Australian community for many years to come. These funds will go towards improving school facilities—school halls, school libraries. These will provide long-term investment and long-term return for Australia. This package delivers on our nation-building agenda. It delivers facilities and infrastructure for the Australian community. While the opposition may ridicule it, every school I have been to realises that this is a very important investment. They know it will provide benefits and jobs to the Australian community. (Time expired)

Climate Change

Senator TROOD (2.14 pm)—My question is to the Minister for Climate Change and Water, Senator Wong. What will it cost the Australian taxpayer to establish and run the new Australian climate change regulatory authority? Will it be $1 million, $10 million, $100 million, or will it be a great deal more?
Senator WONG—In relation to the compliance burden, the advice I have received is that the authority is likely to require approximately 300 staff. That is a figure not inclusive of those persons already employed under the greenhouse reporting scheme and the Office of the Renewable Energy Regulator, so there would be some existing staff who would transfer to that. As I have previously and publicly said, we will release a regulatory impact statement with the legislation and full details of these matters will be before the Senate when it debates the government’s proposal.

This is a substantially less complex and large scheme in terms of compliance burden than the GST brought in by those opposite. As I have said publicly, we would anticipate—and this does depend on the information provided—approximately 1,000 Australian companies will be above the threshold in terms of being large emitters of carbon pollution, and obviously that is a substantially smaller number of companies than the many hundreds of thousands or millions of taxpayers and taxpaying entities which were required to change their approach after the introduction of the GST. Again, these issues will be canvassed prior to the provision of this legislation to the Senate.

Senator TROOD—Mr President, I ask a supplementary question. I am grateful to the minister for her assurance but I find it rather strange since there is a substantial number of issues in relation to this matter. Can I press the minister to provide the Senate with information as to the cost to taxpayers of the total government bureaucracy needed to manage the emissions trading scheme including the obligation number transfer register; the national registry of emission units; the power system reliability tests; the emissions-intensive trade-exposed assistance program; the program for the administration and allocation of Australian emissions units; the federal register of scheme forests; and the Electricity Sector Adjustment Scheme. Will the cost of those activities be $1 million? Will it be $10 million? Will it be $100 million or will it be a greater figure still?

Senator WONG—A couple of the programs that Senator Trood is asking about include the very programs that Mr Robb from that side says should be expanded. So in terms of the emissions-intensive trade-exposed assistance program, is the position from the other side that you want more free permits? What you obviously have not explained perhaps to your backbenchers and to the public is that that means less money for Australian households to manage the introduction of the scheme and the impact of a carbon price.

Through you, Mr President, Senator Trood also referred to the Electricity Sector Adjustment Scheme, again, a scheme which the opposition has said should have more money allocated to it. So if those opposite are going to come to this debate, perhaps they ought to put on the table exactly what they say should be occurring. We are establishing a new market here—(Time expired)

Senator TROOD—Mr President, I ask a further supplementary question. Senator Wong is the responsible minister and all I am asking for is clarity on the issues for which she is responsible. It seems a pretty straightforward matter. May I further ask: what is the estimated annual cost to business of complying with the government’s bureaucratic ETS legislation and all of its associated regulations? Will it be in the vicinity of a million dollars? Is it likely to be in the vicinity of $10 million or perhaps $100 million, or has the minister been unable to compute the cost of that as well?

Senator WONG—As I have said already, the regulatory impact statement will be available with the legislation. The exposure
draft, in the interests of discussion with the Senate, we propose to put before a Senate committee. What seems to lie behind Senator Trood’s questions is a view that we should not have proper regulation for this market, and I know that there are some on that side who do not believe in regulation for markets. We are setting up a market and, yes, we will ensure that it is robust, credible and prudent, and we will put in place proper regulation. I would ask those opposite to consider that their leader is on the record as saying that he supports an emissions trading scheme. This might be news to Senators Joyce and Boswell, but their leader has said that he believes in an emissions trading scheme. So I await the opposition putting on the table—

Honourable senators interjecting—

The PRESIDENT—Order! When there is order I will ask Senator Wong to resume.

Senator WONG—As I said, Mr Turnbull is on the record as supporting the emissions trading scheme. If those opposite have a way of establishing a market in carbon that does not require regulation, I am sure that Australia would like to see it. *(Time expired)*

**Australia Post**

Senator BOB BROWN (2.20 pm)—My question is almost without notice to the Minister for Broadband, Communications and the Digital Economy. Is he aware that the Brown government in the UK—that has quite a good ring to it, don’t you think—is moving to part-privatise the Royal Mail? Can he give the Senate an assurance that there are no moves afoot to part-privatise any of Australia Post? Would he inform the Senate about any approaches from the private sector to privatise Australia Post or any part thereof?

Senator CONROY—I thank Senator Brown for that question, and I appreciate the notice given—albeit brief. I have here chapter 6 of the ALP platform, which reads ‘Australia Post’. Section 124 states:

124 Labor will maintain Australia Post in full public ownership.
125 Labor will maintain Australia Post as the sole carrier of the standard-size, letter service and the sole issuer of postage stamps. Cross-subsidy arrangements between metropolitan and regional Australia will remain to ensure an equitable, flat-rate postal charging arrangement for the standard letter.

So I assure Senator Bob Brown that there is no intention on the part of the Rudd government to entertain any form of privatisation of Australia Post. I am aware of the recent announcements made by the Brown government and I am viewing them, but not with a great deal of interest.

Senator Chris Evans—You were more concentrated on the Chelsea games.

Senator CONROY—Yes, I was very much concentrating on Chelsea’s victory over Juventus today. Let me be clear: as far as I am aware—and I will check this with my department and my office—we have received no approaches for privatisation or part-privatisation of any parts of Australia Post. I am aware of occasional commentary in the newspaper where people speculate about issues around this. I am happy to come back and correct the record but I do not believe we have received any approaches whatsoever in this area.

Senator BOB BROWN—Mr President, I ask a supplementary question. I thank the minister for his reassurance. I point out that the Labor Party’s policy is not watertight on the potential for some privatisation to occur. I ask the minister about the state of health of Australia Post and the number of employees it has.

Senator CONROY—I was being modest; I read only the first couple of paragraphs from the platform, Senator Brown, but I am
happy to inform you of the rest of the platform. It says:

126 Labor will encourage the growth of Australia Post’s services and extend the scope of Australia Post’s community service obligations, where appropriate, to ensure equitable access to a full range of postal services for all Australians, including financial and bill paying services.

127 Labor will ensure that Australia Post continues to maintain appropriate coverage of post office and post box outlets throughout Australia. Labor will ensure that the present Australia Post corporate retail outlets remain publicly owned and operated and that the current ownership mix will be maintained.

There is more but I am not sure how much more categorical the platform or I could be on this matter. The prospects for Australia Post into the coming year are like the rest of the economy; revenues are being affected by the downturn. We would anticipate a reduced dividend and profit from this year—(Time expired)

Senator BOB BROWN—Mr President, I ask a further supplementary question. I reiterate the last part of my last question about the number of employees in Australia Post.

Senator CONROY—I am happy to take that on notice and get you that information. I do not know how much more categorical I can be. I hope you have taken the assurances I have given you today that it will remain in full public ownership.

Emissions Trading Scheme

Senator BOSWELL (2.25 pm)—My question is to Senator Kim Carr in his capacity as Minister representing the Minister for Resources and Energy and in his own capacity as Minister for Innovation, Industry, Science and Research. The global crisis has seen a dramatic fall in prices of coal, which has led to the shedding of 2,700 jobs in the Queensland coalfields. The proposed bureaucratic ETS will impose a $2.4 billion carbon charge on Queensland’s coal industry as well as a carbon charge on every electrical drag line and electric motor on the coalfields. Does the minister agree with these additional charges being imposed on Queensland’s largest employer and can he justify the extra cost?

Senator CARR—I thank the senator for his question. The government’s proposals with regard to the CPRS have been outlined through a number of different stages—through the white paper and now through the draft legislation. That policy framework provides a clear framework for business investment and sets out how our carbon emissions will be managed in the Australian economy in the long term. Whether it be the coal industry or any of the other industries that are emissions intensive and trade exposed, the government is committed to addressing the competitive challenges that face emissions-intensive trade-exposed industries. We will ensure that incentives remain for these industries to adjust to an emerging global carbon constrained economy. The allocation of free permits to emissions-intensive trade-exposed industries will ease the transition to a lower emissions economy while encouraging industry to move towards lower emissions-intensive production techniques. There has also been additional assistance outlined in regard to the electricity sector adjustment scheme.

Senator Boswell—My question was—

The PRESIDENT—Senator Boswell, is this a point of order?

Senator Boswell—Yes it is—relevance is the point of order. I do not have to quote you section 194.

The PRESIDENT—No, I just need to know that it is a point of order. I did not know whether you were standing for another reason.
Senator Boswell—To make the answer relevant the minister would only have to say he agrees or he disagrees. I am sure there are millions of unionists out there who would be interested in Senator Carr’s answer.

The President—Senator Carr has 41 seconds in which to address the question that has been asked.

Senator Carr—I am addressing the question. I am addressing the question directly. The senator asked me what my attitude towards the scheme is. I am explaining the attitude of the government to this scheme and the way in which we are moving towards the transformation of the Australian economy. Unlike the conservative opposition, which has no policy position on this and no clear understanding of where we are going—in fact they are hopelessly divided on this issue—we have a clear view of the appropriateness of the directions we are following and this chamber will have the option of accepting or rejecting it and considering these things in detail. (Time expired)

Senator Boswell—Mr President, I ask a supplementary question. Does the minister believe putting a carbon tax or charge on the Queensland coal industry and every piece of equipment used in it will force more job losses in the Queensland coal industry and could he give us an estimate of how many more jobs will go?

Senator Carr—the senator has asked me about the structure of the scheme, which I think, as Senator Wong has—

Opposition senators interjecting—

Senator Carr—it was a direct question about the structure and effect of the scheme. I have indicated that the government is about ensuring that there is a proper approach to the transformation of the Australian economy that balances our economic needs with our environmental needs and with our social needs. In that context, I would ask: what is the position of the opposition? Do you think you can maintain a position of putting your head in the sand and pretending that these problems will go away or do you take the view that it is appropriate to engage to ensure the protection of jobs, to ensure the economic prosperity of this nation and to ensure that we do have a balanced economy that deals with these fundamental issues that the entire world is trying to come to terms with?

Senator Boswell—Mr President, I ask a further supplementary question. The Queensland coal industry employs 15,000 people directly, 45,000 people indirectly and exports $16 billion of coal annually. What steps will the minister put in place to retrain the laid-off workers when the carbon tax cuts in and reduces more jobs in the Queensland coal industry?

Senator Carr—the government has outlined a range of measures in the operation of the CPRS to allow for incentives to be provided to industry to encourage the transformation of these industries. These include a $500 million National Low Emissions Coal Fund to accelerate the development and deployment of clean coal technologies, a $500 million Renewable Energy Fund to support the development of innovative renewable energy technologies, a $150 million Energy Innovation Fund to support critical clean energy technology research and $100 million per annum for a global carbon capture and storage initiative to actually accelerate the deployment of that technology. This is on top of the Climate Change Action Fund.

Senator Boswell—Mr President, a point of order on relevance: I asked whether you have any retraining programs in place to look after the workers when they lose their jobs. Could the minister answer that question about retraining for workers.
Senator Chris Evans—Mr President, on the point of order: I do not know what Senator Boswell’s point of order was. I do not think he attempted to make one and he did not claim to make one. What he sought to do was reask his question. Again, this is an abuse of the points-of-order process. I ask you, Mr President, if senators do not attempt to make a point of order, to sit them down, if you would, because it was just used as a further supplementary question.

The President—Order! Senator Carr, I draw your attention to the fact that there are eight seconds left and there is a question to be answered.

Senator Carr—The government has a comprehensive set of policy responses. We are ensuring that we provide the necessary incentives—(Time expired)

Alcopops

Senator Forshaw (2.34 pm)—My question is to the Minister for Superannuation and Corporate Law, Senator Sherry, representing the Minister for Finance and Deregulation. Is the minister aware of any important budget health measures including their fiscal impact and can the minister outline to the Senate the views in the community about any such measures?

Senator Sherry—Thank you, Senator Forshaw, for this important issue that you have raised. The Rudd government is extremely concerned about the scourge in our society of teenage binge drinking and about the role of attractively packaged sweet drinks that are laced with alcohol, colloquially known as alcopops.

Senator Cormann interjecting—

Senator Sherry—I do not think the community would be terribly impressed with a Liberal opposition whose only support for a cash splash is a $1.6 billion windfall to the alcohol industry. Incredibly, the only area where the Liberal Party, which claims fiscal responsibility and wants to reduce budget debt, supports a cash splash is $1.6 billion to the alcohol industry. That is the Liberal Party’s position—dole out $1.6 billion to the alcohol industry. The Australian Medical Association strongly supports this measure.
The President of the AMA, Rosanna Capolingua, told the Senate inquiry and was quoted today in the Canberra Times. ‘The AMA believes that current evidence from Australia and overseas provides every reason’—(Time expired)

Senator FORSHAW—Mr President, I ask a further supplementary question on this very important issue. Can the minister outline to the Senate how this important measure will both help our young people and also make a contribution to budget responsibility?

Senator Fifield—Mr President, I rise on a point of order. I have been listening to the answer of Senator Sherry and wondering what the possible portfolio relevance is either to his portfolio or to the portfolio he represents in this chamber. Revenue matters fall within the jurisdiction of the Treasurer and, in this chamber, that would be the Minister representing the Treasurer, not Senator Sherry.

The PRESIDENT—There is no point of order.

Senator SHERRY—I think the so-called point of order—effectively an interjection—highlights the problem that the irresponsible and divided Liberal opposition have. They do not understand the concept of budget responsibility—fiscal responsibility. The Liberal opposition by opposing this measure are going to increase the budget deficit by—

The PRESIDENT—Order! When there is quiet we will resume. Senator Sherry, you have 35 seconds left.

Senator SHERRY—In terms of budget fiscal responsibility—which is one of my responsibilities representing the Minister for Finance and Deregulation, even though the Liberal opposition do not understand it—the Liberal Party’s proposal is to give a $1.6 billion cash splash to the liquor industry. That is the only cash splash they support and it just highlights the fiscal irresponsibility of the Liberal opposition. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Uganda, led by the Rt. Hon. Edward K Ssekandi, Speaker of the Parliament. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I propose to invite the Speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Economy

Senator BUSHBY (2.40 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. Is it still the government’s policy that Australians should spend, spend, spend?

Senator CONROY—I thank Senator Bushby for his question. The government makes no apology whatsoever for pursuing policies to support Australian families and Australian jobs. We know the economy is slowing—

Senator Brandis—Then why is unemployment going up?

Senator Chris Evans—Because there’s actually a global crisis.

Senator CONROY—That might be why, George. We know the economy is slowing.

The PRESIDENT—Order! On both sides there should be order so that Senator Conroy can be heard.

Senator CONROY—in the December quarter, consumption growth in Australia
was positive and half a percentage point higher than for the average of G7 economies.

Senator Coonan interjecting—

Senator CONROY—You really just don’t get it. Money is fungible, Senator Coonan, so you are welcome to have a debate about whether money saved from one pool replaces another pool. It is fungible.

Senator Fifield interjecting—

Senator CONROY—No, Senator Fifield, you have got it completely backwards. This government will make no apology for supporting jobs—jobs, jobs, jobs. That is exactly what we will continue to do: put the policies in place—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator CONROY—Without the payments that this government has supplied, we would not be doing all we could to support the economy, because at the moment we will never lay down our arms in this battle against the global recession. Let us be clear: we are going to continue to support Australian families and continue to support Australian jobs. We stand ready to do whatever it takes to protect families and jobs—just like the Leader of the Opposition, who also accepts that we need a deficit and who also accepts that we need to borrow money and go into debt. That is the hypocrisy from those opposite. They continue to pretend that their policies are not about deficits and not about debt, when the Leader of the Opposition has quite clearly said they are. (Time expired)

Senator BUSHBY—Mr President, I ask a supplementary question. Given that 80 per cent of the December cash splash was saved and given the fear, doom and gloom that the government has spread deliberately ever since, why should taxpayers be expected to spend rather than save the latest cash splash?

Senator CONROY—Never let the facts get in the way of a good political line from Senator Bushby, because today’s consumer confidence figure shows that consumer confidence fell by 0.2 per cent in March and remains 4.4 per cent above its level in October last year. The Westpac chief economist, Bill Evans, said:

On the face of it, this is a surprisingly good result ... Normally we would have expected a solid fall in the Index given the stream of negative news.

There is a strong improvement in the outlook for the economy over the next five years. Mr Evans noted:

This could only be interpreted as a strong vote of confidence that current policies are providing a strong foundation in the longer term.

So those opposite who want to try and cry wolf—(Time expired)

Child Care

Senator XENOPHON (2.44 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. It relates to the tax deductibility status of public donations for the building and refurbishment of not-for-profit, private childcare centres, of which there are some 100 in South Australia. I have been contacted by the director of a not-for-profit childcare centre in Adelaide. This centre has not had any refurbishment for over 30 years. The location and demographic make-up of the centre has made it difficult for them to access grants for undertaking these refurbishments. Moreover, not-for-profit childcare centres generally do not receive any direct government subsidies. Last year the centre’s leadership launched a fundraising drive with parents to raise the funds to make the necessary improvements for high-quality care and learning environments. These changes would also allow them to address the significant demand and long waiting list for child care, which is a problem in their community, as it
is in many other Australian communities. However, the director of the centre was informed by the tax office that these donations would not be tax deductible. Can the minister confirm that there is no tax deductibility for donations to not-for-profit childcare providers? And does he agree that deductibility for donations would be an incentive for the public to donate?

Senator CONROY—I thank Senator Xenophon for the advance notice of the general theme of his question. Tax deductibility is a tightly targeted concession. Organisations that can accept tax deductible gifts are characterised by the broad benefits that they bestow to the public. To accept tax deductible gifts an organisation must be either endorsed by the tax office as a deductible-gift recipient, a DGR, under one of the general categories or specifically listed in the tax law. The general categories include universities, overseas aid organisations, public hospitals and public ambulance services. These categories are partially administered by the Commissioner of Taxation. None of the general DGR categories cover child care. The parents of children in child care receive more than an incidental private benefit. In addition, providing not-for-profit childcare centres with DGR status could raise integrity concerns if centres reduced fees and solicited tax deductible donations from parents instead.

For similar reasons schools cannot collect tax deductible donations. As charities, not-for-profit childcare centres can access a range of tax concessions, including income tax exemption, GST charity concessions and FBT concessions. In 2004, gift deductibility was extended to state and territory playgroup associations and the federal playgroup association. Playgroups provide a low-cost facility which assists small children, especially those who may otherwise be socially isolated and disadvantaged because of disability or low-socioeconomic status. The childcare tax rebate and childcare benefit both help families with the cost of child care. The childcare tax rebate covers 50 per cent of out-of-pocket childcare expenses for approved child care, up to $7,500 per child per year, for eligible families. (Time expired)

Senator XENOPHON—Mr President, I ask a supplementary question. Given the minister’s answer, when will the government consider providing capital grants funding for childcare centres?

Senator CONROY—I might just finish with the other information that I was providing as well as address the supplementary question. The government also provides a range of programs to improve access to child care for families in areas where the market would otherwise fail to provide child care. There is the review panel for the Australian future tax system review, otherwise known as the Henry review. This issue falls within the scope of Australia’s future tax system review and the review panel will provide its final report on the tax and transfer system to the Treasurer by the end of 2009. On the specific issue you have just raised, I am happy to take that on notice and, if there is any further information that the Treasurer is able to provide, I will get back to you.

Senator XENOPHON—Mr President, I ask a further supplementary question. In light of the tax breaks for contributions to school building funds, can the minister explain to Australian parents why not-for-profit childcare centres cannot benefit from similar provisions?

Senator CONROY—I thought I addressed some of that issue a little earlier. As I mentioned, the general issue that you are raising will be considered within the scope of the Henry review. I am sure Dr Henry would welcome another submission. He has received only a few and he does not have much
on his plate at the moment! I am sure Dr Henry would welcome a submission along the lines you have described. It will be considered fully by the Henry review, which will report at the end of the year.

**Broadband**

**Senator MINCHIN** (2.49 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I refer the minister to statements provided by Optus to the Senate Select Committee on the National Broadband Network:

The cancellation of OPEL was a lost opportunity for Australian business and consumers, particularly in the bush. Almost 900,000 premises across rural and remote Australia were to have been delivered metro-equivalent services at metro-comparable prices. Many of those premises would have been receiving services now.

Minister, isn’t Optus right? And isn’t it the case that rural and regional Australia would have had much better broadband services under the OPEL contract than they have today or are likely to have for years to come under Labor’s flawed and much delayed NBN proposal?

**Senator CONROY**—I thank Senator Minchin for his ongoing interest in this issue. The evidence given last week by Optus reflected a view towards its project which was negotiated with the previous government. As has been discussed at length in this chamber and as has been discussed at length in Senate estimates—as Senator Minchin is aware—the contract with OPEL and the government was terminated on the basis that it ultimately did not provide the services that it offered. This was after rigorous examination. This was quite a clear situation. There is no question that the services could not be provided as contracted for.

**Senator Minchin interjecting**—

**Senator CONROY**—OPEL are perfectly able, if they dispute this, to take legal action, Senator Minchin. It has been nearly a year—in fact, it has been more than a year. We are in a situation where the government is systematically working its way through the National Broadband Network process. Our ambition has always been to make an announcement at the end of March and we are consistently refusing to speculate on the outcome of that. Despite many opportunities, invitations and questions from not just Senator Minchin, but from Senator Birmingham and others, we will not be drawn on the conclusion and our announcement on the NBN. What I can say, though, is that Australians across Australia will be better off under Labor’s NBN plan than they would have been under the former government’s plan. Five capital cities get a superfast fibre network—that is what you were prepared to offer.

*(Time expired)*

**Senator MINCHIN**—Mr President, I ask a supplementary question. Given his illegitimate and unwarranted cancellation of the OPEL contract, will the minister guarantee that if the NBN ever does become a reality the first services delivered under the NBN will be to underserved rural and regional areas of Australia?

**Senator CONROY**—The entire premise of that question is false, so I am not sure how one can be relevant to a question whose premise is false. But let me be absolutely clear about this: key issues at the centre of negotiations and discussions are the timing, scope and direction of the rollout. That is something that I will again decline the opportunity to speculate on. I am not going to undermine the Commonwealth’s negotiating position on this matter, as with any other matter. The good news is, Senator Minchin, we are only weeks away from an announcement.
Senator Minchin—Weeks?

Senator CONROY—As I said, our ambition is the end of March, and it is now 10 March. So let us be clear: we will be in a position to make an announcement very soon, and then Senator Minchin will be able to ask all the questions he likes about the government’s announcement.

Senator MINCHIN—Mr President, I ask a further supplementary question. Given that the minister is again refusing to commit to deliver services to rural and regional areas first, when exactly will rural and regional Australia receive improved broadband services under Labor’s flawed NBN?

Senator CONROY—I thank you again. I think Senator Carr or Senator Wong made the point about what happens when you write a question before question time and do not adapt it as you get your answers. Let us be clear: OPEL was cancelled because it failed to meet its contractual obligations. It is that simple. We are in a situation where we will be making an announcement on the NBN process shortly.

Senator Abetz—Shortly?

Senator CONROY—As I said, in a few weeks. Our ambition has always been, as we have made clear, to make an announcement by the end of March. We will—

Opposition senators interjecting—

Senator CONROY—I appreciate that there is much interest on the other side, because those opposite—there are a few people; I look around the chamber and I see Senator Bushby with his computer out and Senator Joyce and Senator Ludlam—are all crying out for faster broadband. (Time expired)

Workplace Relations

Senator FURNER (2.55 pm)—My question is to Senator Ludwig, the Minister representing the Minister for Employment and Workplace Relations. Can the minister explain to the Senate how the government’s new framework for industrial relations in Australia will provide greater job security for Australian workers?

Senator LUDWIG—I thank Senator Furner for his question. I note his interest, particularly in Queensland, in the new industrial relations system. At the 2007 election, the Rudd government promised to bring in a fair and flexible workplace relations system that would provide job security for all workers, unlike Work Choices. Australians rejected the Liberal Party’s industrial relations extremism that allowed employees to be sacked for no reason at all. What this government is doing is delivering on its commitment to bring stability back to the Australian workforce. What they do need is certainty and stability in workplace relations, not the instability that Work Choices brought. The global financial crisis and global recession are causing job losses all around the world. The Rudd government has been absolutely up-front about the fact that the global recession will impact upon jobs here. That is why we are doing all we can to limit the impact on Australian workers and restore fairness and job security to our workplace relations through this new era of industrial relations.

We have listened to the Australian community and our new system will provide workers with a fair and comprehensive safety net of employment conditions, include special provisions for unfair dismissal, ensure fair enterprise bargaining and ensure all Australian employees are entitled to redundancy. Under Work Choices, Australian workers were sacked, as I have said, for no reason at all. And, yes, they do hang their heads in shame about that. Under Work Choices, Australian workers had their redundancies stripped away without a cent of compensation. This government legislated
for the National Employment Standards to apply to all Australian employees and to ensure that redundancy is provided for in every agreement. We know that the Rudd government believes that Australian workers are entitled to a fair go. (Time expired)

Senator FURNER—Mr President, I ask a supplementary question. Can the minister inform the Senate how the Rudd government’s workplace relations framework will protect the privacy of employees in accordance with the Privacy Act and ensure all employees are covered by the new system of industrial relations in Australia?

Senator LUDWIG—I thank Senator Furner for his supplementary question. What this government is committed to is getting the balance right in the workplace and providing fairness and flexibility to workers and their employers. We have a keen interest in making sure that awards are complied with and that dodgy employers do not get away with underpaying employees. We will strike the balance by ensuring very strict requirements on the use of any documents obtained by a permit holder—that is, a person who is entitled to inspect those records or who is investigating the breach of the award or the law. Privacy Act requirements apply and any misuse results in a significant fine and the cancellation of the permit. This means that the permit holder can only investigate documents directly relevant to investigating a breach of the law. Unions have had a long-standing role in investigating suspected breaches of awards and agreements and in taking recovery action to make sure that employees are paid correctly. The new framework does get the balance right between those rights. (Time expired)

Senator FURNER—Mr President, I ask a further supplementary question of Senator Ludwig.

Opposition senators interjecting—

The PRESIDENT—Senator Furner, ignore the interjections and ask your question.

Senator FURNER—Can the minister address claims reported in the press that the new workplace relations framework will be threatened by the opposition?

Senator LUDWIG—The Liberal Party introduced a system of workplace relations that misrepresented Australian values, and when the public had their chance to vote it out they did. The Liberals have never got over that, because they really do believe in Work Choices. Let them stand over there and say to their heart’s content that Work Choices is dead, because they do not believe it. I heard Senator Abetz use that phrase. I am not convinced that he said it with any great meaning; the doubt is still there in my mind. Last year, the Leader of the Opposition declared that Work Choices was dead. He told the Australian, ‘Labor took a proposal to change unfair dismissal laws to the election and won, so we must respect that,’ but now he wants to make amendments to unfair dismissal laws. (Time expired)

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Emissions Trading Scheme

Climate Change

Senator IAN MACDONALD (Queensland) (3.01 pm)—I move:

That the Senate take note of the answers given by the Minister for Climate Change and Water (Senator Wong) and the Minister for Innovation, Industry, Science and Research (Senator Carr) to questions without notice asked by Senators Abetz, Trood and Boswell today relating to employment and the proposed Carbon Pollution Reduction Scheme.

We have now learnt from question time today the enormous bureaucracy that will be
set up to administer the Carbon Pollution Reduction Scheme. If there are to be any jobs at all made out of the emissions trading scheme, quite clearly they are going to be in the Public Service. Senator Trood’s question very skilfully highlighted the enormous bureaucracy that will be built up around the emissions trading scheme. As we have come to expect here, the Minister for Climate Change and Water was simply incapable of answering any of the questions today, as she has been incapable of answering any questions in relation to the climate change legislation. It is quite clear that the correct amount of work has not been done—there has been no modelling on the jobs that will be lost. The minister knows best, so she thinks, but those of us who get out and about in public understand that there are real job losses in this legislation.

We have heard the Labor Party in the Senate this afternoon rabbiting on about Work Choices, the Fair Work legislation and building up jobs. The emissions trading scheme proposed by the Rudd government will cost more jobs than any other single event that has ever occurred in Australia’s history. I mentioned before that at Senate committee hearings we have been told that up to 216,000 jobs in the mining industry could be put at risk by this emissions trading scheme. I ask Labor speakers who might follow me to tell me where the benefit to Australia is when Sun Metals, a zinc processing company in Townsville, have to close down because of the taxes put on their industry in Australia that do not apply to any other industry anywhere else in the world. They will close down. They will dismiss all of those workers that are currently employed there. They will move offshore to a country which does not have an emissions trading scheme. They will then emit even greater greenhouse gases. Tell me where the winds are.

We have sacked, done without or thrown on the employment scrapheap hundreds of workers in one city alone, and has it made any difference to the changing climate of the world? Not one iota. Go through the facts wherever you look in the state of Queensland. I am particularly concerned about the state of Queensland, and I am particularly concerned that the Premier, Anna Bligh, has not stood up for Queensland workers by taking on Mr Rudd, Mr Swan and Senator Wong in relation to the job losses in Queensland from the emissions trading scheme. At any number of Senate inquiries we have had evidence from the cement industry, the coal industry and the aluminium industry—companies involved in providing real jobs for Australian workers—that this scheme will cause their demise. Why? Let me give you the example of the cement industry. You can import cement into Australia. The Australian cement industry will have to compete with that. The cement comes in from Indonesia. There is no CPRS or emissions trading scheme there, so the Australian industry is lumbered with a $20-a-tonne tax. How can the Australian industry possibly compete with the Indonesian cement industry in Australia when one is subjected to a $20-a-tonne tax and the other gets away scot-free?

The biggest competitor of the Australian black coal industry is Indonesia. As the Australian coal industry has tax after tax from the CPRS imposed upon it, our coal will become uncompetitive. Where will the buyers go? To our competitors in Indonesia, which does not and never will have an emissions trading scheme. I cannot understand why the unions and the Labor Party members here do not stand up for those workers in the Queensland coal and mining industries. They are about to lose their jobs because of this Labor government, and it is about time the unions and Labor Party members had some courage and stood up to the Prime Minister and Sena-
tor Wong over a flawed scheme that will cost jobs.

Senator CROSSIN (Northern Territory) (3.07 pm)—The opposition’s answer of course is to do absolutely nothing about the impact climate change is having on this country and internationally. They have gone from being a party of climate sceptics who would not even look at the Kyoto protocol, let alone sign it, to a party that is now just objecting, obstructing and denying that this country needs to move forward in being part of an international solution to the climate change problem.

We put out a green paper on the Carbon Pollution Reduction Scheme. After months of consultation, that became the white paper. Then there were concessions and changes made to the white paper. Now we have draft legislation, and we have a minister who has accepted and encouraged the fact that this chamber will look at that draft legislation. There are never any solutions or any alternatives from the people opposite me—only difficulties, objections, obstructions, negative comments and scaremongering. There is never a proposal, because they do not actually have a proposal. They do not have an agreement about where they are moving on this; they do not have an alternative policy that they can put to the Australian people.

Our Carbon Pollution Reduction Scheme will start in 2010. We are committed to that deadline. We went to the election on this promise, and the Minister for Climate Change and Water, Senator Wong, has worked incredibly hard for the last year or so, tirelessly consulting with businesses, stakeholders and those that have concerns about this. Our scheme will put a cost on carbon pollution—that is for sure—but it will also encourage major polluting businesses to lower their emissions. We need to sign up to this, to be committed to this, as part of a global and international solution. Our scheme will start reducing Australia’s carbon pollution from next year; that is what we need to do as a country. We will use the funds raised to assist households to adjust to the scheme, making sure that Australian families do not carry the cost of climate change. We will build on our investment in renewable energy to create low-pollution jobs into the future in solar energy, wind energy and new technology like clean coal and geothermal energy. Taking action on climate change will actually see the renewable energy sector grow to 30 times its size by 2050, so in fact under our scheme we will be creating thousands of jobs.

The Treasury modelling released in October last year showed that these measures will see the renewable energy sector grow, as I said, but we also know that if we do not act Australia’s economy will be left behind, because the low-pollution jobs that we need for the future will not be created. The modelling released last year showed that, for economies and countries that defer action, sit on their hands, do nothing and produce no alternative models—or no models at all, which is what the opposition want—the long-term costs will be around 15 per cent higher than the costs for those that take action now. The people opposite me want to sit on their hands and do nothing. They do not want to create new industries in the renewable energy target but actually want to postpone the costs so that in later years we will be faced with a cost that is 15 per cent higher and escalating.

Their solution to this is to make sure that they put up whatever brick wall, whatever nonsolution, whatever non-alternative-policy they can. From those opposite we have seen no consistent position, alternative policy or idea brought to the table and no positive discussion. Theirs is a party that simply wants to deny that there are future industries, technologies and jobs out there, a party that
would like to defer the cost of this so that it becomes 15 per cent higher in years to come. Rather than do something now, take a positive step and be part of a global solution—be part of the answer rather than the problem—they just criticise and complain.

Senator BOSWELL (Queensland) (3.12 pm)—The trouble with the Labor Party is that they do not know whether they represent the good blue-collar workers that have stood by them for years and years or if the Greens are leading them around by the nose. When they make that decision the blue-collar workers will be glad, but at the moment the blue-collar workers—the people in the coalmines, the people at Pacific Brands, the good people that pay their union fees—are being sold out by the Labor Party. The Labor Party have deserted them, run away from them, and are now backing the Greens, the people in the leafy suburbs and the doctors’ wives.

Government senators interjecting—

Senator BOSWELL.—That is who you represent. You have wiped your hands of the blue-collar workers, the people that have stuck with you for years and years. They are going to realise it very soon. Eighteen hundred jobs went from Pacific Brands. I ask the Senate: how many more jobs are going to go when there is an emissions charge on every sewing machine? Every electric motor in every factory will attract a charge. Do you think that is going to make Australian industry more competitive? Do you think that is going to give the blue-collar workers a job? I can tell you it will not—and the unions know it. The Parliamentary Secretary for Climate Change, Mr Combet, is going to be like a one-armed paper hanger in a high breeze, because the union movement is going to go to him and tell him what you guys are doing to them and the blue-collar worker.

I hope the Treasurer, Wayne Swan, has the decency to pick up the phone and ring Golden Circle, the biggest employer in Brisbane, employing around 1,800 workers in his electorate. Last year they had to reduce the intake of pineapples from Queensland growers because they were under attack from imported product—imported pineapples, imported home brands. How much less competitive is this ETS going to make them when they have to pay an emissions charge on all their outgoings, all their plant, all their equipment? It is going to be a huge charge that none of their overseas competitors will have to pay.

This is giving a free kick to overseas manufacturers. It is hard enough to make a quid manufacturing in Australia, with the high costs. Why put another eight pounds of lead in their saddle? What are you guys doing? Don’t you understand? How can you sit there and let this happen to Australia? How can you sit there and let this happen to your blue-collar workers? You’ve deserted them; you’ve ratted on them; you’ve—

The DEPUTY PRESIDENT—Order! Senator Boswell, would you please address the chair and not the people opposite.

Senator BOSWELL—I am sorry, Mr Deputy President, but I can see the disaster coming and I get excited about it. I can see the loss of jobs that these guys are going to put on the decent blue-collar workers who have always supported them. They have ratted on them. They have walked away from them. It would not be so bad if everyone else was going to do it. But President Obama has said, ‘We’ll do it when everyone else does it.’ Mrs Clinton has said, ‘We’ll do it too, but everyone’s got to follow.’ Their envoy Senator Kerry said, ‘We can’t do this unless everyone else is doing it.’ Why are you leading Australian industry like lambs to the slaughter? That is what is happening to this industry: it is being treated like lambs to the slaughter. No-one else is going to do it—they
have said they are not going to do it. China have said they are not going to do it. India have said they are not going to do it. America have said they are not going to do it. Who has said they are going to do it? And, when they have said they are going to do it, they are going to do it in 2027. We are going to start next year, in 2010. Why are you doing this? Don’t you care for Australia? Are you going to just let them sink?

Every one of you over there—apart from Minister for Climate Change and Water, Senator Wong—please help us; please let the Senate defeat this bill. Please get us off the hook by letting the Senate defeat this bill. You can go to your green voters, who you love—you have deserted your blue-collar workers—and say, ‘Oh, we tried; those rats in the Senate blocked us.’ And then you can go to the blue-collar workers and say, ‘Yeah, we knew it was going to happen; we were always on your side.’ The hypocrisy of the Labor Party on this ETS is unbelievable; it has never been seen before. And that is not Ron Boswell saying that; it is all the economists in Australia. (Time expired)

**Senator FEENEY** (Victoria) (3.17 pm)—I rise to take note of the same answers as the previous speaker. The Carbon Pollution Reduction Scheme—and the emissions trading system—is only one of several great public policy challenges that sit in front of the Senate at this time. We have the global stimulus package, we have the CPRS legislation and most recently we have had the Fair Work Bill. These are all enormous and important pieces of legislation for this Senate to consider. They all have one thing in common: those opposite do not have a clear policy, a clear approach or indeed a clear response to any of them. With the CPRS that is very clear. The Leader of the Opposition, Malcolm Turnbull, has said in his public utterances, both last year and again recently, that he is in favour of an emissions trading system. Those opposite have been completely unable to keep faith with Malcolm Turnbull’s utterances and they have been unable to give those utterances any shape or direction. This is a public policy challenge of enormous complexity and the other side have written it off as simply too hard.

This debate is typical of what has now become known as the Malcolm Turnbull three-step, which he has deployed for every major challenge that has confronted him since he became leader. Step 1 of the Malcolm Turnbull three-step is to support a Labor initiative, to drape himself in the flag of bipartisanship and to try and win a day’s media for himself as a constructive statesman. Step 2 of the Malcolm Turnbull three-step is to cast doubt upon the Labor initiative. We have seen those opposite for many, many months snipe and undermine and run a guerrilla war against the Labor Party’s emissions trading initiatives. Finally, step 3 of the Malcolm Turnbull three-step is outright opposition, the cynical exploitation of the issue for those few votes they can harness from it.

But this is a debate that is very important for this country. Notwithstanding the Turnbull three-step there are some clear indicators about where this debate is going. Our side’s position, the position of the Labor Party, the position of this government, the position of the minister, has been very clear from the moment we were sworn into government. One of our very first decisions was to move to ratify the Kyoto protocol. After 11 years of inaction, after 11 years of climate change scepticism, this government moved immediately and decisively to take hold of the issue and started building solutions. The CPRS has now been announced in large form, and there are some very important features of it that those opposite are unable or unwilling to come to terms with. At its heart the CPRS is aimed at managing a transition—a transition from our contemporary
economy to a post-carbon economy. In managing that transition there are certain features, such as the permit regime, and other features such as how the coal industry is being dealt with—

Senator Cormann interjecting—

Senator Fisher interjecting—

The DEPUTY PRESIDENT—Order! Those on my left!

Senator FEENEY—Those features, such as permits, are all about protecting the jobs of today while transitioning the Australian economy over the long term towards a 2050 ambition of us becoming a post-carbon economy. This is a challenge Australia must face—but, it is understood by us on this side, it is also a challenge that the world must face. So we are crafting public policy here to account for two important issues: the long time frames we are talking about here—that is, that the mission must be accomplished by around 2050—and developing a scheme that encompasses and understands the fact that we are working in an international, multilateral environment.

That is why the scheme recognises the fact that we have made important progress with our international trading partners. We now have the 27 countries of the European Union in an emissions trading system. We have 27 states of the United States. Canada and New Zealand are considering moving into an emissions trading system. And Obama’s United States are considering that, too. As with all the other major public policy issues that are confronting us at this time, whether it be the global financial challenge—(Time expired)

Senator TROOD (Queensland) (3.22 pm)—It may well be that an emissions trading scheme is a matter of some importance, but in question time today I asked the minister responsible a very specific question. I asked the minister what the cost of this scheme would be in relation to the various elements which she argued were necessary to maintain the integrity of the scheme. I asked what it would cost to create the climate change regulatory authority and what it would cost to administer and establish many of the elements of the scheme. And she was unable to tell me. She was unable to provide an answer to this elementary question about the ETS. She was unable to provide this answer after nearly two years of work on the topic.

The government went into the last election promising some action on climate change. They could not possibly have given any thought to the possibility that there would be a need for some kind of bureaucracy to be established. During the period of time since they won office, they have spent numerous hours, spent a large amount of money and used a great deal of staff in trying to establish and set up this scheme. They have employed Professor Garnaut to provide a lengthy report, at vast expense to the taxpayer, on the scheme. So they have had plenty of time—Professor Garnaut has had plenty of time—to quantify the costs involved in this. The Minister for Climate Change and Water, Senator Wong, came into the chamber today and when I asked a very specific question was unable to answer.

This raises a critical question, not just about the ETS but about the entirely cavalier attitude that the government seems to take to the management of the public purse. This has parallels elsewhere around the Commonwealth. In particular, I cannot help but think that it has parallels in my own state of Queensland, where the Beattie-Bligh government has been in office for nearly 20 years—over a long period of time—and has failed to adequately and properly administer the public purse. During good times, during times of plenty, the Labor government in Queensland has received mountains of
money. It is has received money into the Treasury from large amounts of conveyancing; it has received large amounts of money from payroll taxes; it has received massive royalties from the mining industry—in fact, so much so that the government not long ago increased the proportion of royalties—and it has received masses of money from the GST.

I have done a quick calculation. Over the last seven years, it has received something in the vicinity of $53 billion in revenue raised by the Commonwealth through the GST. In the year 2007-08, it received $8.3 billion in revenue. We—not just Queenslanders but Australians—are entitled to ask where that money has gone. Why is it not reflected in the building of infrastructure around the state of Queensland? Why is it not reflected in the progress of reducing hospital waiting lists? Why is it not reflected in the improvement of education standards in relation to numeracy and literacy in Queensland? In particular, since we asked Senator Wong this question, because she is the Minister for Climate Change and Water, why is it not reflected in the administration of the state’s water security?

Prior to the last election, in a panic because it had failed to do anything about this issue over a long period of time, the Queensland government decided to propose a new dam. This was only necessary because the former public servant K Rudd had cancelled the Wolfdene Dam in December 1989. That dam would almost certainly be overflowing to this very day. South-East Queensland’s water needs would have been more than well provided for. The cancellation of that dam resulted in a panicked development of public policy which has cost the state of Queensland billions of dollars. We have had a desalination plant proposed, which is now well behind budget. (Time expired)
Senator Bob Brown to move on the next day of sitting:

That the Senate—

(a) notes:
(i) the 50th anniversary of the Tibetan uprising of 10 March 1959 and the Dalai Lama’s exile to India, and
(ii) the continuing human rights concerns in Tibet;
(b) acknowledges the Tibetans’ half century of peaceful resistance to policies undermining their religion, culture and livelihoods and expresses solidarity with the Tibetan people;
(c) notes with concern the Chinese Government’s outright rejection of the Tibetans’ Memorandum on Genuine Autonomy for the Tibetan People, a detailed proposal for resolving the Tibet issue through proper implementation of existing provisions for regional ethnic autonomy contained in the constitution of the People’s Republic of China; and
(d) acknowledges that recent unilateral efforts by concerned governments, including Australia, have failed to secure meaningful negotiations on Tibet’s future.

Senator Bob Brown to move on the next day of sitting:

That the Senate—

(a) supports the measures to address the excesses of executives in the United States of America proposed by President Obama which include:
(i) a $500,000 salary cap for executives of companies which have received financial support from the government,
(ii) a limit on executive compensation packages to be in restricted stock that will not vest until taxpayers are reimbursed,
(iii) tougher restrictions on ‘golden parachute’ severance payments, particularly on banks, and
(iv) new transparency rules on corporate jets, office renovations and entertainment which require companies to publicise large expenditures; and
(b) calls on the Government to introduce similar measures in Australia.

Senator Fisher to move on the next day of sitting:

That the time for the presentation of the report of the Select Committee on the National Broadband Network be extended to 22 June 2009.

Senator Ludwig to move on the next day of sitting:

That—

(1) On Monday, 16 March 2009:
(a) the hours of meeting shall be noon to 6.30 pm and 7 pm to 11.30 pm;
(b) the routine of business from 7 pm shall be government business only; and
(c) the question for the adjournment of the Senate shall be proposed at 10.50 pm.

(2) On Tuesday, 17 March 2009:
(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7 pm to 11.40 pm;
(b) the routine of business from 7 pm shall be government business only; and
(c) the question for the adjournment of the Senate shall be proposed at 11 pm.

Senator Ludlam to move on the next day of sitting:
That the Senate—
(a) notes the presence in the chamber during question time on Thursday, 12 March 2009, of three members of the Parliament of Burma, democratically-elected in the 1990 election but denied the right to exercise their mandate; and
(b) expresses its support for the democratic aspirations of the people of Burma.

Senator Ludlam to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) 13 March is recognised as Burma Human Rights Day,
(ii) the global campaign ‘Free Burma’s Political Prisoners Now!’ will commence on 13 March 2009,
(iii) the democratically-elected parliament was not convened in Burma after the 1990 election, and
(iv) the referendum on the current constitution held immediately following Cyclone Nargis was a sham and the result cannot be considered credible;
(b) calls on the Australian Government to:
(i) use all diplomatic means to encourage the Burmese regime to make meaningful progress towards democracy and to immediately and unconditionally release all political prisoners, including Daw Aung San Suu Kyi,
(ii) refuse to endorse the outcomes of the election in 2010 unless the political climate improves in Burma,
(iii) press the Burmese regime to engage in genuine multi-party talks leading to an inclusive, open and transparent political process, including constitutional reform, and
(iv) engage other nations through the United Nations and other multilateral fora to press for multiparty talks and an inclusive, open and transparent political process; and
(c) expresses its support for the democratic aspirations of the people of Burma.

COMMITTEES
Legal and Constitutional Affairs Committee
Extension of Time
Senator McEWEN (South Australia) (3.29 pm)—by leave—At the request of the Chair of the Standing Committee on Legal and Constitutional Affairs, Senator Crossin, I move:
That the time for the presentation of the report of the Legal and Constitutional Affairs Committee on the exposure draft of the Personal Property Securities Bill 2008 be extended to 19 March 2009.
Question agreed to.

Corporations and Financial Services Committee
Meeting
Senator BOYCE (Queensland) (3.30 pm)—by leave—At the request of the Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services, Senator Mason, I move:
That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 5 pm.
Question agreed to.

NOTICES
Postponement
The following items of business were postponed:

General business notice of motion no. 367 standing in the name of the Chair of the Community Affairs Committee (Senator
Moore) for today, proposing an extension of time for the committee to report, postponed till 12 March 2009.

General business notice of motion no. 371 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, relating to days of meeting of the Senate, postponed till 17 March 2009.

COMMITTEES

Economics Committee

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (3.31 pm)—I table six exposure drafts of bills related to the Carbon Pollution Reduction Scheme. At the request of the Minister for Climate Change and Water, Senator Wong, I move:

That the following matter be referred to the Economics Committee for inquiry and report by 14 April 2009:

The exposure draft of the legislation to implement the Carbon Pollution Reduction Scheme.

Question agreed to.

HEALTH INSURANCE

Order

Senator CORMANN (Western Australia) (3.32 pm)—I move:

That the Senate—

(a) notes:

(i) the Prime Minister’s stated commitment before the 2007 Federal election that Federal Labor would retain the ‘existing private health insurance rebates, including the 30 per cent general rebate and the 35 and 40 per cent rebates for older Australians’ as well as the commitment to ‘maintain Lifetime Health Cover and the Medicare Levy Surcharge’,

(ii) the government’s reaffirmation of those commitments during its first Senate Estimates as the new government in February 2008, and on other occasions,

(iii) revelations that since the election of the Rudd Government work has been done by both Treasury and the Department of Health and Ageing on options and/or recommendations for scrapping the private health insurance rebate and other options for change to the rebate and Lifetime Health Cover, and

(iv) the departmental records listing for the Department of Health and Ageing for the period 1 July 2008 until 31 December 2008 listing six specific ideas and policy development papers on changes to private health insurance in general and Lifetime Health Cover in particular;

(b) considers publication of those policy development ideas to be in the public interest; and

(c) orders that there be laid on the table by the Minister Representing the Minister for Health and Ageing by no later than 12 pm on 16 March, the following documents:


Question agreed to.

EMISSIONS TRADING SCHEME

Order

Senator CORMANN (Western Australia) (3.32 pm)—I ask that general business notice of motion No. 375 relating to orders for the production of documents be taken as a formal motion.

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

Senator MILNE (Tasmania) (3.33 pm)—by leave—I do not have any objection to the motion being taken as formal. As a general rule, the Greens have a policy of supporting the transparency and disclosure of documents. We supported this motion in its original form when it came before the Senate. However, the government then provided an explanation as to why it did not release the documents at that time. The government said that it would compromise the intellectual property of the two consultants that were mentioned in the particular motion. I also, on behalf of the Greens, take very seriously allegations of the untoward forcing of disclosure of something that would compromise intellectual property. However, I have now taken on board the correspondence from the institutions involved and I have spoken with the solicitors at Monash University, who tell me that the confidentiality clauses that have been worked out by the Senate and the committee with the institutions involved satisfy their concerns. That is why the Greens will now be supporting the disclosure of these documents. We do support transparency and disclosure but we also respect intellectual property rights.

Senator CORMANN (Western Australia) (3.35 pm)—I move:

That the Senate—

(1) Notes:

(a) that the government has not complied with the order of the Senate made on 4 February 2009, ordering the production of certain unpublished information relating to the Department of the Treasury modelling, Australia's Low Pollution Future: The economics of climate change mitigation;

(b) the government’s statement to the Senate on 11 February 2009 expressing the ‘belief’ that the provision of some of the documents requested would cause substantial commercial harm to organisations that were contracted to assist Treasury;

(c) that the claim of commercial harm cited by the government in its refusal to release the required information relates to only part of the information requested and that no explanation was provided as to why all of the other information not covered by the claim of commercial harm should not be provided for scrutiny by the Senate;

(d) the evidence to the committee in this regard by Professor McKibbin, one of the consultants contracted by Treasury for its modelling, that in his view models developed with public funding should be publicly available;

(e) that the committee has received correspondence from Monash University, one of the two organisations the government indicated in its statement would be exposed to substantial commercial harm were the requested information to be released, which states that “the University wishes to assist (the Fuel and Energy Committee) in every way possible”, and that the University Solicitors would work with the creators of the Monash Multi-Regional Forecasting model “to identify the manner and nature of disclosure that will
meet the Committee’s needs as far as possible while protecting the University’s interests’;

(f) the correspondence received from Purdue University, the other organisation mentioned in the government’s statement, which explains that the simple purchase of a licence would avoid any commercial harm;

(g) the evidence of the WA Department of Treasury and Finance indicating that they had also been unsuccessful in obtaining access to relevant modelling information, which was preventing them from providing proper and informed advice on the economic impact of the proposed Carbon Pollution Reduction Scheme in Western Australia to the government in that state; and

(h) the ongoing concerns expressed by a wide variety of stakeholders about the inadequacy of the Treasury modelling of the impact of the proposed Carbon Pollution Reduction Scheme;

(2) Considers that:

(a) irrespective of the government’s statement in the Senate on 11 February 2009 it is in the public interest that all the underlying information used by Treasury in its modelling be available to help facilitate proper scrutiny by the Senate of the impact of the government’s proposed Carbon Pollution Reduction Scheme;

(b) models used in the modelling exercise developed using public funding ought to be publicly available; and

(c) where the public release of information is likely to cause significant commercial harm to an external organisation every effort ought to be made to prevent that harm while not preventing the Senate from fulfilling its proper role to scrutinise the activities and proposals of government;

(3) Orders that the following information be produced to the Senate Select Committee on Fuel and Energy by noon on Friday 13 March 2009:

(a) the information referred to in paragraph (b) of the Senate’s order for documents of 4 February 2009 relating to the Department of the Treasury modelling, Australia’s Low Pollution Future: The economics of climate change mitigation;

(b) any other information not published and not covered by (a) relating to the Department of the Treasury modelling, including but not limited to:

(i) any information and documents generated by the government for the purpose of the composition of the information covered by (a),

(ii) for the two scenarios modelled for the CPRS (CPRS -5 per cent and the CPRS -15 per cent) and the reference scenario, the time series data per annum to 2050 for all states and territories of the following:

   a) Industry growth output in millions of dollars,
   b) Employment numbers,
   c) Gross State Product,
   d) Emissions, and
   e) Household CPI changes,

   (iii) the data from (ii), a), b) and c) broken down by region where applicable, and

   (iv) any substrate data of gross industry output by the above regions.

(4) That the committee may make the information described in paragraph (3) available to the person contracted by the committee and referred to in paragraph (a) of the Senate’s order of 4 February 2009, and any person appointed by the leader of a party in the Senate or an independent senator, duly notified to the committee, to examine that information and report to that senator.

(5) That the committee, any senator and any other person referred to in paragraph (4) treat the information produced in accordance with paragraph (3)(a) of this order...
as confidential, and not publish the information to any other person except as authorised by this order.

(6) That the committee may refer to the information produced to it in accordance with this order and any conclusions reached from it in a report to the Senate, but shall not disclose the information in such a report.

Question agreed to.

COMMITTEES

Education, Employment and Workplace Relations Committee

Extension of Time

Senator McEWEN (South Australia)
(3.35 pm)—At the request of the Chair of the Standing Committee on Education, Employment and Workplace Relations, Senator Marshall, I move:

That the time for the presentation of the report of the Education, Employment and Workplace Relations Committee on Australia’s research and training capacity in the area of climate change be extended to 17 September 2009.

Question agreed to.

Environment, Communications and the Arts Committee

Extension of Time

Senator McEWEN (South Australia)
(3.35 pm)—I move:

That the time for the presentation of the first report of the Environment, Communications and the Arts Committee on the effectiveness of the Environment Protection and Biodiversity Conservation Act 1999 and other programs in protecting threatened species and ecological communities be extended to 18 March 2009.

Question agreed to.

Public Accounts and Audit Committee

Meeting

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

That the Joint Committee of Public Accounts and Audit be authorised to hold public meetings during the sittings of the Senate on Wednesday, 18 March 2009, from 11 am to 1 pm, and Thursday, 19 March 2009, from 9.30 am to 11.30 am, to take evidence for the committee’s review of Auditor-General’s reports.

Question agreed to.

Community Affairs Committee

Meeting

Senator McEWEN (South Australia)
(3.35 pm)—At the request of the Chair of the Standing Committee on Community Affairs, Senator Moore, I move:

That the Community Affairs Committee be authorised to hold public meetings during the sittings of the Senate, from 3.30 pm:

(a) on Thursday, 12 March 2009, to take evidence for the committee’s inquiry into petrol sniffing and substance abuse in central Australia; and

(b) on Thursday, 19 March 2009, to take evidence for the committee’s inquiry into the impact of gene patents on the provision of healthcare in Australia.

Question agreed to.

Foreign Affairs, Defence and Trade Committee

Meeting

Senator McEWEN (South Australia)
(3.35 pm)—At the request of the Chair of the Standing Committee on Foreign Affairs, Defence and Trade, Senator Mark Bishop, I move:

That the Foreign Affairs, Defence and Trade Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 12 March 2009, from 4.30 pm, to take evidence for the committee’s inquiry into the economic and security challenges facing Papua New Guinea and the island states of the southwest Pacific.

Question agreed to.
Climate Policy Committee

Establishment

Senator MILNE (Tasmania) (3.35 pm)—I ask that general business notice of motion No. 369 standing in my name and the name of Senator Abetz relating to the establishment of a select committee on climate policy be taken as formal.

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

Senator Fielding—I will not object to the motion being taken as formal as long as I am given leave at the appropriate time to move the amendment I have circulated in the chamber to motion No. 369.

The DEPUTY PRESIDENT—Is there any objection to Senator Fielding, prospectively, being given the opportunity to move an amendment by leave?

Senator Bob Brown—Mr Deputy President, on a point of order: I do object to a process whereby a senator puts forward a proposal on the basis that a future action of the Senate be anticipated otherwise that proposal is not dealt with. In good faith, I can tell the senator that we will not, and would not, object to an amendment being put under these circumstances—but conditional? No, we do not accept that condition; we just give him that assurance.

Senator Ludwig—On that, Mr Deputy President: I think Senator Bob Brown has a good point. I took it that Senator Fielding was in fact asking for leave and, on that basis, we would always grant leave to move an amendment in this chamber; that is how the chamber works. If it has been badly put by Senator Fielding, I am sure he can correct the record about that.

The DEPUTY PRESIDENT—You may note that is why I sought advice from the Clerk, because it was conditional leave. I will put the question again. Is there any objection to this motion being taken as formal? There being none, I call Senator Milne to move the motion.

Senator MILNE—I, and also on behalf of Senator Abetz, move:

(1) That a select committee, to be known as the Select Committee on Climate Policy, be established to inquire into and report by 14 May 2009 on:

(a) the choice of emissions trading as the central policy to reduce Australia’s carbon pollution, taking into account the need to:

(i) reduce carbon pollution at the lowest economic cost,

(ii) put in place long-term incentives for investment in clean energy and low-emission technology, and

(iii) contribute to a global solution to climate change;

(b) the relative contributions to overall emission reduction targets from complementary measures such as renewable energy feed-in laws, energy efficiency and the protection or development of terrestrial carbon stores such as native forests and soils;

(c) whether the Government’s Carbon Pollution Reduction Scheme is environmentally effective, in particular, with regard to the adequacy or otherwise of the Government’s 2020 and 2050 greenhouse gas emission reduction targets in avoiding dangerous climate change;

(d) an appropriate mechanism for determining what a fair and equitable contribution to the global emission reduction effort would be;

(e) whether the design of the proposed scheme will send appropriate investment signals for green collar jobs, research and development, and the manufacturing and service industries, taking into account permit allocation, leakage,
compensation mechanisms and addi-
tionality issues; and
(f) any related matter.
(2) That the committee consist of 10 senators, 4 nominated by the Leader of the Opposition in the Senate, 4 nominated by the Leader of the Government in the Senate, 1 nominated by the Leader of the Australian Greens and 1 nominated by the independent senators.
(3) That:
(a) participating members may be ap-
pointed to the committee on the nomi-
nation of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;
(b) participating members may participate in hearings of evidence and delibera-
tions of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
(4) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nomi-
nated and appointed and notwithstanding any vacancy.
(5) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate and, as deputy chair, a member nominated by the Australian Greens.
(6) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
(7) That the chair, or the deputy chair when acting as chair, may appoint another member of the committee to act as chair during the temporary absence of both the chair and the deputy chair at a meeting of the committee.
(8) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such sub-committee any of the matters which the committee is empowered to examine.
(10) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings, the evidence taken and such interim recommend-
dations as it may deem fit.
(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
(12) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator FIELDING (Victoria—Leader of the Family First Party) (3.38 pm)—by leave—I move:

Omit paragraph (2), substitute:

(2) That the committee consist of 10 sena-
tors, 4 nominated by the Leader of the Opposition in the Senate, 3 nominated by the Leader of the Government in the Senate, 1 nominated by the Leader of the Australian Greens, 1 nominated by the Leader of the Family First Party and 1 nominated by an independent senator.

This amendment will omit paragraph (2) from the motion and substitute that the committee would consist of 10 senators, four nominated by the Leader of the Opposition
in the Senate, three nominated by the Leader of the Government in the Senate, one nominated by the Leader of the Australian Greens, one nominated by the Leader of Family First Party and one nominated by an Independent senator.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.39 pm)—by leave—This is a quite extraordinary proposal being put forward by Senator Fielding. I presume, but I do not know, that it means that the Independents have not been able to determine who should be on the committee. But the way to resolve that is not by giving a quite untoward representation to my Independent colleagues. The equivalent would be to add all five Greens. If we follow through on that logic, we should hold the committee in here, of the whole Senate, and make sure that everybody gets an opportunity. These are difficult matters. I have been in this position before when, as the single Greens senator, I could not get onto the committee I wanted to. You have to accept that. I guess I am foreshadowing that the Greens will not support this process, for very important procedural reasons in this place.

Senator ABETZ (Tasmania) (3.40 pm)—by leave—I thank Senator Bob Brown for reminding us of the good old days. More seriously, can I say from the opposition’s point of view that we love Senator Xenophon and Senator Fielding dearly and we would love to have them both on the committee, but the reality is, and the practice has been, as Senator Brown has outlined. I have been in this position before when, as the single Greens senator, I could not get onto the committee I wanted to. You have to accept that. I guess I am foreshadowing that the Greens will not support this process, for very important procedural reasons in this place.

Senator ABETZ (Tasmania) (3.40 pm)—by leave—I thank Senator Bob Brown for reminding us of the good old days. More seriously, can I say from the opposition’s point of view that we love Senator Xenophon and Senator Fielding dearly and we would love to have them both on the committee, but the reality is, and the practice has been, as Senator Brown has outlined. Given that there is unable to be a resolution between Senator Xenophon and Senator Fielding of who out of the two Independents should be on the committee, that is a matter of regret. But that is the motion that I jointly sponsored with Senator Milne and we are minded, therefore, to continue with the motion as is, which of course has the unfortunate and regrettable consequence of voting against Senator Fielding’s amendment. We would invite him to understand, though, that the reason we are doing that is simply because of the way these matters have been dealt with in the past and not for any other reason. Of course, the best resolution from the coalition’s point of view would be if you, Senator Fielding, and Senator Xenophon could come to an agreement between the two of you—but I think that might require pistols at 20 paces, which I am sure is against standing orders. Accordingly, the Senate will undoubtedly need to resolve it by ballot later on.

Senator MILNE (Tasmania) (3.42 pm)—by leave—I would seek to remind the Senate that Senator Abetz and I, in moving this motion, have included a clause which is unusual in establishing a committee of this kind in that it provides for anyone to choose to be a participating member of this committee. The issue there is that we did not want to exclude anyone from participating in the hearings of the committee and being able to exercise their rights as a senator. So I put that to the Senate, in case people were not aware of it. Nobody is being excluded in that context.

Senator FIELDING (Victoria—Leader of the Family First Party) (3.43 pm)—by leave—I appreciate the love and response from Senator Abetz. I am not so sure that we would go kissing with each other, mate, but I appreciate the loving feeling. The real problem is that I wear glasses and Senator Xenophon does not, so at 20 paces I may not be able to shoot that straight! The issue at hand is: do we have the right emissions trading scheme for this country? For the next decade, the emissions trading scheme will be the biggest reform we have had in this country and it will affect every single Australian—yet we will not have each political party or interest across the Senate being represented on the select committee. I take up the Greens on their statement that you can be a participating member. Maybe the Greens want to
give up their spot around the table and become a participating member and allow Senator Xenophon and me to participate as full members of the committee. Maybe that could be a way of solving it for me. If they think participating members are that valuable, then they can go down that track. I appeal to the chamber: this is an absolutely key piece of legislation that will affect every single Australian, not just for this year and next year but for the next decade, and we need to get it right. You need to make sure you have all the views across the chamber and that they are able to be expressed by full members of this particular committee. As senators are going to vote on this issue, I appeal to them to give that full consideration.

The DEPUTY PRESIDENT—The question is that the amendment moved by Senator Fielding be agreed to.

Question negatived.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (3.45 pm)—by leave—The government opposes the motion by Senator Abetz and Senator Milne. The Senate has just voted to refer the exposure draft legislation to establish the Carbon Pollution Reduction Scheme to the Senate Economics Committee. By releasing the exposure draft legislation, the government has provided an early opportunity for the Senate to consider the Carbon Pollution Reduction Scheme before the final legislation enters the parliament in the winter sitting. Therefore, the government does not believe that establishing another Senate inquiry is necessary or helpful.

The DEPUTY PRESIDENT—The question is that the motion moved by Senator Milne be agreed to.

Question agreed to.

Rural and Regional Affairs and Transport Committee
Reference

Senator ABETZ (Tasmania) (3.46 pm)—I, and also on behalf of Senators Colbeck, Parry, Bushby and Barnett, move:

That the Senate—

(a) notes:

(i) that the inquiry into the establishment of an Australian Football League (AFL) team for Tasmania being undertaken by the Rural and Regional Affairs Committee has only received 2 submissions since the reference was referred on 28 August 2008 and is yet to hold hearings,

(ii) that discussions are ongoing between the Tasmanian Government and the AFL regarding a future Tasmanian AFL team, and

(iii) the comments of the Tasmanian Government that they do not intend to make a submission to the inquiry;

(b) further notes the comments of the Tasmanian Government that a submission to this inquiry could jeopardise negotiations with the AFL regarding a future Tasmanian AFL team; and

(c) directs the Rural and Regional Affairs and Transport Committee to discontinue its inquiry into the establishment of an AFL team for Tasmania immediately.

Question put.

The Senate divided. [3.51 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes.......... 32
Noes.......... 34
Majority....... 2

AYES

Senator Evans did not vote, to compensate for the vacancy caused by the resignation of Senator Ellison.

Question negatived.

INTERNATIONAL WOMEN’S DAY

Senator HANSON-YOUNG (South Australia) (3.54 pm)—I move:

That the Senate—

(a) notes with concern recent developments in the Tasmanian red meat industry; and

(b) calls on Swift Australia Pty Ltd to deal fairly with the Australian hide and skin company Cuthbertson Brothers Pty Ltd, and others, in its operation of its Tasmanian abattoirs.

Question agreed to.

TASMANIAN RED MEAT INDUSTRY

Senator ABETZ (Tasmania) (3.55 pm)—I move:

That the Senate—

(a) notes with concern recent developments in the Tasmanian red meat industry; and

(b) calls on Swift Australia Pty Ltd to deal fairly with the Australian hide and skin company Cuthbertson Brothers Pty Ltd, and others, in its operation of its Tasmanian abattoirs.

Question agreed to.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator BOYCE (Queensland) (3.56 pm)—On behalf of the Chair of the Standing Committee for the Scrutiny of Bills, Senator...

Ordered that the report be printed.

Senator BOYCE—I move:

That the Senate take note of the report.

I seek leave to incorporate Senator Coonan’s speech.

Leave granted.

Senator COONAN (New South Wales) (3.56 pm)—The incorporated speech read as follows—

In tabling the Committee’s Alert Digest No. 3 of 2009, I would like to draw the Senate’s attention to several provisions in both the Civil Aviation Amendment Bill 2009 and the Transport Safety Investigation Amendment Bill 2009.

With respect to the Civil Aviation Amendment Bill, the Committee has sought the Minister’s advice on provisions dealing with:

- entry and search powers of investigators;
- exemption of certain directions given by the Civil Aviation Safety Authority (CASA) to investigators from the operation of the Legislative Instruments Act 2003;
- application of the demerits points scheme for holders of a ‘civil aviation authorisation’; and
- the automatic stay of certain ‘reviewable decisions’ taken by CASA for a period of five days after such decisions have been taken.

In relation to the Transport Safety Investigation Amendment Bill, the Committee has sought the Minister’s advice on provisions dealing with:

- entry and search powers of investigators;
- exemption of certain directions given by the Civil Aviation Safety Authority (CASA) to investigators from the operation of the Legislative Instruments Act 2003;
- application of the demerits points scheme for holders of a ‘civil aviation authorisation’; and
- the automatic stay of certain ‘reviewable decisions’ taken by CASA for a period of five days after such decisions have been taken.

In tabling the Committee’s Alert Digest No. 3 of 2009, I would like to draw the Senate’s attention to several provisions in both the Civil Aviation Amendment Bill 2009 and the Transport Safety Investigation Amendment Bill 2009.

With respect to the Civil Aviation Amendment Bill, the Committee has sought the Minister’s advice on provisions dealing with:

- entry and search powers of investigators;
- exemption of certain directions given by the Civil Aviation Safety Authority (CASA) to investigators from the operation of the Legislative Instruments Act 2003;
- application of the demerits points scheme for holders of a ‘civil aviation authorisation’; and
- the automatic stay of certain ‘reviewable decisions’ taken by CASA for a period of five days after such decisions have been taken.

In relation to the Transport Safety Investigation Amendment Bill, the Committee has noted that proposed new subsection 63E allows the Chief Commissioner of the Australian Transport Safety Bureau (ATSB) to appoint special investigators if they satisfy criteria specified by the regulations. A person to whom a power is delegated (including powers delegated to special investigators) under new subsection 63B is a staff member of the ATSB (see item 16 of Schedule I which amends section 3) so certain benefits follow, including legal representation at coronial inquiries (proposed new section 68).

While the bill provides for an annual report by the ATSB on various matters, including prescribed particulars of matters investigated and a description of investigations (proposed new section 63A), there appears to be no specific mechanism in the bill which provides for any reporting to the Parliament on the use of special investigators. The Committee has therefore sought the Minister’s advice in relation to whether heightened parliamentary scrutiny might be appropriate in the circumstances. In particular, given the breadth of the bill’s delegation power in relation to special investigators, the Committee has inquired of the Minister whether a specific reporting mechanism – for example, a separate document tabled in both Houses of the Parliament on an annual basis containing details of all relevant activities of special investigators – might be considered in order to promote transparency and openness in this area.

Items 71 to 103 of Schedule 1 of the Transport Safety Investigation Amendment Bill contains amendments to the Inspector of Transport Security Act 2006 and concerns the transfer of powers and functions from the Executive Director of Transport Safety Investigations to the ATSB and the Chief Commissioner.

Item 89 refers to proposed new subsection 64(5) which provides that the Minister must not give a person or government agency, or table in the Parliament, any part of a final report that contains restricted information given to the Inspector of Transport Security by the ATSB without the prior ‘agreement’ of the Chief Commissioner if the disclosure may compromise an investigation or have a substantial adverse effect on the conduct of operations of the ATSB. Similarly, item 84 refers to proposed new subsection 52(5) which repeats the requirement that the Minister obtain the ‘agreement’ of the Chief Commissioner before giving information in any part of an interim report to a person or government agency or tabling the interim report in the Parliament in similar circumstances.

The Committee considers that there is some limit on the exercise of the Minister’s discretion in these circumstances. Therefore, the Committee
has sought the Minister’s advice as to whether these provisions contain an unnecessary fetter on the Minister and, if so, whether ‘advice’ or ‘recommendations’ from the Chief Commissioner to the Minister might also be considered.

I commend the Committee’s Alert Digest No. 3 of 2009 and Second Report of 2009 to the Senate.

Question agreed to.

Senators’ Interests Committee Report

Senator BOYCE (Queensland) (3.57 pm)—On behalf of the Chair of the Standing Committee of Senators’ Interests, Senator Johnston, I present the annual report of 2008 of the committee.

Ordered that the report be printed.

VICTORIAN BUSHFIRES

The DEPUTY PRESIDENT (3.57 pm)—I present a message of condolence from the Chairman, Council of Representatives, Kingdom of Bahrain, Khalifa bin Ahmed Al-Zahrani, relating to the bushfires in Victoria.

AUDITOR-GENERAL’S REPORTS

Report No. 25 of 2008-09

The DEPUTY PRESIDENT—in accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 25 of 2008-09: Performance audit: green office procurement and sustainable office management.

BUDGET

Portfolio Additional Estimates Statements

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (3.58 pm)—I table the portfolio additional estimates statements No. 2, 2008-09 for the Education, Employment and Workplace Relations Portfolio.

DELEGATION REPORTS

Parliamentary Delegation to the Republic of Serbia and to the 119th Assembly of the Inter-Parliamentary Union

Senator TROETH (Victoria) (3.59 pm)—by leave—I present the report of the Australian parliamentary delegation to the Republic of Serbia and to the 119th Assembly of the Inter-Parliamentary Union in Geneva, Switzerland, which took place from 4 to 18 October 2008. I seek leave to move a motion to take note of the document.

Leave granted.

Senator TROETH—I move:

That the Senate take note of the document.

It was my very great pleasure to be a member of the Australian parliamentary delegation which visited Serbia and Geneva on the dates I have mentioned. We also spent one night in Vienna in transit. I was fortunate to have the company of the Hon. Roger Price, who was the leader of our delegation, and Mrs Price, the Hon. Danna Vale and Mr Vale and, in Geneva, Senator Claire Moore.

We were fortunate to visit Serbia as the first Australian delegation and the first to visit after the formation of the new Democratic National Assembly earlier in 2008. The new government, which was approved in July 2008, is dominated by the pro-European Democratic Party in coalition with the Serbian Socialist Party of the former Yugoslav president, Slobodan Milosevic. As senators will be aware, the new Republic of Serbia was formerly a part of the state union of Serbia and Montenegro, which was dissolved in 2006 and, prior to 2003, was part of Yugoslavia. The former Yugoslavia was the third largest source of migration from continental Europe for Australia. The 2006 Australian census recorded 17,330 Serbian born people in Australia with 95,364 people identifying themselves as of Serbian origin.
In February 2008, Kosovo, formerly an autonomous province within Serbia, declared its independence and Australia recognised the bid for independence two days later. Negotiations between the Serbian government and the new administration of Kosovo have continually stalled and, at the time of this delegation’s visit, Serbia was seeking agreement in the United Nations General Assembly to request the International Court of Justice to provide an advisory opinion on the legal status of Kosovo’s declaration of independence.

Serbia is moving towards European Union membership, and only the Dutch parliament has failed to ratify the documentation which Serbia has produced so far on a range of political, trade and economic issues. One international obligation with which Serbia must fully comply is to make all possible efforts to arrest and transfer named indictees under the International Criminal Tribunal jurisdiction. There are two remaining fugitives which Serbia must deliver.

There is no doubt that Serbia faces significant challenges. By the year 2000, gross domestic product had dropped to 50 per cent of the 1989 level and 60 per cent of the population was living in poverty. The NATO military action in 1999 destroyed or damaged a substantial part of industry and economic infrastructure. Serbia must establish a functioning market economy. There has been improvement in foreign reserves and the level of indebtedness, and the banking sector and state owned enterprises are slowly being privatised.

The delegation was very impressed by the younger, well-educated, progressive and professional generation of ministers and political leaders. Serbia has turned its face towards Europe, and the delegation was very sympathetic to the admission of Serbia to the EU as an important step towards stability in the region.

Australian interaction with Serbia is reasonably low. Trade offers scope for development. There is potential for healthcare agreements, and the scientific, technological and educational sectors are areas where we could take advantage of exchange of information and expertise, which would provide significant benefits and developments to both countries.

Culture and the arts are also areas that could benefit from Australian support and assistance, both financial and otherwise. We met a number of extremely motivated and dynamic people in this sector and, on my return to Australia, I conveyed these thoughts to the Australian Ballet, to which I am a subscriber, and I am hopeful that more interaction between our two countries in that particular area may be possible.

We are pleased to note that after our visit the Ambassador of Serbia has now returned to Australia. There was a short time when he was not here because of our approval of the independence of Kosovo, but he has now returned. During our visit we were extended hospitality and courtesy at every level by our Serbian hosts. At short notice, Ambassador Claire Birgin arranged a comprehensive programme of meetings which covered the highly coloured tapestry of Serbian life. The ambassador went to great lengths to make us feel personally welcome, and we do thank her and the entire embassy staff.

The delegation also had a productive visit to the Inter-Parliamentary Union conference in Geneva, where we were joined by Senator Claire Moore. We attended groups of the 12 Plus Geopolitical Group. With 45 members, it is the geopolitical group centred originally on EU membership but now includes several other countries. We also attended the Asia-Pacific Group with 26 members, of which
naturally we are a member. Senator Moore and I attended the meetings and discussions of the IPU Committee on United Nations Affairs and I am delighted to say that today, along with many other members and senators, I attended the inaugural meeting of a United Nations parliamentary association which is to be based here in Canberra.

We held bilateral discussions with delegations from Iraq and Timor-Leste. Mrs Vale, Senator Moore and I attended the meeting initiated by women parliamentarians. In addition, we gave strong support to the candidacy of Speaker Laksono from Indonesia for the position of President of the IPU. Senator Moore participated in the workshop on ensuring transparency in parliamentary processes and we met many of our parliamentary counterparts in official ceremonies and social functions hosted variously by France, Indonesia, Korea, Namibia, Parliamentarians for Nuclear Non-Proliferation and Disarmament and 12 Plus.

I should add that Mr Price, our delegation leader, presented a draft report to open the panel discussion on the subject to be considered by the first standing committee on advancing nuclear non-proliferation and disarmament and the role of parliaments in that process. I would like to thank particularly Mr Elton Humphery, the delegation secretary, who was extremely efficient and practical, and also Ms Alison Purnell, the adviser from the Department of Foreign Affairs and Trade, who provided professional advice and assistance to the delegation during the IPU meeting. This was the first delegation meeting that I had attended as a representative of the parliament, and to see our country take its place among an assembly of a very large number of nations made me feel very proud. I think we can make our mark very strongly in that gathering, and I look forward to further meetings. The next one is to take place in Addis Ababa in Ethiopia, early in April, and I will look forward to reporting further to the parliament on the delegation’s activities.

Question agreed to.

**COMMITTEES**

**Foreign Affairs, Defence and Trade Committee: Joint Resolution of Appointment**

The **ACTING DEPUTY PRESIDENT (Senator Crossin)**—A message has been received from the House of Representatives forwarding a resolution agreed to by the House relating to the appointment of the Joint Standing Committee on Foreign Affairs, Defence and Trade.

The House of Representatives message read as follows—

The House of Representatives acquaints the Senate of the following resolution which has been agreed to by the House of Representatives, and requests the concurrence of the Senate therein:

That paragraph (2) of the resolution of appointment of the Joint Standing Committee on Foreign Affairs, Defence and Trade be amended to read:

That the committee consist of 34 members, 13 Members of the House of Representatives to be nominated by the Government Whip or Whips, 9 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 5 Senators to be nominated by the Leader of the Government in the Senate, 5 Senators to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be nominated by any minority group or groups or independent Senator or independent Senators.

Debate (on motion by **Senator McLucas**) adjourned.
CUSTOMS TARIFF AMENDMENT (2009 MEASURES No. 1) BILL 2009

EXCISE TARIFF AMENDMENT (2009 MEASURES No. 1) BILL 2009

First Reading

Bills received from the House of Representatives.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.10 pm)—I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.10 pm)—I table a revised explanatory memorandum relating to the bills and move:

That these bills be now read a second time.

Leave granted.

The speeches read as follows—

CUSTOMS TARIFF AMENDMENT (2009 MEASURES No. 1) BILL 2009


These amendments implement changes that are complementary to amendments contained in the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009.

The amendments apply to imported alcoholic beverages not exceeding 10 per cent by volume of alcohol that are classified under several subheadings in Schedule 3 to the Customs Tariff, as well as items in Schedules 5 and 6. These amendments increase the excise equivalent component of the customs duty applying to those subheadings and items from $39.36 to $66.67 per litre of alcohol content on and from 27 April 2008.

The amendments will ensure that imported beverages are subject to the same excise equivalent customs duty as the excise duty imposed on these beverages when manufactured locally.

The ad valorem component of customs duty for these goods, where applicable, has not been changed.

Full details of the measure are contained in the Explanatory Memorandum.

EXCISE TARIFF AMENDMENT (2009 MEASURES No. 1) BILL 2009

The amendments contained in the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 seek to confirm in legislation the increase in the excise and excise-equivalent customs duty rate applying from 27 April 2008 to ‘other excisable beverages not exceeding 10 per cent by volume of alcohol’, commonly referred to as ‘alcopops’ or ‘ready-to drink beverages’ or ‘RTDs’.

The amendments also alter the definition of beer for taxation purposes, and complementary changes will be made to the Customs Tariff Act 1995 so that imported beer is subject to the same definition. The change to the definition of beer is part of a package of measures that includes changes to the wine definition which will be made to the Customs Tariff Act 1995 and A New Tax System (Wine Equalisation Tax) Regulations 2000.

These amendments aim to ensure that beer and wine based products that attempt to mimic spirit based products in relation to their taste are taxed as a spirit product, that is, at a higher tax rate.

On 26 April 2008, the Government gazetted increases to the rate of excise and excise-equivalent customs duty applying on other excisable beverages not exceeding 10 per cent by volume of alcohol from $39.36 to $66.67 per litre of alcohol content. The Excise and Customs Tariff Proposals were tabled in the House of Representatives on 13 May 2008.

The Australian Taxation Office and Australian Customs Service have been collecting excise and excise-equivalent customs duty at the higher rate since 27 April 2008.
The amendments introduced today seek to confirm in legislation the higher rate of taxation for alcopops.

The amendments set out in Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 will alter the Schedule to the Excise Tariff Act 1921 for other excisable beverages not exceeding 10 per cent by volume of alcohol from $39.36 to $66.67 per litre of alcohol content on and from 27 April 2008. This rate is subject to indexation on a half yearly basis and is increased in February and August each year.

As most members are aware, this measure – reversing a serious mistake made by the Liberals in 2000 - is backed by research, backed by health experts, and backed by the evidence. The increase in the rate applying to alcopops reflects the Government’s concern at the growth in alcopop consumption, alongside their appeal to young and underage drinkers – and the role they play in encouraging binge-drinking.

No-one who reads the newspaper or watches television can be unaware of the problems caused by binge drinking. Community leaders, police and health experts alike agree that action needs to be taken.

Nevertheless, the Opposition has doubted that binge-drinking is an issue, so let me address that first of all.

In any given week, approximately one in ten 12 to 17 year olds are binge-drinking or drinking at risky levels.

Almost 20,000 girls aged 12-15 drink daily or weekly. The number of young women aged 18-24 being admitted to hospitals because of alcohol has doubled in eight years.

In a year, more than three-quarters of a million Australians are physically abused by persons under the influence of alcohol.

In 2004-05 the social cost of alcohol misuse in Australia was estimated to be about $15.3 billion.

Last year, NSW Police Commissioner Andrew Scipione estimated that ‘70 per cent of every police engagement with a member of the community in the streets of NSW has alcohol as a factor.’ And on Monday 9 February 2009 in the West Australian, it was reported that girls are turning increasingly to violence and crime, with new figures showing a 70 per cent rise in offences by females 18 and under in the past three years. Western Australian Police warned that a yobbo culture had developed among girls similar to young men and police were being inundated with reports of drunken, antisocial behaviour by females.

Acting Inspector Cameron Taylor, from the central metropolitan district, said: ‘There seems to have been a change in social standards and it’s become more acceptable and normalised for girls to drink and get aggressive…Quite often when officers are dealing with males they will be confronted by females who are abusive and aggressive, which as recently as five years ago was much less likely to occur.’

So we know that binge-drinking is a problem. Parents know it is a problem. Police know it is a problem. Health experts know it is a problem.

The Member for Warringah, on the other hand, has described concerns about binge-drinking as ‘a beat-up’. The Member for North Sydney has urged people not to ‘overplay it’.

These are irresponsible attitudes, and they inform the irresponsible opposition of that side of the House to our alcopops measure.

What much of the debate over the last twelve months has centred on is the role of alcopops in binge-drinking – with the alcopops industry and the Liberals on one side, and health experts and Labor on the other.

The House should be aware of the evidence that supports the Government’s view. Alcopops are targeted directly at young people and underage drinkers. This is, quite simply, indefensible. By using bright colours and sweet flavours, alcopops companies aim to hook young people on drinking early in their lives.

Research shows that alcopops expose young and inexperienced drinkers to a higher than normal risk because they are more likely to make false judgments about the product they are consuming.

But with all that going on, in 2000, the Liberals made a terrible decision – to give the alcopops industry a tax break.

This mistake had consequences.
Between 2000 and 2004, the percentage of female drinkers aged 15-17 who had consumed alcopops at their last drinking occasion increased from 14% to 62%.

For females drinking at risky and high risk levels in 2004, 78% drank alcopops on their last drinking occasion. That figure has increased from 21% in 2000.

The industry itself admits their sales grew by 250 per cent since 2000.

So the Rudd Government made the entirely sensible decision to reverse the Liberals’ mistake.

The Government’s decision leads to the logical situation that all spirits – bottled or pre-mixed – are taxed at the same rate.

As a result, the price of most alcopops has increased.

Research shows us that price increases can play an important role in tackling binge-drinking, and that higher prices lead to a reduction in consumption, especially among young people.

In fact, an independent expert report, commissioned by the Howard Government, found that:

‘Alcohol excise taxes are capable of being designed explicitly to target the types of alcohol known to be the subject of abuse (for example, high strength beer and alcopops).’

‘For example, studies show that young people are more influenced by the price of alcohol so that increasing the tax rate on alcoholic drinks which are specifically targeted at the youth market is likely to be effective.’

And as a result: ‘There would appear to be strong justification for the April 2008 increase in the Australian tax on pre-mixed drinks (alcopops) by 70%.’

And indeed, Collins and Lapsley’s faith has been borne out by the empirical evidence in Australia.

Tax Office figures drawn from the first nine months of this measure show that alcopops sales have dropped by 35 per cent compared to the previous year.

This is significant. What is more, it is far beyond our modest predictions. When this measure was first introduced, modelling predicted that it would slow the astronomical growth of alcopops sales – an achievement in itself.

In fact, alcopops sales have slumped – bringing overall spirits sales with them. Despite a smaller increase in full-strength spirits sales, overall spirits sales have fallen by almost eight per cent.

It is perhaps not a surprise, then, that despite the opposition of the alcopops industry and the Liberal Party, health experts have supported this measure in droves.

The Australian Drug Foundation’s CEO John Rogerson stated that ‘This tax fixes a problem started with the introduction of the GST and shows that the Government is serious about tackling alcohol problems in our community.’

Australian National Council on Drugs – Dr John Herron, former Liberal Minister and former AMA President, in a letter to the Prime Minister stated:

‘I am writing on behalf of the Australian National Council on Drugs (ANCD) to congratulate your government on the recent announcements regarding alcohol, particularly the public personal support you are providing for the encouraging work undertaken by the Minister for Health & the Parliamentary Secretary for Health.

…Utilising the taxation system is one of the most effective measures we have for reducing alcohol related harm and problems for both individuals and communities.’

The Alcohol and other Drugs Council of Australia CEO David Templeman said, ‘that this initiative clearly recognised the problems created by the excessive consumption of RTDs which were attractive to the youth market.’

The President of the Public Health Association of Australia, Mike Daube who is also a member of the National Preventative Health Taskforce stated:

‘There is now dramatic evidence showing that young women are out-drinking their male counterparts - and unfortunately many of them drink to get drunk.’

‘We know that price is the most effective single measure in reducing alcohol consumption, especially by young people. This increase will make a real dent in one of our biggest current social problems.’
So that’s the alcopops measure – backed by research, backed by health experts, backed by the evidence.

The alcopops industry has been ruthless in trying to undermine these facts, motivated by the desire to protect their profits. Before explaining the array of measures we are taking to tackle binge-drinking, it is appropriate briefly to address some of the myths they have attempted to propagate.

The allegation that ‘There is no evidence the measure is working.’ Absolutely wrong. As previously stated, figures from the Australian Taxation Office – the most reliable figures available – show that sales of alcopops have fallen significantly.

Even when you take into account a rise in sales of full-strength spirits, total spirits sales have fallen by almost eight per cent. As already explained, that is a significant drop, and well beyond initial predictions.

The industry has tried time and again to confuse the issue, arguing that annual seasonal variations, which occur year in year out, show trends that they simply do not show.

The allegation that ‘Because some young people are now drinking full-strength spirits, they are more likely to drink more without meaning to.’ In fact, research shows that young and inexperienced drinkers who drink alcopops are at higher than normal risk because alcopops disguise the taste of alcohol, which may lead to false judgements.

The allegation that ‘The measure has failed because alcopops producers are now producing beer-based alcopops to get around the measure.’ In fact, this is exactly what all companies do when faced with a tax measure which is impacting their bottom line – they try to get around it. This is one of the strongest signs yet of the measure’s success. What is more, we are closely looking at action to block these companies’ shameful attempts to put profits above young people.

The allegation that ‘Figures show there is no binge-drinking problem.’ This is an argument the Liberals have tried to make, but again, it’s just wrong, as already explained.

The Government understands that many in the community, and in Parliament, are keen to ensure that alcopops is not the only measure the Government is introducing to tackle alcohol abuse.

So the Government would like to offer its reassurances, in the form of concrete facts.

The alcopops measure is just one part – albeit an important part – of the Government’s comprehensive approach to tackling binge-drinking.

Early last year, the Prime Minister announced the first steps in our National Binge Drinking Strategy. The Strategy includes $53.5 million to address binge drinking among young people. Elements of the package include:

• $14.4 million to invest in community level initiatives to confront the culture of binge drinking, particularly in sporting organisations. Six major sporting codes have now signed up to a code of conduct.
• $19.1 million to intervene earlier to assist young people and ensure that they assume personal responsibility for their binge drinking; and
• $20 million to fund advertising that confronts young people with the costs and consequences of binge drinking.

In 2008, the Minister for Health and Ageing launched the Government’s Don’t Turn a Night Out into a Nightmare campaign to confront young people with the dangers and the consequences of binge-drinking. The ads are gritty and hard hitting, for which the Government makes no apology.

When the Minister announced this measure, she made a clear statement as to how the revenue would be used: ‘this change will see the single biggest investment ever by a Commonwealth Government into preventative health measures’.

So it should not have come as a surprise to anyone when at COAG the Government announced the single largest investment ever made by an Australian Government in preventative health, to support a range of programs and interventions to reduce the impact of chronic illness on the community - $872 million. This is all new money.

Tackling alcohol abuse will figure highly in this National Partnership.

What is more, the National Preventative Health Taskforce is currently well down the track in de-
developing a National Preventative Health Strategy – and alcohol is one of its highest priorities.
Emerging from that Strategy will be further, significant initiatives to tackle alcohol.
The alcopops measure will raise $1.6 billion from 27 April 2008 and over the forward estimates, somewhat less than the original estimate at the time of the last Budget. This is a clear indication that the measure has been working.
Note, though, our new investments - $872 million in the National Preventative Health Partnership, the single largest Commonwealth investment in prevention ever, as foreshadowed in the original alcopops announcement; $53 million already allocated to the National Binge-Drinking Strategy; and more to come via the National Preventative Health Strategy. It is clear this Government is serious about binge-drinking – far more serious than any government before it.
It is appropriate to end with a brief note of sadness for the irresponsibility shown by those in the alcopops industry, and even more galling, those on the other side of this House.
The alcopops industry, for their part, have shown a flagrant disregard for truth and reasoned public debate. To quote Michael Moore, the CEO of the Public Health Association of Australia, when he described the ‘sort of tactics of distorting facts and statistics that have been used by some representatives of the distilled spirits industry to protect their own profits.’
What is worse, the Liberals have stood with them every step of the way.
Since this measure was announced, the Liberals and Nationals have opposed it. They have doubted the existence of a binge-drinking problem – to think specifically of a former Minister for Health and a former Shadow Minister for Health.
Perhaps even worse, the Leader of the Opposition has thrown up his hands in surrender, suggesting that there is nothing to be done about binge-drinking, and even praising ‘the enterprising ingenuity of the Australian drinker.’
The Liberals are standing with the alcopops industry as they attempt to protect their profits – at the expense of our young people.
time for industry to be informed of the changes and to make any adjustments. These amendments will not impact on the date of effect for the RTD tax increase of 27 April 2008.

As discussed, complementary changes will be made to the Customs Tariff Act 1995 so that imported beer is subject to the same definition of beer for taxation purposes.


Debate (on motion by Senator McLucas) adjourned.

TELECOMMUNICATIONS AMENDMENT (INTEGRATED PUBLIC NUMBER DATABASE) BILL 2009

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

COMMITTEES

Legal and Constitutional Affairs Committee

Report

Senator O'BRIEN (Tasmania) (4.11 pm)—Pursuant to order and at the request of the Chair of the Standing Committee on Legal and Constitutional Affairs, Senator Crossin, I present the report on the provisions of the Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

FOREIGN EVIDENCE AMENDMENT BILL 2008

Report of Legal and Constitutional Affairs Committee

Senator O'BRIEN (Tasmania) (4.11 pm)—On behalf of the Chair of the Standing Committee on Legal and Constitutional Af-
to the draft legislation that was developed by the previous government.

Senator Coonan has asked for an explanation to the Senate of the reasoning behind the broadening of the aggregated turnover threshold test. The aggregated turnover threshold test was broadened because it relies on the ordinary income that an entity derives in the ordinary course of carrying on a business. If reliance were placed solely on an aggregated turnover threshold test, an entity that does not carry on a business or has only statutory and no ordinary income but has substantial assets could escape accruals tax treatment on its income from financial arrangements. Thus the threshold test was broadened to bring within the TOFA rules entities that have substantial assets. In particular, TOFA will apply to an entity if it has assets of $350 million or more or has financial assets of $100 million or more. Such entities would be expected to have a relatively substantial capacity to defer tax in the absence of the TOFA provisions. They would also be sufficiently sophisticated to deal with the TOFA provisions.

Senator Coonan also asked for details on any assessment of the regulatory burden that the government and Treasury have undertaken. I can advise that public consultation in October 2008 identified the anomalous and unintended outcomes that were mentioned above. The additional tests were incorporated to ensure that the TOFA rules apply to the taxpayers intended. The design of the TOFA rules, which have been the subject of extensive consultation over a very long period, has taken into account the cost of complying with the rules. Comments during consultation indicated that the various optional methods in TOFA have the potential to substantially enhance the compliance task of businesses in dealing with TOFA rules. Since the TOFA bill was introduced into parliament in December last year, the Investment and Financial Services Association, for example, has said that it will “act to reduce compliance costs for the financial services industry”.

More generally, the explanatory memorandum to the bill contains a detailed regulation impact statement which sets out the compliance advantage of the TOFA rules, including closer alignment with financial accounting and policy coherency. Compliance costs will also be reduced due to increased certainty of tax treatment. The regulation impact statement also notes that the Australian Taxation Office estimates that taxpayers affected by the TOFA rules will experience a medium decrease in compliance costs during the ongoing stage. The government has embarked on considerable consultation on this bill over the last 12 months and it is much anticipated by the business sector. As this is a complex area of the law, the government intends to monitor the implementation of this reform to Australia’s financial taxation system and will consider the need for any refinements. I commend the bill to the Senate.

Question agreed to.
Bill read a second time.

Third Reading
Bill passed through its remaining stages without amendment or debate.

DEFENCE LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2008

Second Reading
Debate resumed from 11 February, on motion by Senator Ludwig:

That this bill be now read a second time.

Senator JOHNSTON (Western Australia) (4.17 pm)—I commence by stating that the opposition supports these amendments, with some qualification. The purpose of the Defence Legislation (Miscellaneous Amendments) Bill 2008 is to make amendments to
the Defence Act 1903 for three separate measures. The first of these three measures will amend the Geneva Conventions Act 1957 and the Criminal Code Act 1995 to implement the third protocol to the Geneva conventions in Australian legislation. The second measure will amend section 124 of the Defence Act 1903 to explicitly enable the making of regulations to cover the provision of medical and dental treatment, including pharmaceuticals, to an ADF member or cadet or a member of the family of an ADF member. The third measure amends the Defence (Special Undertakings) Act 1952 to insert a new part to provide specific arrangements for the joint defence facility at Pine Gap.

The bill was read for the second time in the House of Representatives on 3 December 2008 and subsequently passed through that House on 10 February without amendment. The bill was referred to the Senate Standing Committee on Foreign Affairs, Defence and Trade and the report was dated 20 February 2009. The first schedule of the bill makes amendments to the third additional protocol to the Geneva conventions and is supported by the opposition, as I have indicated. On 8 March 2006, Australia signed the protocol additional to the Geneva conventions of 12 August 1949 relating to the adoption of an additional distinctive emblem for the Red Cross-Red Crescent Movement, which is called protocol III. On 9 May 2007, the treaty on the protocol additional to the Geneva conventions of 12 August 1949 and relating to the adoption of an additional distinctive emblem, protocol III, at Geneva on 8 December 2005 was tabled. The treaty proposes that Australia takes binding treaty action to ratify the protocol additional to the Geneva conventions of 12 August 1949 and relating to the adoption of an additional distinctive emblem. The Joint Standing Committee on Treaties reviewed the treaty and conducted a hearing on 18 June 2007. The committee’s report to parliament was tabled on 16 August 2007.

The Red Cross has extensively lobbied many senators to support this legislation. This part of the legislation amends the third protocol, as I have indicated, so as to recognise the red crystal in situations where the red cross could be considered culturally inappropriate, obviously predominantly in Islamic countries. The red crystal emblem has no religious, ethnic, racial, regional or political connotations, and the amendment ensures that the new emblem is used only with the consent of the Minister of Defence. The bill also amends the Criminal Code Act 1995 to ensure that the new Geneva emblem is covered by existing offences relating to the improper use of emblems of the Geneva conventions. The protocol includes a description of the new emblem, indicative and other uses of the emblem and, annexed to the protocol, a pictorial representation of the red crystal emblem.

Schedule 2 of the bill amends the Defence Act 1903 to explicitly enable the making of regulations to cover the provision of medical and dental treatment, including pharmaceuticals, to an ADF member or cadet or a member of the family of an ADF member. At present the Defence Force regulations contain a limited provision that merely recognises the provision of medical and dental treatment to members of the Australian Defence Force so that they are healthy for the purpose of discharging their duties, as well as cost recovery in specific, named circumstances. Medical and dental treatment includes the provision of services or goods, including scheduled pharmaceuticals, related to medical and dental treatment for an ADF member or cadet or a member of the family of an ADF member. In relation to pharmaceuticals, it is intended that the regulations will cover the possession, storage, supply, dispensation and administration of scheduled pharmaceuticals by ADF.
pharmacists, ADF medics, ADF nurses and civilian health professionals engaged by the Australian Defence Force. The effect of the amendments will ensure that the Australian Defence Force and its members are not hindered in the uniform application of their duties here and overseas by competing state or territory laws.

The contentious part of this schedule relates to a broken promise—an election promise—of the Rudd government. The health care commitment for ADF family members was set out in Labor’s plan for defence under the heading ‘Free medical and dental care for ADF families’. The promise stated:

ADF families can face significant difficulties obtaining access and to general medical and dental care for dependants, especially in regional and remote localities.

Posting to a remote location can mean that ADF families struggle to access the sort of health care that Australians enjoy.

A Rudd Labor Government will progressively extend free health care currently provided to ADF personnel to ADF dependent spouses and children.

Labor will begin this with a $33.1 million investment starting at 12 Defence Family Health Care Clinics, with a focus on remote bases locations and major regional centres.

This commitment was clearly—and has been acknowledged to have been—broken with the announcement of the government’s 2008-09 budget, which has only funded the new entitlement as a trial, allocating a mere $12.2 million over four years to trial the provision of free basic GP services and limited dental care to families of ADF members in rural and remote areas such as Singleton, New South Wales; Katherine, the Northern Territory; East Sale, Victoria; Cairns, Queensland; and Karratha, in the Pilbara region of Western Australia. The amount allocated for 2008-09 is a paltry and quite outrageous $2.4 million, with dental care limited to $300 per annum per dependant. Only five of the 10 rural and remote defence locations were mentioned—that is, excluding Townsville and Darwin. Rather than defence families attending defence family healthcare clinics at these locations, families are to ‘select the doctor or dentist of their choice’.

Changes to the commitment to provide defence healthcare clinics in Townsville and Darwin were also reportedly being considered, with the possibility that two defence family healthcare clinics promised in the campaign—those at Lavarrack Barracks in Townsville and Robertson Barracks in Darwin—would be replaced by defence families accessing health department GP superclinics in Townsville and Darwin. No doubt in reaction and response to the public outcry from defence families that they had been completely misled by the Rudd government’s promises during the election campaign, the Minister for Defence Science and Personnel announced in October 2008 that the free ADF family healthcare trial would be expanded to include Townsville, Darwin and, in Victoria, Puckapunyal. He said:

The trial is being expanded to fully test the delivery model, and ensure the development of evidence based policy to implement the Government’s commitment to progressively extend free basic health care for ADF dependants.

The initial phase of the trial is set to commence in early 2009 for 2,700 ADF dependants within the Singleton (NSW), Cairns (QLD), Katherine (NT), East Sale (VIC) and the Karratha/Pilbara (WA) regions.

Under the trial, ADF dependants will be able to visit general practitioners at no cost for standard consultations.

ADF dependants will also receive a benefit of $300 per dependant per annum for basic dental services.
When the trial is expanded in late 2009, it will provide for a total of approximately 16,000 ADF dependants.

While government statements have clearly limited ADF family dependants’ entitlements to visits to general practitioners at no cost for standard consultations and benefits of $300 per dependant per annum for basic dental services, this is not stated in the proposed legislation, the explanatory memorandum or the minister’s second reading speech. The bill provides for the making of regulations about medical and dental treatment for a member, a cadet or a member of the family of an ADF member. Details of the medical and dental treatment available to ADF members are contained in defence instructions issued under the authority of the Secretary of the Department of Defence and the Chief of the Defence Force.

It is not clear, however, if the nature and extent of the medical and dental treatment will be detailed in the proposed regulations or whether it will be left to the discretion of the Secretary of the Department of Defence, the Chief of the Defence Force or the individual service chiefs, as is the case currently with the relevant defence instructions. In the interest of transparency and accountability, it would be appropriate if the government would give an assurance on behalf of the minister that any medical and dental care entitlements for non-ADF personnel—that is, the families—and thus expenditure be contained in regulations subject to disallowance under the Legislative Instruments Act 2003 rather than in internal defence documents, such as defence instructions. I think that is a very clear and salient point. If anything, the recent fiasco with the SAS soldiers pay dispute highlights the fact that all of these things happening behind closed doors means that the service personnel and their families have no rights unless, as a last resort, they can come to parliament and have matters disallowed.

Turning to the last schedule of this omnibus bill, schedule 3 makes minor but important amendments that affect the joint defence facility at Pine Gap in the Northern Territory. As I have indicated, this is supported by the opposition. In the late 1960s, Prime Minister Harold Holt entered into an agreement with the United States which led to the establishment of the Joint Defence Space Research Facility, a top-secret base 20 kilometres south of Alice Springs at Pine Gap. Minister for External Affairs Paul Hasluck, as he then was, signed the agreement in December 1966. Pine Gap is run by Raytheon. As at 14 May 2008, there were 50 Australian Federal Police Protective Service officers stationed at Pine Gap. This schedule, which contains amendments to the Defence (Special Undertakings) Act 1952, has been developed to explicitly provide that the joint defence facility at Pine Gap is a special defence undertaking and a prohibited area, and it inserts a purposive clause to make it clear that the defence power is not the only constitutional basis relied upon to support the act. This measure has been developed as a consequence of protestors questioning the Commonwealth’s ability to successfully prosecute the existing offences under the Defence (Special Undertakings) Act 1952 in relation to the joint defence facility at Pine Gap.

The Pine Gap facility has been the site of many protests over some long time, generally anti-nuclear or anti United States in nature. Protesters attempting to enter the facility have generally been charged with minor summary offences. However, in May 2007, four pacifists who cut through wire fences to access the facility in December 2005 faced court charged with indictable offences under the Defence (Special Undertakings) Act 1952. They were the first to be charged upon indictment under the act. The four were con-
victed in June 2007 in, I think, the district court of the Northern Territory and together were fined over $3,000. But, in February 2008, their convictions were overturned by the Northern Territory Court of Criminal Appeal and His Honour Mr Justice Brian Martin found that there had been ‘a miscarriage of justice’ and that the defendants were deprived of a possible defence, namely establishing that the facility was not necessary for defence purposes, which is a threshold issue within the terms of the act. I pause to say that, having read the case, I think it would have been quite obvious to any jurist that that defence was available to the defendants and was erroneously removed from consideration by the jury.

The amendments contained within this part of the bill proceed by (a) specifically declaring that the joint defence facility at Pine Gap is, without question, a special defence undertaking and a prohibited area for the purposes of the act, leaving no matter now open to question and (b) inserting a purposive clause to make it clear that the parliament’s power to legislate with respect to the defence of the Commonwealth is not the only constitutional basis relied upon for the act. The amendments will specifically declare the facility a special defence undertaking and a prohibited area directly under the act rather than by the existing process—which requires a ministerial declaration—and will provide a firmer basis for any future prosecutions by removing the opportunity for argument about the validity of a declaration, as I have indicated. These protections are essential for a facility of such sensitivity and importance to Australia’s national defence and external relations in order to deter mischief makers and those with other, more sinister intent. I commend this bill to the Senate.

Senator LUDLAM (Western Australia) (4.30 pm)—It is with a certain degree of alarm that I rise to speak on this bill this afternoon. Two-thirds of the Defence Legislation (Miscellaneous Amendments) Bill 2008 is entirely sensible, for many of the reasons Senator Johnston has just outlined; one-third of the bill is patently ridiculous. It is sensible to establish the red crystal as an alternative symbol to the red cross and the red crescent. The red crystal does not have any religious, cultural or political connotations. It is equally sensible for the members of the ADF and their families to have dental care, for many of the reasons Senator Johnston has outlined in detail. The Greens support those two-thirds of the bill.

Schedule 3, relating to Pine Gap, is the part of this bill that I describe as ridiculous because the Australian parliament is being asked to legislate to further protect a facility about which parliamentarians know and are allowed to know virtually nothing. The 1999 report No. 26 of the Joint Standing Committee on Treaties testifies to this fact. What we are witnessing today is not informed democratic policymaking. Because of the substantial secrecy surrounding this facility and its protection from parliamentary oversight, Australians have been told very little, or else have been told lies and misinformation, about the history of this facility. In 1966 Australians were told the facility was to be a weather station. Later, the official cover, which still resides in the name, was that it was a space research centre.

In fact, Pine Gap is a ground receiving station for space based intelligence gathering. It is the most strategically important United States base in Australia and is probably a vital component of fighting the illegal war against the people of Iraq. Its monitoring of radar, cell phone, radio and long-distance telephone communication enables it to provide targeting information for US air and ground forces. When the United States launched the shock and awe bombardment of
Iraq, it is very likely that information from Pine Gap pointed the missiles and so-called smart weapons toward Iraqi military targets—and also toward the many thousands of civilians who died in that initial phase of the Iraq war and in the long years since then. Now that the United States is attacking so-called insurgents, information from Pine Gap tracks and monitors telephone communications, identifying and tracking suspects and leading troops, missiles and munitions to the houses and neighbourhoods in which they live. Many thousands of civilians continue to be killed as collateral damage in these campaigns.

Pine Gap is also a major component of the proposed missile defence shield—the so-called ‘Star Wars’ project. This shield proposes using satellite based weapons and ground based interceptors to shoot down incoming missiles. It has been described as attempting to hit a bullet with a bullet. The United States has spent billions developing this system, but it is still a long way from making it work. Both China and Russia, predictably, have strongly denounced the project as threatening a new arms race. The United States has spent billions developing this system, but it is still a long way from making it work. Both China and Russia, predictably, have strongly denounced the project as threatening a new arms race. The Senate is being asked this afternoon to enact legislation that would protect the United States’s spy facility from Australian citizens, citizens who might dare to have an opinion about infrastructure on our soil being used to kill civilians in an illegal war or about our population becoming a nuclear target because of this vital component to the United States’s nuclear-war-fighting machine being on our soil—or citizens who might have an opinion about whether a peppercorn is enough rent for the price that our country pays for hosting Pine Gap.

The second reason that schedule 3 of this bill, the part relating to Pine Gap, is ridiculous is that it is putting a very old Cold War piece of legislation on life support. In my role as Australian Greens heritage spokesperson, I wonder whether it would be possible to heritage list legislation like this and then set it aside like the relic that it is. The Defence (Special Undertakings) Act 1952 became law in our country to secure the sites for British atomic weapons testing. The law protected nuclear test sites ‘from observation by any unauthorised person’ so that the nuclear tests could release massive and harmful quantities of radiation off the coast of my home state of Western Australia and in South Australia. A very long way from decision makers in London, the Defence (Special Undertakings) Act ensured that these bombs were safe from observation, from demonstrators and from Australian citizens—apart from those who found themselves unlucky enough to be deliberately exposed.

I am interested to know why the Attorney-General thinks this 1952 piece of legislation demands beefing up. The reason is very interesting. It is because when Attorney-General Philip Ruddock used the Defence (Special Undertakings) Act for the very first time in its history in trying to send four Christian pacifists to jail for seven years Attorney-General Ruddock lost and the Howard government set this train in motion. Four Christian pacifists entered Pine Gap on 9 December 2005 after informing the Minister for Defence and the media of their intention to conduct a peaceful and non-violent citizens’ inspection of the facility. Despite engaging an army of QCs at taxpayers’ expense to inflict the maximum punishment and place the maximum limitation on the courts hearing the defence’s justification and legal argument, Philip Ruddock lost that case. The Northern Territory Court of Criminal Appeal quashed the convictions of the Christian pacifists. The court found that citizens had the right to challenge whether the prohibited area was necessary for the purpose of the defence of Australia.
It is very unfortunate that Attorney-General Robert McClelland is following his predecessor’s lead, finishing what Mr Rudolph started by amending the law to further crack down on peaceful protest. Given this series of events, the amendments proposed in this legislation can accurately be described as retrospective revenge that would ‘punish and frighten those thinking about engaging in non-violent resistance against Pine Gap’s role in war making’, as a number of the submissions to the inquiry stated. The amendments would inhibit citizens from ever challenging whether Pine Gap is necessary for Australia’s defence in future, which is an erosion of the democratic rights of which Australians are proud. This schedule of the bill is unnecessary because adequate legislation, in particular the Crimes Act 1914, already exists to protect Pine Gap from trespass or from acts of aggression. If it is such a core element of Australia’s national security, what Pine Gap does not need is legislative protection; it needs perimeter patrol—especially when Christian pacifists have politely provided forewarning of their intention to non-violently enter the facility to pray. If it is indeed such a sophisticated intelligence-gathering facility, the capacity to gather intelligence about its immediate environment should perhaps be enhanced.

Amendments to the Defence (Special Undertakings) Act 1952 making Pine Gap a special defence undertaking and a prohibited area are excessive, are corrosive of democratic principles and should not be supported. I foreshadow that the Australian Greens will make amendments to remove this schedule of the bill, retaining the red crystal and dental components but deleting the elements relating to Pine Gap.

Before I take my seat, I would like to put on the record what is probably a correction to one of Senator Johnston’s comments about people who have a long history of demonstration at Pine Gap—and that includes me—and who attended the Pine Gap demonstration in 2002. In my experience, these people are not anti the United States; they are anti war. They were there, we were there, to protest the coming bombardment and the loss of life of tens of thousands of Iraqi civilians, and they will be back whether or not this bill is passed into law.

**Senator MARK BISHOP** (Western Australia) (4.38 pm)—I rise in support of the Defence Legislation (Miscellaneous Amendments) Bill 2008. The purpose of the bill, as has been outlined, is to address three separate policy measures. The first amendment is to the Geneva Conventions Act 1957 and the Criminal Code Act 1995 to incorporate protocol III to the Geneva convention. As has been said, protocol III recognises the red crystal as being a third distinctive emblem of the International Red Cross, in addition to the Red Cross and the Red Crescent. The second amendment is to the Defence Act 1903 and provides regulations for the possession, storage, dispensing and administration of pharmaceuticals by Australian Defence Force healthcare professionals. Its effect will be to standardise regulations to overcome state-based irregularities and discrepancies.

Finally, the bill will amend the Defence (Special Undertakings) Act 1952 to ensure that the Joint Defence Facility Pine Gap is adequately protected under legislation to prevent unauthorised access. This final amendment follows deficiencies identified during the trial and appeal of four activists who broke into the facility in 2005. This bill was referred to the Senate Standing Committee on Foreign Affairs, Defence and Trade for inquiry and the committee received 11 submissions. The committee reported in February 2009 and recommended that the bill be passed without amendment.
I would like to address the most controversial aspect of the bill—namely, as addressed by Senator Ludlam and relating to the third amendment, the provision of protection against unauthorised entry to the Pine Gap facility. As I think is generally acknowledged, protests at Pine Gap have occurred relatively regularly over recent decades. Any attempts to enter the facility have generally resulted in minor charges being brought. However, in December 2005, as outlined, four self-described—as I understand it—‘Christian pacifists’ armed with boltcutters entered a technical support area of the base. It reminded me of a section in Matthew in the Bible:

Render unto Caesar the things which are Caesar’s and unto God the things that are God’s.

Apparently, it might be suggested, that is respected by some in theory but not in practice. After all, I think it is acknowledged that the Christian pacifists were trespassing with clear intent to challenge the authority and existing law that regulated the facility.

In June 2007, they were convicted of the offence of entering a prohibited area and were fined over $3,000, but they did not receive a custodial sentence. The Director of Public Prosecutions appealed the leniency of the sentence and the protestors appealed their convictions in turn. The result, as has been outlined, was the acquittal of all four defendants. At issue in those proceedings was whether the facility at Pine Gap was a defence facility for the purposes of the act. The amendments in this bill seek to clarify that position. I acknowledge at the outset that it is an emotive and emotional issue. Joint facilities raise questions of sovereign rights at the best of times. They also raise questions of the right of Australians to know what is going on within them. However, it is also fair to say that opponents of joint facilities, whether Christian pacifists or not, are generally strong supporters of disarmament, often unilateral disarmament. For this reason we need to separate fact from fiction.

If you google ‘Pine Gap’, you will find a massive amount of information on this facility which is either unsubstantiated or just plain wrong. To get at the facts we need to go back to the beginning. During the Second World War, Labor Prime Minister John Curtin changed Australian strategic priorities. In a statement to the Melbourne Herald in December 1941, following the attack on Pearl Harbor and amid fears about the imminent fall of Singapore, he made the much quoted comment:

Without any inhibitions of any kind, I make it quite clear that Australia looks to America, free of any pangs as to our traditional links or kinship with the United Kingdom.

From that time, our forces fought side by side in the South Pacific, and our fleets fought together in the Battle of the Coral Sea. It is also important to note that allied intelligence organisations were established at this time. At the end of the war, the Chifley Labor government put in place a permanent collaborative arrangement for our intelligence links. In 1951 our links in defence and security were formalised in the ANZUS treaty under then Prime Minister Menzies. For over 50 years since, the ANZUS treaty has been the cornerstone of our strategic relationship with the United States. That treaty is founded on our common values of democracy, freedom and the rule of law. It is also—arguably more importantly—based on our shared interests globally as well as in the Asia-Pacific region.

Fast-forward to the 1960s and Australia agreed to play host to joint facilities at North West Cape, Pine Gap and Nurrungar. Pine Gap, along with the other bases, was a project conceived and developed in the Cold War era to support global security. In 1966 the then Minister for External Affairs, Mr
Hasluck, on behalf of the Australian government signed an agreement with the United States. That agreement was to establish the Joint Defence Space Research Facility. The head agreement, as it is known, came into effect on 9 December 1966. Significantly, it was amended in 1988. I will return to that milestone and set of negotiations later. Initially, the agreement was terminable at one year’s notice by either side. Since 1988 three years notice has been required to terminate the agreement. The agreement has also been subject to review, on average every 10 years.

Pine Gap was billed as a top-secret base. However, it did not take long for Australians to become aware that it was located 20 kilometres south of Alice Springs. Construction began in early 1967 and the infrastructure was completed in 1968. It began full operations in June 1970. Although the head agreement is not a public document, it is known that the agreement required that the Australian and US governments would establish, maintain and operate in Australia a facility for general defence research in the space field; the Australian government would provide the land for the facility and it would remain vested in the Australian government; the US government would be accorded ‘all necessary rights of access to, and joint use and occupation of, the land’; and the land would ‘be considered a secure area’. Initially, there was not a genuine joint arrangement in the management and operations of the facilities, although, it must be stated, there was an unusually high level of Australian knowledge of the more sensitive operations and of the satellite and communications systems they supported.

Today, the role and functions of the facility are known. Firstly, the facility collects intelligence and provides an early warning system for the launch of ballistic missiles. Secondly, the facility aids in the detection of the proliferation of ballistic missiles and can help to identify surprise or accidental nuclear missile attack. That means the facility makes a vital contribution to the deterrence of conflict. It also contributes to efforts to halt the proliferation of weapons of mass destruction. I cannot overstate the importance of this function to Australia and our allies. International verification of arms control is a means to achieving agreements between nations to limit, reduce and over time eliminate their arsenals of nuclear weapons. For that reason, effective verification is a key component in the disarmament process.

We cannot hope that nations will agree to strategic arms reduction agreements if their success cannot be measured and verified. If agreements fail it is generally because stringent verification requirements cannot be met to the satisfaction of both sides. Through early warning, communications and other functions, this facility promotes confidence in the balance of deterrence. This confidence must be maintained if superpowers such as the United States and Russia are to keep disarming. It is a contribution we must continue to make to our national as well as our global security.

The agreement as it stands today does not in any way impinge on our sovereign rights. This is a recurring theme in criticisms of the facility. I believe it stems mainly from the secrecy which shrouded the project in its early days. Since 1988 our relationship with the United States with respect to the joint facility has matured. Under the terms of the 1988 agreement, negotiated under the aegis of Prime Minister Hawke by, I believe, then Defence Minister Beazley, we are engaged in a policy of ‘full knowledge and concurrence’. As I said previously, this was not always the case. In the early seventies and early eighties only a handful of Australian personnel were directly involved in the central work of the facility. There was also a
significant degree of secrecy surrounding the work of the facility.

However, following the negotiations in 1988, much of that changed. As a result of the new agreement Australian commanders are in charge of shifts and an Australian holds the position of deputy commander of the facility and becomes acting commander in the absence of the commander. That was not always the case; it is now. Also, there are now Australian personnel and contractors on every shift and, most importantly, we use the capabilities of the facility for our own national security priorities without United States veto powers. So we have control of the facility, command of the facility and sovereign rights over the facility, while we maintain an independent and highly valued contribution to the work of the facility.

All this points to the fact that the Australian government has full visibility of the role and functions of Pine Gap. Of the 800 personnel at the base, over 60 per cent are Australian government employees or contractors. Our personnel includes members of the AFP as well as members of the ADF. The work of our senior officials ensures our full knowledge and concurrence will continue. More importantly, the new agreement heralded a commitment by the Hawke government to inform the public as fully as possible about the facility. The thinking behind that policy shift in 1998 was and is simple: if there is a better understanding of the role of the facility, there may well be increased public support for it. There are of course limitations on what can be revealed publicly. Successive Australian governments in practice have not commented on intelligence matters. There is, however, enough information publicly available on the importance of Pine Gap, an importance based not only on our obligations to our allies but also on our national aims for the reduction of arms and nuclear weapons.

On Pine Gap’s 40th anniversary in 2007, the then defence minister said:

Our intelligence relationship already strong has been reinforced over the past five years. This cooperation, which now borders on seamless, has seen an increase in information exchange, technical cooperation and embedded liaison officers.

He went on to say:

The public can have confidence that its elected representatives are responsibly and accountably overseeing such activities.

Our alliance with the US provides us with crucial military benefits such as unique intelligence; sophisticated weaponry, technology and equipment; logistics, training and operational experience through exchange programs and exercises; and defence research and technical cooperation. The history of this interaction means that we now make a significant military contribution to our own national security.

The question then becomes whether as a society we are confident in the protections afforded by our democratic institutions. It is a debate that will no doubt continue as long as the need for alliances and treaties between nations exists. I acknowledge that not all Australians will support the existence of this joint facility. However, as we all know, terrorism is a global challenge and we must continue to play our part. I would like to reiterate that intelligence collected at Pine Gap contributes to the verification of arms control and achieving disarmament agreements. Verification is vital to the arms control process. Therefore, the importance of our contribution should not be underestimated. In this respect, we should all be aware that, if you will the outcome, you need to will the means.

The joint defence facility Pine Gap makes an important contribution to the security interests of both Australia and the United States. It serves a modern purpose. Pine Gap
is an outstanding illustration of the commitment and level of cooperation that has been achieved in Australia’s close defence relationship with the US. It is also an Australian defence base. The changes to the Defence (Special Undertakings) Act will maintain an appropriate level of protection for the facility Pine Gap. The protections are in line with those in place for our other defence bases. We need to ensure that Pine Gap continues to make significant contributions to our national and global security. I commend the bill to the Senate.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.55 pm)—In summing up the debate on the Defence Legislation (Miscellaneous Amendments) Bill 2008, I want to thank all participants in this debate from all sides—and I know that they were not all singing from the same song sheet—for the very informed contributions that each senator has made to this discussion.

The bill amends three separate acts. The first set of amendments amend the Geneva Conventions Act 1957 to specifically incorporate a reference to and description of the red crystal emblem and a reference to protocol III in part IV of that act and annexing protocol III as a schedule to that act. The bill further amends the Criminal Code Act 1995 to specifically incorporate protocol III and the red crystal in the dictionary to the Criminal Code and ensures that improper use of the red crystal is caught by the offence of improper use of the emblems of the Geneva convention. The amendment also ensures that the new emblem is used only with the consent of the Minister for Defence.

The red crystal will be of significant benefit to combat zones to help secure the safety of eligible humanitarian workers from all countries, regardless of their location or political situation. Incorporation of protocol III would be consistent with Australia’s long-standing support for the Geneva conventions and their additional protocols. The new emblem is unlikely to be used in Australia for either indicative or protected purpose, given the longstanding recognition accorded to the red cross emblem. The new emblem may, however, be used by the ADF in certain regions overseas. Incorporation would further demonstrate and enhance Australia’s credentials in international humanitarian law. It would also enable Australia to encourage states, both within our region and beyond, that are not yet a party to the protocol to ratify it.

The second set of amendments are to the Defence Act 1903 to explicitly enable the making of regulations to cover the provision of medical and dental treatment, including pharmaceuticals, to an ADF member or cadet or member of the family of an ADF member. The amendments to section 124 of the act enable a more comprehensive regime in the Defence Force regulations. In relation to pharmaceuticals, it is intended that the regulations will cover the possession, storage, supply, dispensing and administration of schedule pharmaceuticals by ADF pharmacists, ADF medics, ADF nurses and civilian health professionals engaged by the ADF. The effects of the amendments would be to create a regime that would ensure that the ADF and its members are not hindered in the uniform application of their duties overseas by competing state and territory laws.

The third issue covered in the bill relates to the Defence (Special Undertakings) Act 1952 to explicitly provide that the Joint Defence Facility Pine Gap is a special defence undertaking and a prohibited area. The bill will insert a purposive clause to make it clear that the defence power is not the only constitutional basis relied upon to support the act. These protections are essential to a facility of such sensitivity and importance to Australia’s
defence and external relations to deter mischief makers and those with more sinister intent. I once again thank honourable senators for their support for the bill and commend it to the chamber.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDLAM (Western Australia) (5.00 pm)—The Greens oppose schedule (3) in the following terms:

(1) Schedule 3, page 15 (line 1) to page 16 (line 22), TO BE OPPOSED.

Madam Chair, I seek your guidance on whether it is appropriate at this time to put a more general question to the Minister representing the Minister representing the Minister for Defence.

The TEMPORARY CHAIRMAN (Senator Hurley)—Yes, certainly. Go ahead, Senator Ludlam.

Senator LUDLAM—During the period of Senate estimates, the week before last, there was speculation in the media that the Pine Gap agreement had come up for review, and a United States consular official indicated to an ABC journalist that that was in fact the case and negotiations were underway. Senior defence officials in estimates hearings then indicated that that was not the case. I am just wondering whether you would be able to clarify that matter for us now.

Senator McLucas—Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (5.00 pm)—The Pine Gap treaty was originally signed by Australia and the United States in 1966 and was extended on 16 November 1998. By agreement between Australia and the United States, the treaty remains in force until terminated by either government. The recent comments made to the press by US Consul General Michael Thurston regarding the status of the treaty as being under negotiation were based on incorrect information. Regrettably, this statement was not corrected by the US embassy until US Consul General Michael Thurston had conducted his interview. There is currently no review of the treaty. Following the extension in 1998, the treaty remains in force until terminated by either government. I hope that assists.

Senator LUDLAM (Western Australia) (5.01 pm)—Thank you very much for that clarification. Can I take it as read then that the Pine Gap treaty is now in effect entirely open ended and there is no formal period or process for review unless one or the other party calls it into review?

Senator McLucas—Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (5.01 pm)—I think it is fair to say that that is accurate.

Senator LUDLAM (Western Australia) (5.02 pm)—I will not speak at length to the opposition of this schedule—I think the views were pretty broadly canvassed during the second reading debate—except to say that in Senator Bishop’s remarks, which I listened to with great interest, there was emphasis on global terrorism, on arms control and on tracking illegal proliferation of nuclear weapons around the world. Obviously discussion of these things is welcomed. In fact, the kinds of people who would normally be seen demonstrating at Pine Gap are entirely supportive of these roles, but we must not allow these aspects or these roles of the base to detract from the fact that this is a military installation.

Senator Bishop did mention in his remarks that this facility exists to guide ballistic missiles, that it is in fact a nuclear weapons war-fighting facility. That was one of the original intentions upon which it was established. It remains so to this day. So it is all very well...
to be emphasising these rather wholesome sounding aspects whereby Pine Gap is used to detect missile launchers or nuclear weapons tests around the world, and obviously this is very welcome. This facility exists to help the United States fight nuclear wars. It is a Cold War relic. These aspects of the base and the base itself should certainly be closed down. Before putting this to the vote—and I indicate that I will be seeking to divide on this matter—I would just ask senators to consider for themselves whether they are aware, whether they know and whether they could find out if they asked what this base actually does.

Question put:
That schedule 3 stand as printed.

The committee divided. [5.08 pm]
(The Chairman—Senator the Hon. AB Ferguson)

Ayes............ 32
Noes............ 5
Majority.......... 27

AYES
Arbib, M.V. Barnett, G.
Bernardi, C. Bilyk, C.L.
Bishop, T.M. Brown, C.L.
Bushby, D.C. Cameron, D.N.
Cash, M.C. Colbeck, R.
Crossin, P.M. Farrell, D.E.
Feeney, D. Ferguson, A.B.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Fisher, M.J.
Hurley, A. Hutchins, S.P.
Kroger, H. Lundy, K.A.
Macdonald, I. McGauran, J.J.
McLucas, J.E. O’Brien, K.W.K.
Parry, S. Payne, M.A.
Polley, H. Pratt, L.C.
Troeth, J.M. Wortley, D.

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

* denotes teller

Question agreed to.
Bill agreed to.
Bill reported without amendment; report adopted.

Third Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (5.10 pm)—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

AVIATION LEGISLATION AMENDMENT (2008 MEASURES No. 2) BILL 2008

Second Reading

Debate resumed from 13 February, on motion by Senator Sherry:
That this bill be now read a second time.

Senator IAN MACDONALD (Queensland) (5.11 pm)—The Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008 continues the work on aviation safety and security commenced by the coalition government, and generally speaking it will be supported by the coalition. Amending the Aviation Transport Security Act to expand the range of information that the department is able to collect is, we believe, a sensible step in ensuring that aviation security is as effective and efficient as possible for all parties. In addition to monitoring compliance with the act, the department will be able to gather information that will enable them to make better informed decisions on security matters.

As the challenges facing aviation security change it is important that our responses adapt so that measures taken to ensure the safety of Australian skies are as effective as possible and do not impose undue costs on industry players, which is of course of paramount importance. The coalition are happy
to help ensure that this is the case. The key to the new powers being legislated for in this amendment will be the scope of information collected. I want to assure the Senate and the aviation industry participants that the coalition will ensure that the supporting regulations are subject to scrutiny before they are finalised.

The amendments permitting the secretary of the department to delegate his authority are, we think, a sensible step towards ensuring that the government is able to respond to emergencies in a timely fashion. Thankfully, Australia has had a relatively peaceful record when it comes to aviation security. This is due in no small part to the vigilance of those charged with ensuring a secure environment in the skies and the actions of past governments from both sides of politics over the years. It would be imprudent to discount the possibility of an emergency situation arising in the future. In any such emergency the demands on the secretary would be immense and, in a rapidly developing situation, action may be required without delay. The current legislation only allows the secretary to delegate his authority under the act to another officer within the department. This legislation would enable the secretary to delegate his authority to an officer in any other department with national security responsibilities. Such a delegation would not be taken lightly. The secretary can still retain overall authority under the proposed legislation, can set restrictions on the delegation and can withdraw it when the emergency passes. These amendments would ensure that if Australian skies faced a prolonged emergency, whether it was a pre-planned situation or not, our aviation security apparatus would not be left in a position where decisions vital to national security could not be made.

There are amendments allowing for copying of cockpit voice recorder information for testing and maintenance purposes, and we believe that that deserves bipartisan support. The proposal is the result of the Australian Transport Safety Bureau’s investigation into the tragic Lockhart River air crash up my way in Cape York in 2005. The cockpit voice recorder on the crashed plane was found to be faulty. As a result, no audio recovered from the recorder could be confirmed as having been recorded during the accident flight. The bill will clear any doubt that the copying of cockpit voice recorder information for maintenance purposes is permissible and will enable these kinds of faults to be discovered and dealt with more easily. These amendments were first proposed when the coalition were in government and we are still happy to support them. I understand there may be an amendment in relation to this aspect of the bill; perhaps I will speak more about that in the committee stage.

Finally, the changes proposed to the reporting of aviation incidents and penalties associated with the failure to report such incidents are another idea that the coalition will support. Allowing the executive director of the transport safety investigation to require further information after receiving a report on an immediately reportable matter or a routine reportable matter will ensure that the accident and incident database contains accurate and sufficient information on each immediately reportable matter and routine reportable matter. The penalty for failing to report an immediately reportable matter will be raised to 12 months imprisonment and, as a result, will bypass the statute of limitations and mean that there is no limit to when a prosecution can be instigated. Given the current penalty under the Crimes Act, prosecutions must occur within one year. It can take many years for unreported incidents to be discovered and, as a result, these breaches cannot be prosecuted.

Additionally, under the proposed legislation failing to provide a full written report of
an immediately reportable matter or a routine reportable matter will attract a penalty of six months imprisonment and prosecution could begin at any time within six years of the offence. In the case of the Lockhart River air crash in 2005, the failure to report the routine reportable matter was not discovered until many years after the alleged commission of the offences. Failing to report these immediately reportable matters or routine reportable matters can be indicative of a culture that gives safety a low priority. It is important, therefore, to deter such a culture. Increasing the penalties for failing to report or provide full details regarding aviation incidents will maintain this deterrence.

We do have a good aviation industry in Australia and have had for some time, but there are some difficulties with the industry. Certainly the Labor government’s increase of the passenger movement charge from $38 to $47 in Mr Swan’s first budget did cause some difficulties in the airline industry and particularly in the tourism industry up my way around Cairns. Cairns is already struggling with difficulties associated with the cutbacks in both domestic and international services. The global financial crisis, which has been amplified by Kevin’s financial crisis, as I call it—the KFC—has really made it very difficult for the tourism industry, particularly around Cairns. I am distressed that this increase in the passenger movement charge, this additional tax on tourists entering Cairns, has made the industry less competitive and certainly has not been appropriate for the time.

Furthermore, our aviation industry is in many instances typified by the Royal Flying Doctor Service. It celebrated its 80th birthday recently, but during the celebrations the government scrapped critical funding earlier announced by the coalition that would have enabled its services to be expanded. I suspect the Minister for Infrastructure, Transport, Regional Development and Local Government, who has an inner-city Sydney electorate, does not really understand the importance of the Royal Flying Doctor Service to those of us who do not live in the fortunate cities of Australia, but it is a real difficulty. Cutting back its funding was, indeed, unfortunate. Certainly in Queensland the Royal Flying Doctor Service has a major impact on the health and safety of regional communities. We are distressed that there was not more consultation. I am very disappointed that the Queensland Premier, Anna Bligh, did not make more of a song and dance about the cutback in the budget of the Royal Flying Doctor Service.

I am also very disappointed that the Queensland Premier, the Queensland Treasurer or any of the three members of state parliament who represent the Cairns area—or, indeed, the state member who represents the Whitsunday area—did not make more of an objection to Mr Swan, the federal Treasurer, also a Queenslander, about the increases in taxes. One would have thought that the members for Whitsunday, Mulgrave, Cairns and Barron River, who are all Labor members, would have been able to use their personal influence with Mr Swan to stop the impost of this additional tax, which would have such a big impact on the aviation industry and therefore the tourism industry of North Queensland and the Whitsundays.

While we do have a very good aviation industry in Australia and our pioneers—Charles Kingsford Smith, Bert Hinkler, the Reverend John Flynn—did a great deal to bring Australia closer to the world, aviation is a much-needed service for the bush. I am concerned that the Queensland government’s penny-pinching attitude to a regional airline called MacAir has led to its demise. MacAir had the Queensland government contract for servicing remote parts of the state, but they were going broke because the subsidy given
by the Queensland government simply was not sufficient to make ends meet. I know that MacAir approached the Queensland government, but to no avail. As a result, MacAir closed its doors and that left many parts of Queensland without a regular air service. Now there has been emergency action taken to try to get a service back, and there has been a replacement service, but all of this would have been unnecessary had the Queensland government had the understanding and fortitude to do something about that before the collapse happened. But it is just another indication of the way Queensland has been mismanaged for several years now.

I want to now talk a little bit about another important aspect of aviation—again, you will excuse me if I relate it particularly to my home state of Queensland. I come from the north. I am familiar with a little town on the Gulf of Carpentaria called Karumba, a great town, a great tourist destination. The so-called grey nomads head there in droves. It is a great fishing spot for recreational fishermen, but a very significant commercial fishing industry also operates at Karumba. It is a community which, with the floods, has been out of road contact with the rest of Australia for almost two months now, I think. If it was any other town in Australia that was cut off by road from the rest of Australia, there would be outrage. You would have the Prime Minister visiting there and making one of his very special media announcements. But this has not happened in the case of Karumba. Karumba is where it is and people understand that, and they do put up with a lot of difficulties because of this. But those difficulties could be overcome if there were a decent airstrip there.

**Senator Sterle**—Ah, the Conroy runway!

**Senator IAN MACDONALD**—Indeed, Senator; we have raised this at estimates. I would call the runway anything, even after a nice guy but a failed communications minister! I would still call it after him if we could get the Commonwealth to commit some money to it. But I am disappointed. It is not something that the Commonwealth in the past has dealt with, but under the so-called stimulus package here is a great opportunity for that money to be spent. The surface needs to be sealed, and it also needs to be extended.

Now the Queensland government, who do have a responsibility in this area, have been approached for years by this community to do something to provide a decent service into Karumba to support the tourism industry, support the fishing industry and help in times like these when you cannot get road access there. But the Queensland government have done very little over the years. Just recently they said, 'Look, we’ll put in one-third of the cost of rescaling if the council puts in one-third and the Commonwealth puts in one-third'—a total sum of a massive $360,000-odd, as I recall.

What it needs is a much larger commitment of $5 million or $6 million to extend the runway and to seal it. I would have thought that would have been a high priority for the Queensland government over the last four or five years. Regrettably, it has not been, and again I can only express concern that the local state member, the member for Mount Isa, who just happens to be a Labor member, has not been able to get the Queensland government to deal with this airstrip over that period of time. Why this would be I cannot understand. Of course, now, a couple of weeks before the election in Queensland, we are getting promises flying right, left and centre. But I think the locals would be thinking a bit like me: if you are going to express some concern about it, then why didn’t you do it during the past 10 years when you have been in government, rather than leaving it until the last two weeks? I do hope at least the federal government, with all of this...
money they have available and will be splashing around everywhere, could use some of it for a decent infrastructure project to help the Karumba people with an extended and sealed runway.

While I am on that, I want to briefly mention another runway that desperately needs assistance. It is on Horn Island, which, as many senators would know, is in the Torres Strait. It is the entry into the straits and all of those communities up there. It is used by any number of Commonwealth and Queensland government agencies. But this airstrip needs a massive upgrade of some $12 million to make it serviceable. Again, you cannot drive to Thursday Island. You cannot drive to the island communities of the Torres Strait. The only way you can get there is by an aircraft into Horn Island and the ferry across to Thursday Island, or a smaller plane from Horn Island out to one of the outlying communities. And yet this airstrip, which was built during the war—that is how long it has been around—desperately needs strengthening and upgrading. The result, according to Sinclair Knight Merz, is that the current pavement of the runway does not have structural capacity to cater for the continual use of the aircraft Qantas want to fly in there—the Q400. There is serious rutting and cracking and this has resulted in a situation where there is a medium to high risk of a crash or a serious incident occurring if that aircraft continues to be used.

A recommendation has been made for the runway to be extended and upgraded, as per a Queensland Transport report, but unfortunately there has not been any assistance from the Queensland government. This part of Queensland is represented by a member of parliament who, unfortunately, is another Labor member, but nothing seems to have been done about this most important piece of infrastructure. I want to repeat this: we want this airstrip not just because we want every-one to have an airstrip; this is a vital means of entry—the only means of entry—into the Torres Strait, not only for the convenience and ongoing daily work life of the inhabitants but also for any number of important Commonwealth and Australia-wide border protection issues. But nothing has been done. It is a Queensland airstrip. It should have been upgraded by the Queensland government well prior to now. I regret that neither the local member nor, it seems, the Premier have had the fortitude to do anything about it, even though the campaign for upgrading it has been going for a number of years.

There is a lot of money splashing around in the Commonwealth’s coffers these days with the so-called structural package. I will not go into who is going to pay for that. Someone will have to pay for that in the future, but we do not seem to worry about that. We opposed it, but it is there. A good use of some of that money would be to help the Queensland government upgrade the airstrip. I will keep calling for the upgrade. Quite clearly, neither the local, state nor federal members, regrettably all Labor, seem to have been able to use their influence. I will keep calling for this.

None of that alters the fact that the coalition will be supporting this bill that is before the parliament. We think it is an important update. It will build on the strong foundations left by the previous government and will enable us to maintain a solid aviation security apparatus in an efficient and effective way.

Senator ARBIB (New South Wales—Parliamentary Secretary for Government Service Delivery) (5.31 pm)—I thank Senator Ian Macdonald for his comments and contributions to this debate on the Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008, although I have to disagree entirely with his argument concerning Queen-
sland and the stimulus package. I note that he has made these comments in the weeks before a Queensland state election.

This bill makes four key amendments to aviation security and safety legislation. The amendments to the Aviation Transport Security Act 2004 will expand the information collection and delegation powers of the secretary of the department. The sort of information to be collected may include information relating to the screening of people, vehicles, goods or cargo. The other amendment to the Aviation Transport Security Act 2004 will improve the robustness and flexibility of the aviation security framework to ensure a timely response to threats of unlawful interference with aircraft.

The amendment to the Civil Aviation Act 1988 will improve the reliability of cockpit voice recorder information for future safety investigation purposes by clarifying the legality of necessary maintenance practices. On many occasions cockpit voice recorder information is the essential piece in the puzzle for determining why an accident occurred. We must make sure that the source of this information is functioning and reliable and that the information is only used for legitimate testing and maintenance purposes.

Lastly, the amendments to the Transport Safety Investigation Act 2003 will improve the workability of the Australian Transport Safety Bureau’s accident and incident reporting scheme. It is essential that safety data is recorded on accidents and incidents for the improvement of future transport safety. The amendments contained in this bill will further enhance Australia’s aviation security and safety regime.

Question agreed to.

Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for the next day of sitting.
industry. Together the Civil Aviation Amendment Bill and the Transport Safety Investigation Amendment Bill will allow the Government to fulfil the undertakings made in the Green Paper to have important enhancements to safety regulation governance in place from 1 July 2009.

The Civil Aviation Amendment Bill will create a small expert Board for the Civil Aviation Safety Authority (CASA)—Australia’s aviation safety regulator—and strengthen CASA’s capacity to take necessary safety action.

The Transport Safety Investigation Amendment Bill, which I will introduce next, will enhance the independence of the Australian Transport Safety Bureau (ATSB) by establishing it as a separate statutory agency with a Commission structure.

Safety is the number one priority for Government aviation agencies, and safety regulation must be robust, efficient and effective. Safety is a core part of the aviation industry and must underpin every aspect of its operation.

Australia enjoys an enviable safety record. Our safety systems are second to none and our government agencies responsible for aviation safety are internationally respected. However, the Government cannot and will not rest on this record. Our safety agencies must be prepared for their leading role in Australia’s twenty-first century aviation sector. The industry itself is dynamic with the significant industry growth, increasing passenger numbers, and the introduction of new aircraft, technologies and business practices. Of course, Government and industry must share the responsibility for addressing these safety challenges.

The Civil Aviation Amendment Bill improves the capacity and effectiveness of CASA to meet the challenges of an increasingly complex and diverse aviation industry. CASA must have the right structure, resources and legal framework to regulate the civil aviation industry to protect the travelling public, industry participants and the wider community.

The CASA Board created by this legislation will be a small expert Board of five members appointed by the Minister. The Board will strengthen CASA’s governance arrangements, and provide strong support to the Director of Aviation Safety and the Minister. It will also play an important role monitoring CASA’s effectiveness and accountability across its range of functions. The Board will facilitate stronger links between CASA and other government agencies, and allow for more meaningful and constructive input from industry and other relevant stakeholders into strategy.

Circumstances have clearly changed since the decision in 2003 to abolish the CASA Board. Since then, a substantial amount of organisational reform has been undertaken within CASA, something acknowledged by the Senate Standing Committee on Rural and Regional Affairs and Transport in its recent report “Administration of the Civil Aviation Safety Authority (CASA) and related matters”. The way CASA interacts with the aviation industry and the wider Australian aviation community has also evolved. Importantly, this bill implements one of the Senate Committee Report’s key recommendations—to introduce a small board of up to five members to provide enhanced oversight and strategic direction for CASA.

The Board will assist CASA to manage the implications of industry growth and trends such as increasing pressures on secondary airports, low cost carriers, and changing aircraft and navigation technology. There is widespread support within the aviation industry for a new CASA Board, and the Board will ensure effective interaction between the regulator and industry.

The new Board will facilitate better relations across agencies with safety responsibilities and also allow for more meaningful industry input into strategy. It is important to be clear that this Board will not be ‘representational’. CASA’s role inherently involves striking a balance between the competing needs of different industry sectors and, when appointing Board members, the Minister must ensure the Board has an appropriate balance of professional expertise.

The Board will operate at a strategic level—to give high-level direction to CASA’s regulatory and safety oversight role, but not blur the clear lines of authority and accountability for day to day decisions. It will be broadly responsible for CASA’s strategic direction, risk management and corporate planning.
The primary duties of the Board will include deciding on the objectives, strategies and policies to be followed by CASA; ensuring CASA performs its functions in a proper, efficient and effective manner; and ensuring that CASA complies with certain directions given by the Minister.

The Director of Aviation Safety will be an ex officio Board member and continue to manage CASA under the Board’s strategic guidance. The Director will retain executive responsibility for day-to-day decision-making, staffing and financial management. The Director of Aviation Safety will be directly responsible to the Board.

CASA needs to be able to use its oversight and enforcement tools in a progressive and effective manner, consistent with contemporary practices and procedures. This bill introduces a range of measures designed to improve CASA’s ability to take necessary safety actions, particularly in relation to foreign carriers operating into Australia.

There have been significant concerns raised by many inside and outside the industry about CASA’s ability to satisfy itself that all operators flying into Australia are receiving adequate safety oversight outside Australia. In the Green Paper the Government committed to exploring whether CASA’s capacity to take a broader range of issues into account when considering whether to allow a foreign operator to fly into Australia needs to be expanded.

This bill will now amend the Act to achieve higher levels of assurance of safety by improving oversight of foreign carriers flying to Australia. It enables CASA to take greater account of both the conduct of air operators in their home and other jurisdictions, as well as the level of safety oversight provided by civil aviation authorities in other countries. The amendments are consistent with actions taken by the European Union and in North America to address these issues.

The bill also makes an important amendment to ensure that aviation safety is the main focus of key enforcement provisions in the Act. It amends the automatic stay of reviewable decisions provisions to ensure that extensions of automatic stays do not continue for a period up to, and rarely less than 90 days, but are instead subject to a decision by the Administrative Appeals Tribunal (AAT). This will ensure that where CASA takes enforcement action based on safety grounds that give rise to serious safety concerns the automatic stay continues only up to the time the Tribunal makes a decision on an application for a stay. Holders of a civil aviation authorisation will still have the benefit of the 5 day automatic stay, and a further automatic stay after that, but only until the Tribunal can determine any stay application.

These amendments are necessary because the routine application of the ‘automatic stay’ provisions of safety related decisions have effectively nullified CASA’s ability to suspend or cancel the authorisations of operators found to have fallen well below an acceptable level of safety. A number of recent incidents have highlighted how access to legal remedies such as ‘automatic stays’ can arguably have the consequence of allowing operators to remain in the air despite compelling evidence of serious safety deficiencies.

Importantly, the bill will also close a gap in the current legislation by introducing an additional offence of negligently carrying or consigning dangerous goods on an aircraft. The carriage or consignment of dangerous goods is a major safety issue. The inclusion of an offence for the negligent carriage or consignment of these goods will ensure that lack of care in relation to the duty of carriers and consignors is addressed, providing an appropriate and proportionate response to this kind of conduct. This amendment will be welcomed by the aviation industry that has expressed strong support for this approach.

The bill also makes a number of minor or clarifying amendments to ensure CASA’s ability to take necessary safety actions is clear. These include amendments to the demerit point scheme to prevent authorisation holders inappropriately avoiding demerit points; extending the period for which an Enforceable Voluntary Undertaking (EVU) may apply from 6 months to 12 months; and refining CASA’s investigation powers and search warrant procedures to bring them into line with current Commonwealth criminal justice procedures and practices.

The Civil Aviation Amendment Bill 2009 demonstrates this Government’s ongoing commitment to aviation safety—we are taking decisive action now to strengthen the nation’s safety agencies and their oversight of the aviation industry. Following
further consultation we will release Australia’s first ever National Aviation Policy White Paper in the second half of 2009.

TRANSPORT SAFETY INVESTIGATION AMENDMENT BILL 2009

The second bill I introduce to the Parliament is the Transport Safety Investigation Amendment Bill 2009. As I stated when I introduced the Civil Aviation Amendment Bill, the Transport Safety Investigation Amendment Bill fulfils undertakings in the Government’s National Aviation Policy Green Paper. The bill will amend the Transport Safety Investigation Act 2003 and enhance the independence of the Australian Transport Safety Bureau (ATSB) by establishing it as a statutory agency within my portfolio. The ATSB will have a Commission structure and the new body will come into being on 1 July 2009.

Australia has an impressive safety record and the ATSB’s accident investigation role is a fundamental part of Australia’s transport safety framework. Under the Transport Safety Investigation Act 2003, the Executive Director of the ATSB already conducts systemic ‘no-blame’ investigations into aviation, marine and rail accidents and incidents with the objective of identifying contributing safety factors. The lessons arising from those investigations are used to prevent future accidents and incidents through the implementation of safety action by the industry and the Government. By making the ATSB a separate statutory agency, public confidence can be strengthened in Australia’s commitment to advance transport safety.

While I am confident that the ATSB has operated successfully as a Division of the Department of Infrastructure, Transport, Regional Development and Local Government, I believe that the future safety of Australian transport will be enhanced by this measure. In 2007 Mr Russell Miller AM was tasked by the then Government to review the relationship between the Civil Aviation Safety Authority (CASA) and the ATSB. In finding there was room for improvement in the way the agencies interact, Mr Miller addressed the ATSB’s governance structure and recommended that the Government move to clarify the ATSB’s independence as the national safety investigation agency. The Government accepted this key recommendation, which received strong support from industry.

Investigations that are independent of transport regulators, government policy makers, and the parties involved in an accident, are better positioned to avoid conflicts of interest and external interference. Consistent with international standards, this bill leaves no doubt that investigations will be conducted without fear or favour and findings will be transparent and objective. Standard 5.4 of Annex 13 to the International Convention on Civil Aviation (the Chicago Convention) states:

The accident investigation authority shall have independence in the conduct of the investigation and have unrestricted authority over its conduct.

Enhanced independence will result from a combination of factors. The ATSB will alone be responsible for administering the functions of the Transport Safety Investigation Act 2003 and exercising its investigation powers. There will be the capacity for the Minister to provide notice of his or her views on the strategic direction for the ATSB, to which the ATSB must have regard. However, other than the ability for the Minister to require the ATSB to investigate a particular matter, the ATSB will not be subject to a direction from anyone with respect to the exercise of its powers and functions.

The creation of a statutory agency will also give the ATSB discretion and responsibilities in its own right under the Public Service Act 1999 and Financial Management and Accountability Act 1997 with respect to the management of its staff and resources. The ATSB will, therefore, have operational independence with respect to the exercise of its investigation powers and functional independence with respect to the administration of its resources.

The ATSB will consist of a full-time Chief Commissioner who will also be the Chief Executive Officer of the agency, and two part-time Commissioners. Commissioners will be appointed by the Minister and they will have an appropriate mix of skills and expertise. Additional Commissioners can be appointed as necessary for major investigations or where a particular skill or expertise is required. The powers in the Act will be vested in the ATSB for overarching responsibilities such as
determining which transport safety matters to investigate and publishing reports. Powers relating to day to day investigation activities such as entry to an accident site premises will be vested in the Chief Commissioner. Both the Chief Commissioner and the ATSB will have the ability to delegate powers, as appropriate, for the purpose of carrying out investigations.

A new power that the ATSB will have to assist with its function of improving transport safety is the power to require responses within 90 days to any formal recommendations that it makes. This requirement will provide confidence that the ATSB’s safety recommendations are being properly considered and addressed.

In addition to the function of improving transport safety through investigations and communicating the results of those investigations, the ATSB will have a function involving cooperation. The ATSB will be required to cooperate with similar agencies around the world to ensure there is coordination when investigating a transport accident or incident in cases where another country is in some way connected. Domestically, the ATSB will be required to cooperate with Commonwealth and State and Territory agencies having functions concerning transport safety, or who are affected by the ATSB’s function of improving transport safety. Other agencies, such as the police or a transport safety regulator, are likely to have an interest in conducting investigations into some accidents or incidents that the ATSB is investigating. It is intended that those agencies should continue to be able to conduct their own separate investigations and that there be cooperation to allow this to occur. However, the ATSB will need to preserve the ‘no-blame’ nature of its investigations.

The Transport Safety Investigation Act 2003 already states that it is not an object of the Act to apportion blame or provide the means to determine liability in relation to a transport accident or incident. With the translation of the objects of the current Act into the functions for the ATSB, the Act will state that apportioning blame and determining liability is not a function of the ATSB. Investigations that may result in punitive action will not necessarily have safety information freely flowing to them because there is an apprehension of a penalty by the persons subject to the investigation. This is recognised internationally by Annex 13 to the Chicago Convention and similar International Maritime Organisation instruments.

If the ATSB is to conduct systemic investigations, in the overriding interest of improving future safety, it must have access to all the available information. To preserve the free-flow of information to its investigations, the ATSB will need to maintain an appropriate degree of separation from processes that could result in a punitive outcome, an award of damages to one party against another or an adverse inference being made about a person subject to an investigation. The existing provisions in the Act for the protection of safety information, such as aviation cockpit voice recorders and witness statements, provide part of the framework for the ATSB to prevent itself being involved in the apportionment of blame or the determination of liability. Commissioners, ATSB staff members and consultants will be subject to the requirement to protect this type of information.

The bill provides for transitional provisions so that investigations commenced under legislation existing before the new laws come into effect on 1 July 2009, can be continued by the ATSB. For investigations already completed, the ATSB or the Chief Commissioner, as required, will be able to exercise powers in relation to such things as the disclosure of information. The bill also provides for the ATSB to perform the functions of the Executive Director under other legislation such as the Inspector of Transport Security Act 2006 and regulations made under the Navigation Act 1912 and the Air Navigation Act 1920 establishing confidential reporting schemes. With respect to the confidential reporting schemes, the bill provides for a regulation making power to consolidate those schemes under the Transport Safety Investigation Act 2003 in the future.

The introduction of the Transport Safety Investigation Amendment Bill 2009 will serve to maintain and improve the already excellent safety record of the Australian aviation, marine and rail transport industries by establishing the ATSB as a separate statutory agency. Strengthening the independence of the ATSB in this way will facilitate better interaction with the transport industry and
other agencies and demonstrate the Government’s strong commitment to ongoing and important improvements in Australia’s transport safety framework.

Senator IAN MACDONALD (Queensland) (5.35 pm)—It is important to say at this early stage that the coalition will be supporting both the Civil Aviation Amendment Bill 2009 and the Transport Safety Investigation Amendment Bill 2009. The Civil Aviation Amendment Bill amends the Civil Aviation Act to create a board for Australia’s civil air regulator, the Civil Aviation Safety Authority, which is referred to by anyone who has any involvement with them as CASA. The bill also makes some technical amendments to improve its enforcement powers. These include improving CASA’s capacity to oversee the safety of foreign carriers flying to and from Australia, amending the automatic stay arrangements for reviewable decisions and creating an additional offence of negligently carrying or consigning dangerous goods on an aircraft.

Senators will know that CASA is a statutory authority that was established in 1995 with the mandate to regulate Australia’s civil aviation sector to ensure its safe operation. Australia’s record of aviation safety is world class, and there is no doubt that CASA is entitled to take some credit for this admirable performance. Yet in many ways CASA has been a troubled regulator. Its task is not an easy one. It is dealing with a sector that is diverse and characterised by what some might call fractious elements and strong personalities. It has been subject to strident criticism, personality conflicts, industry complaints and any number of reviews over the years.

In addition to the reviews by various government appointed bodies and parliamentary committees, the report of the Queensland State Coroner into the 2005 Lockhart River air crash looked at CASA’s regulatory oversight in the context of that tragedy. CASA is a regulator that has experienced significant change, which has mainly arisen out of the decision by the previous coalition government to abolish the board in 2003. That decision placed the federal minister in more direct control of CASA. Following the passage of that legislation, CASA embarked on a prolonged period of reform. I might add that the Labor Party and most elements of the aviation industry supported the decision of the coalition government to abolish the board of CASA. In fact, the member for Batman, in his then capacity as shadow transport minister, said on 19 November:

For too long in terms of CASA we have had a board in place which was a bureaucratic layer that contributed nothing. In many ways we had a lot of do-gooders without a lot of aviation experience. Abolishing the CASA board effectively means that CASA is more accountable for aviation safety, so we all appreciate that the buck stops and starts with the minister.

I might say that in those wonderful days I was a minister in the government, representing in the Senate the then Minister for Transport and Regional Services. It was my lot to sit through estimates committees that seemed to go on and on and on so far as CASA was concerned. Senator O’Brien, who is not in the chamber, was one of the reasons why Senator O’Brien to question CASA.

As I mentioned earlier, CASA was an unusual organisation. It attracted a lot of criticism which, to my way of thinking, was never actually answered by CASA but was referred to the minister at the time, Mr John Anderson. I remember saying to Mr Anderson at one stage: ‘Whenever there is any problem with CASA the blame goes to you. You’re called upon to deal with it. You’re criticised for it and yet effectively you have no control over it. There is an independent
board there.’ Because of the way CASA was operating at the time, there was a lot of complaint and criticism and it all ended up on Mr Anderson’s desk when he really had no ability to do much about it. So I said to him: ‘If you’re going to take the blame, you might as well run the show. At least then when the blame is directed it is properly directed.’ As I mentioned, the Labor Party agreed with that, and most of the aviation industry did as well. So we abolished the board. I think that since then it has all worked very well. There has been a lot of reform. Congratulations to all subsequent transport ministers for doing that and taking it further.

But the time has come, the coalition believes, to look at a board situation again. The whole situation is different. CASA is now operating in a much better way. I agree with the government that it is probably time to reintroduce the concept of a small, expert board of five members appointed by the minister. We agree with that. The government argues that CASA is a far different organisation from what it was back in 2003—we certainly agree with that—and, according to the government, CASA is therefore now ready for a board.

Whilst we do not usually take the assurances of government at face value, particularly regarding something as important as the state of Australia’s civil aviation regulator, I do turn to the findings of the last Senate inquiry into the administration of CASA. That inquiry took some 61 submissions from the aviation sector. It took evidence from a significant number of witnesses, many qualified to make informed observations about the effectiveness of CASA. The Senate inquiry established that CASA, under its Chief Executive Officer, Mr Bruce Byron, has made progress in its way of doing business. It has remodelled its structure to be more responsive to the industry and has made an effort to change its defensive culture. At the working level, some submissions noted this improved approach. CASA has also attempted to change its arrangements to enhance its approach to engaging with industry.

Nevertheless, the Senate inquiry expressed concern that some in the sector felt that CASA’s senior executives were not approachable enough. Some submissions expressed unease that CASA’s risk based safety philosophy was at the expense of a more prescriptive regulatory approach and that leaves too much responsibility with the airlines to ensure their own safety standards.

CASA has had an enormous staff turnover since 2003. Whilst that is characteristic of an organisation trying to change its culture and its way of doing business, the Senate inquiry did note that CASA appears to lack adequately trained technical staff and seems to lack a clear path for managing its training needs.

The Senate committee noted some good things and some bad things about the way CASA was operating. So, clearly, CASA faced a number of challenges. I note that the majority submission to the Senate inquiry, in contrast to what occurred prior to 2003, argued for reinstatement of the CASA board. Qantas suggested that the current governance structures are not delivering consistent policy and that the responsibilities of the CEO are too broad. That point was supported by the Australian and International Pilots Association, which stated that a board would improve the capacity of the CEO to make the tough decisions needed to regulate the industry. The Aircraft Owners and Pilots Association argued that a board would help CASA implement safety guidelines. So there was a lot of information there, and I think that has helped the parliament to come to its conclusion on the reintroduction of the board.

Can I say in passing that it is the belief of our shadow minister, and I am sure most
senators, that the CEO, Mr Bruce Byron, made an outstanding contribution as CASA’s boss over the past five years. His was a thankless and difficult task yet he made significant progress in placing CASA on the path to being a world-class regulator that can work with the industry in a rigorous, responsive and effective way. He was well regarded across the sector, an honour that I might say is achieved by few in the aviation business. Indeed, the shadow minister quite rightly says that the job is not completed, but certainly Mr Byron has made a very creditable contribution and CASA is better than it has ever been. We on this side certainly wish Mr Byron good health and happiness. We also want to welcome Mr John McCormick, the new CEO of CASA. His extensive background in aviation will serve him well as he continues the challenges of regulating a key industry.

The bill improves the enforcement powers of CASA. One such change is improving CASA’s oversight of foreign carriers. This bill inserts a new section in the Civil Aviation Act to enable CASA to consider the effectiveness of air operators and relevant foreign regulatory authorities when assessing applications authorising the operation of foreign registered aircraft flying to Australia. This is consistent with what occurs in Europe and the United States and it does seem to us to be a sensible way to improve aviation safety, because it is a regrettable truth that some foreign regulatory authorities are not as rigorous as ours. So that amendment has the support of the opposition.

The second significant technical change contained in the bill is to amend the automatic stay provisions of any decision by CASA to suspend, change or cancel various types of certificates and permissions in circumstances short of ‘serious and imminent risk to air safety’. I will not go through that provision in detail—it will be in the second reading speech—but suffice to say that it is shortening the stay provisions of the bill for people served with a show-cause notice who in the past could apply to the Administrative Appeals Tribunal for more than a 90-day suspension of the cancellation of the licence, and this amendment deals with that by shortening the time allowed for conducting further investigations into the reason for the show-cause notice. As I mentioned, the coalition will be supporting that aspect of the package before us in the Civil Aviation Amendment Bill 2009.

In relation to Transport Safety Investigation Amendment Bill 2009, this is designed to enhance the independence of the Australian Transport Safety Bureau, which I will refer to by its common acronym, ATSB. It enhances the independence of the ATSB and the safety of Australian transport. I think the ATSB is well regarded in Australian transport. It is staffed with people of considerable experience. It was created in 1999 by the then coalition government and its creation was part of a push to separate the responsibilities involving maintaining transport safety apparatus with those of ensuring that safety investigations were carried out by a body that was independent.

Transport in Australia has an enviable safety record and this is due in no small part to the vigilance of the industry participants and the regulatory and investigative regimes. A review of the relationship between CASA and the ATSB was conducted by Mr Russell Miller AM back in 2007. This review came in response to concerns raised during the investigation of the Lockhart River air crash and it was designed to identify potential improvements to Australia’s safety regime.

The review reported that the Transport Safety Investigation Act provides that the executive director is not subject to directions from the minister or secretary in respect of
the exercise of executive director’s powers under the act. It further went on to say that the powers of the executive director and departmental officers assigned to the ATSB are effectively autonomous, not only in relation to the undertaking of investigations and the resultant reports but also in relation to the broader range of powers and responsibilities under the act.

Given all that, it seems clear that the ATSB is seen as being autonomous in the execution of its duties. At the same time, despite the autonomy granted to and exercised by the ATSB, it does remain a division of the department. As a result, the theoretical possibility remains for that independence to be compromised in the future. Among the recommendations of the Miller review was a proposal that an alternate governance of the ATSB would move it out of the minister’s portfolio and enhance its administrative independence. This bill is a result of some of the recommendations contained in the Miller review and it will establish the ATSB as a statutory authority in its own right rather than keeping it as a division of the department. This will make the ATSB visibly separate from the department. Aside from being more independent on an organisational level, becoming a statutory authority will mean that ATSB will have direct control of its own budget and its own personnel matters under the Financial Management and Accountability Act. The bill provides for that new structure.

Under the legislation, the internal structure of the ATSB will be that of a commission headed by one full-time chief commissioner, who will also be the CEO of the agency and whose role will be analogous to that of the current executive director. The chief commissioner will be supported by two part-time commissioners with the prospect of more commissioners being appointed should the need arise. All appointees will be required to have a high level of expertise in some area relevant to the ATSB’s function.

The minister, as I understand it, will appoint the commissioners. We on this side would of course urge, and will be ensuring, that those appointed are appropriate to the job and are independent. The bill gives the ATSB the capacity to delegate its powers under the act. It also authorises the ATSB to require individuals, organisations and government agencies to provide written responses within 90 days.

We need a robust transport sector in Australia. Aviation, road, rail and maritime transport have all done a great deal to contribute to the economic and social development of Australia. They continue to play an important role, especially in regional areas, in bringing Australians together and reducing the tyranny of distance and isolation. The coalition believes that this bill will enhance the transport safety regime that has been steadily built up over the years by all governments, going back a long time. For those reasons, the coalition is happy to support the two bills before us.

**Senator STERLE** (Western Australia) (5.53 pm)—Before I go to the legislation before us, I would like to follow on from Senator Macdonald’s remarks about the inquiry the Senate Standing Committee on Rural and Regional Affairs and Transport conducted last year and make a couple of statements in relation to the tragic accident up at Lockhart River when 15 lives were taken. As chair of that committee, I sat through the hearings and heard the presentations from the witnesses. It gives me some comfort to think that, following that inquiry and also the *Australian Story* program last week, Mr Shane Urquhart—who lost his daughter, Constable Sally Urquhart, in that accident—will be able to find some form of closure. I
would like to wish Mr Urquhart and his family all the very best.

I am speaking in support of the Civil Aviation Amendment Bill 2009 and the Transport Safety Investigation Amendment Bill 2009, but I intend to concentrate my remarks on the Civil Aviation Amendment Bill 2009. I think it is fair to say that Australia can rightly claim to be amongst the world’s leaders in aviation safety. However, this does not mean that the government can relax on ensuring that the agencies charged by government and required by legislation continue to maintain Australia’s aviation safety regime at the highest levels of world best practice. The measures contained in the Civil Aviation Amendment Bill 2009 are about ensuring that Australia continues to have a civil aviation safety regulatory and surveillance regime that is second to none.

Australia was an early starter in the race to take up the opportunities of civil aviation in the early part of the 20th century. Australia had more than its fair share of intrepid pioneer aviators who pointed the way to the tremendous advantages that plane travel had to offer to Australia, with its vast distances and at a time when its economic growth depended so much on its pastoral industries scattered across the continent. Later aviation would have an even greater role in the development of Australia’s rich mineral resources—not least in that fantastic state of Western Australia, to name one. For a state as large as Western Australia, the development of air travel, right from the early days of civil aviation, played an important role in opening up the state’s economic development, particularly in the remote and rugged northern regions of the Pilbara and the Kimberley.

It was therefore not simply by chance that Western Australia led the way in the introduction of regular scheduled air services. In August 1921 Western Australian Airways, founded by Norman Brearley, was awarded a federal government contract to operate a weekly airmail and passenger service between those two great towns of Geraldton and Broome. As a result, Australia’s first scheduled air service commenced in Western Australia on 5 December 1921, from Geraldton to Port Hedland. Unfortunately, one of the aircraft on this first service crashed when making an emergency landing on route to Port Hedland, and the pilot and passenger were killed.

Right from the start of regular airline passenger services, safety was a prominent issue. The cause of the crash was believed to have been partly due to the poor state of the landing field. Western Australian Airways suspended the service until the then Civil Aviation Branch of the Department of Defence took action to ensure adequate landing fields along the route. The issue appeared to have arisen because of tardiness on the part of Canberra—that has a ring about it over the years—to allocate sufficient funds to prepare the required landing fields. The incident drew severe criticism from the Western Australian public and the problem was rectified. This is an early example of why Western Australia’s cynicism about its treatment by Canberra erupts from time to time. It is a feeling that has a very long history.

Regular flights between Geraldton and Port Hedland recommenced on 21 February 1921 and were extended to Derby via Broome in March the same year. The total flight time from Geraldton to Derby, a distance of approximately 2,000 kilometres, was 2½ days. When I came off the road as an burnt-out truck driver we used to drive it quicker than that!

Senator Ian Macdonald—That was within the speed limit, of course!
Senator STERLE—Within the speed limit, Senator Macdonald, and within the fatigue management regime, which in Western Australia was a case of everything was legal and you just kept going. Fortunately, that has now changed.

Qantas’s first scheduled flight, which went from Longreach to Cloncurry in Queensland, did not commence until November 1922. Air passenger transport in Australia has obviously come a long way since 1921. However, one thing that has not changed is the pre-eminence of the requirement to maintain the highest possible safety standards. By early 1921 the federal government had already established regulations with regard to aeroplanes, pilots, mechanics, aerodromes and flying practices. This was made possible by the passing of the Air Navigation Act 1920, regulating civil aviation in Australia, on 11 November 1920 by the Commonwealth parliament. It is interesting to note that this action by the Commonwealth parliament was possible as a result of Australia’s agreement to the 1919 Paris convention which, as a consequence, enabled the Commonwealth to use the external affairs power to regulate civil aviation.

The Paris convention of 1919 defined the status of international airspace and gave authority to the commander of an aircraft to act in accordance with the law of the state of registration. Hence, we see very early in the history of civil aviation that its regulation had become a national issue. The Australian community very early decided that the federal government should be accountable for civil aviation safety standards and their enforcement.

The Rudd Labor government takes this aviation safety commitment extremely seriously and it is the government’s primary objective when it comes to air travel. As stated in the government’s 2008 national aviation policy green paper, safety must underpin everything else in aviation and must be maintained in the face of costs and other pressures in the industry. The safety of passenger-carrying operations remains the top priority.

In Australia three agencies are involved in ensuring aviation safety: the Civil Aviation Safety Authority, which we term as CASA; the Australian Transport Safety Bureau, ATSB; and, of course, Airservices Australia. CASA is an independent statutory authority established in 1995 under the Civil Aviation Act 1988 to regulate aviation safety in Australia and the safety of Australian aircraft overseas. Its primary role is safety regulation of civil aviation. CASA’s regulatory responsibilities include overseeing the activities of over 42,000 licensed industry personnel including pilots, licensed aircraft maintenance engineers and air traffic controllers, and over 13,000 registered aircraft. CASA also provides safety education and training programs and in recent years has acquired responsibilities for airspace regulation and some environmental issues. CASA has a staff of over 600 people. The chief executive officer also holds the statutory position of Director of Aviation Safety. It is to be acknowledged that CASA has a large and complicated role, being required to work constructively day to day with the industry it regulates but also needing to take firm regulatory action against industry when necessary to ensure safety.

The Australian Transport Safety Bureau is responsible for the independent investigation of accidents and incidents involving civil aircraft in Australia. All accidents and incidents related to flight safety in Australia or by Australian registered aircraft overseas must be reported to the ATSB. Airservices Australia provides air traffic control management over an area that covers 11 per cent of the earth’s surface, which includes inter-
national airspace over the Pacific and Indian oceans. Australia is recognised as having one of the safest and most efficient air traffic management systems in the world, and that is something that we should be very, very proud of. Airservices Australia also provides aviation rescue and firefighting services at 19 of Australia’s busiest airports. In 2008 Airservices Australia received the 34th annual Aviation Technology Achievement Award. The Airline Industry Achievement Awards are considered to be the ‘Oscars’ of the international airline industry.

The effective function of Australia’s aviation safety regime depends on close working relations between these three agencies. This is assisted by formal memorandums of understanding between the Civil Aviation Safety Authority and the Australian Transport Safety Bureau, and between ATSB and Airservices Australia. As well, Australia is a member of the Council of the International Civil Aviation Organisation, known as ICAO, which is made up of no fewer than 190 states or countries, and has frequently assisted with international investigations.

Even though the number of aviation accidents and aviation fatalities in Australia is very low, there is still on average, sadly, one aviation fatality every 10 days. Also while aviation passenger transport in Australia has a safety record amongst the best in the world, fatal crashes occur of aircraft engaged in passenger transport almost every year. In 2005 a low-capacity aircraft on a scheduled passenger flight in North Queensland crashed killing 13 passengers and two crew—which I mentioned earlier and which we refer to as the Lockhart River accident. Over the past 11 years there has only been one year when there has not been a fatal crash of a charter passenger aircraft. In 2008 there were three fatal charter passenger aircraft crashes, killing six people—and the more I read on, the less I want to fly. But, as I say, we have the best safety record and we should be proud of it. But it can always get better. In this regard, I am reminded of the thousands of people who work in the mining towns in the north and east of Western Australia and who rely on chartered aircraft to get them to and from work regularly throughout the year. They are the ones referred to as the ‘fly-in fly-out’ people.

ATSB statistics show that issues affecting aviation safety are a daily occurrence. In 2008 there were over 8,000 safety issue occurrences reported to the Australian Transport Safety Bureau. The number of occurrences reported to the bureau has increased substantially over the past 10 years. This is not in itself necessarily an indicator of declining safety standards. In fact it could equally be an indicator of improved awareness of potential safety issues that need to be looked into. However, it is also relevant to note that there were 180 aviation accidents in 2008. This was the highest number of aircraft accidents since 2001. It is not a proud record. In addition there were 64 serious incidents in 2008 on top of the 180 accidents. This was substantially higher than the previous year and substantially higher than the annual average of the previous five years. The fact is that there has been an almost 45 per cent increase in the number of annually reported aviation safety occurrences over the past 10 years. Alongside that is the fact that the total number of accidents and serious incidents reported in 2008 was 26 per cent higher than the number reported in 2007 and almost double the number reported in 2006. These are not trends we would want to see continue. These are the sorts of figures that concern me as Chair of the Senate Standing Committee on Rural and Regional Affairs and Transport, as I am sure they do other members of the committee, none more so than my esteemed colleague who is in the
chamber, Senator O’Brien, with his long history with this committee.

Equally of concern were some of the findings of the ATSB with regard to the Lockhart River accident in 2005. In its investigation ATSB found that CASA processes were contributory factors in the cause of the accident. Firstly, the ATSB found: CASA did not provide sufficient guidance to its inspectors to enable them to effectively and consistently evaluate several key aspects of operator management systems.

Secondly:
CASA did not require operators to conduct structured and/or comprehensive risk assessments, or conduct such assessments itself, when evaluating applications for the initial issue or subsequent variation of an Air Operators Certificate.

By any reckoning these are serious findings, though I should also say that CASA has contested these contributory factor findings by ATSB. We are left, therefore, to draw our own conclusions. But it is also interesting to note that CASA has instituted changes to its processes because of broadly based and persistent disquiet about CASA’s performance. Despite various initiatives by CASA to improve its systems and procedures, an ongoing pattern of problems seem to suggest fairly deep-seated difficulties within the agency have reduced its capacity to undertake effective long-lasting reform. It has been noticeable that, very often when a particular problem is raised with CASA management, the immediate response is that CASA is already aware of the matter and action to rectify has been completed or is well advanced. Nonetheless, within a relatively short period other concerns with CASA’s processes reappear. For example, the CASA performance audit conducted by the Australian National Audit Office in 1999 found in regard to CASA’s regulatory regime:

…the potential exists for this regime to be improved and strengthened with consequential increased confidence of all stakeholders.

Then in 2002 ANAO’s follow-up review on progress since its 1999 performance audit reported:
The safety systems approach and CASA’s system-based auditing, when fully implemented, will enable CASA to better monitor operators’ compliance with the Act and Civil Aviation Regulations. However, considerable work remains to be done to refine their implementation, otherwise there is a risk that CASA’s agenda of aviation safety reform may falter.

Five years on in 2008 the Senate Standing Committee on Rural and Regional Affairs and Transport, having become so concerned and dissatisfied with the quality of many of CASA’s responses to the committee’s requests for information about the performance of the agency, initiated an inquiry into the administration of the Civil Aviation Safety Authority and other matters. The Senate committee’s inquiry report had this to say:

…the committee notes that one of the recurring themes in the evidence received during this inquiry is that CASA is aware of the problems raised and has initiated steps to address them. Without wanting to appear unduly cynical, this is a response that this committee is all too familiar with, particularly through its Senate estimates hearings.

The Senate committee inquiry confirmed that there is still significant scope to improve CASA’s processes as well as the need to
bring the regulatory reform program to a conclusion as quickly as possible to provide certainty to industry and to ensure CASA and industry are ready to address future safety challenges.

The outcome of the inquiry vindicated the concerns of the Senate committee and reinforced the need for government to take action to improve the governance of the authority. It is very important nonetheless to stress that the problems identified by the Senate committee should not be interpreted as a denigration of the organisation as a whole. Australia's excellent aviation safety record is in no small part due to the excellence of the work and professionalism of the individual men and women who work on the front line of CASA's services.

This bill will create a five-member CASA board, one of whom will be appointed chair of the board. The CASA director of aviation safety will be an ex-officio member of the board. It is intended that the board be an expert board and will not be a board representing sectional interests. The board and its members will be required to provide CASA with the governance that will ensure that the functions of CASA are totally directed to overall safety of the Australian community.

The primary duties of the board will include deciding on the objectives, strategies and policies to be followed by CASA; ensuring CASA performs its functions in a proper, efficient and effective manner; and, ensuring CASA complies with certain directions given by the minister. As is appropriate for a board of governance, the board will not be directly involved in the day-to-day running activities of the authority. Board members will be appointed for terms of three years.

In 2003 when the decision was taken to abolish the CASA board it was done no doubt with all good intentions and may have seemed the most appropriate way to go at that time. However, experience since then and the changed circumstances in the aviation sector have reinforced the need to provide CASA with much greater strength and depth with respect to its strategic oversight of aviation safety and with respect to the governance of CASA itself. On that, I commend both the bills to the Senate.

Senator O'BRIEN (Tasmania) (6.13 pm)—It was not my intention to speak in this debate on the Civil Aviation Amendment Bill 2009 and the Transport Safety Investigation Amendment Bill 2009, but I understand there is a message on its way with regard to another piece of legislation so I thought I would take the opportunity to make a couple of remarks following on from the comments of Senator Sterle, the excellent Chair of the Senate Standing Committee on Rural and Regional Affairs and Transport. This legislation is remedying the unsuccessful experiment which the previous government initiated in removing a board from the Civil Aviation Safety Authority—given the previous membership of the board and its relationship with the previous head of CASA, Mr Toller, probably coloured the views of everyone, but particularly those of the previous government, about the desirability of having a board.

The experience of CASA's operation under the previous chief executive, Mr Byron, has shown that the experiment was not successful and the examination of the operations of CASA and experiences arising from, amongst other things, the Lockhart River tragedy, lead me, and indeed I believe the government, to the view that (a) it was a failed experiment and (b) it was time to make a number of changes in relation to the civil aviation safety regime over which this government presides.

So we see the re-creation of a board of the Civil Aviation Safety Authority and we see
greater independence for the Australian Transport Safety Bureau. I think both of those measures are long overdue. Anyone who saw the program Australian Story last Monday and saw the depiction of events around that tragedy and the views of Mr Shane Urquhart, the father of the young woman who died in that tragedy, would not have failed to have had concerns about the performance of CASA in relation to that tragedy. I asked a number of questions of CASA at Senate estimates arising from coronial comments about CASA’s aggressive defence of their position and aggressive pursuit of the ATSB in that coronial inquiry. I resolve from no question or comment I made in those proceedings. It is clear to me that CASA was more about protecting CASA than ensuring that the coronial inquiry arrived at the truth and, indeed, I believe that in many respects CASA was leniently dealt with by the coroner in that case. The ATSB usually but not always gets it right, and it is appropriate for CASA to defend itself, but there is a proper way for an organisation with the authority of this parliament to perform in coronial inquiries, and in that case I think the coroner believed, and I believe, that they overstepped the mark.

From time to time we will continue to pursue the Civil Aviation Safety Authority and the Australian Transport Safety Bureau and their successors because, ultimately, this parliament is the custodian of aviation safety. Those bodies are established by this parliament. They are given a charter by this parliament to protect the Australian travelling public. Ultimately, if there is a deficiency in their performance, the public expects this parliament to expose it, and that is a matter which I consider to be beyond politics. Everyone in this chamber has a vested interest because they regularly travel with chartered and regular public transport aviation services in the performance of their duties, and so do many staff.

One of the victims of the Lockhart River tragedy was an officer of AQIS, I believe, who on a number of occasions appeared before Senate inquiries giving evidence. He lost his life in that incident completely unfairly, simply in the performance of his duties because he was unfortunate enough to be in an aircraft which was being flown without proper regard to appropriate safety circumstances, without properly trained officers on board and by an airline now no longer operating but with a history of poor performance and practices in this country and elsewhere.

So we do have that responsibility and it is a responsibility that many from both sides of this chamber take seriously, and I would expect that that would continue. There have been royal commissions and commissions of inquiry into aviation disasters in the past. The Seaview inquiry, for example, was referred to in our most recent Senate inquiry into the Civil Aviation Safety Authority. The commission of inquiry made it very clear that there needed to be a separation between the interests of the safety watchdog, currently the Civil Aviation Safety Authority, and industry and that too close a connection between those bodies was not in the interest of aviation safety. That has also been the finding of a recent inquiry of the United States congress into their own regulator, the FAA. There was also an inquiry in the Canadian jurisdiction about their regulator in which similar findings were made.

It is clear that there have been trends towards inappropriate closeness between the regulator and aviation interests, and I hope that the lessons of the findings of our committee, the FAA and the commission in Canada are heeded and not dismissed, as I fear they may have been by the previous administration of the Civil Aviation Safety Author-
ity. I would recommend to the new board, when it is appointed, that it acquaint itself with some of those findings and look at decisions of the executive of that organisation—not that I make any reflection on the new executive—with an eye to the principles that have been espoused in royal commissions in this country, by the Senate Rural and Regional Affairs and Transport Committee, by the United States congress and others around the world about the danger of closeness between the regulator and those it administers.

Further independence by the ATSB is also a good thing, but I would expect that this parliament would take very seriously its responsibility to ensure that the ATSB also continues to perform the important service that it does in safety investigation and recommendations—in other words, that it be the one that keeps us all honest in relation to aviation safety in this country. But, ultimately, it is this parliament that is the final point of scrutiny, and I believe this parliament is up to the responsibility that it is charged with.

I believe we should support this legislation, and I understand that it will be supported. This legislation will allow aviation safety in this country to be improved and for a level of administration of Australian aviation to take a step into what will probably be an important phase, given all of the challenges. Whether fuel prices are high or fuel prices are low, it is said that there are challenges and that airlines are going to fall over. If airlines are going to fail for financial reasons, then that is the time when corners are likely to be cut and, when corners are likely to be cut, safety is at risk and we need to be ever more vigilant.

Senator ARBIB (New South Wales—Parliamentary Secretary for Government Service Delivery) (6.22 pm)—I thank Senator Macdonald, Senator Sterle and Senator O’Brien for their contributions and comments on the bills. I also thank the work of the Minister for Infrastructure, Transport, Regional Development and Local Government and the minister’s office. The Civil Aviation Amendment Bill 2009 and the Transport Safety Investigation Amendment Bill 2009 will strengthen Australia’s aviation safety regime and honour a pledge that the minister made when releasing the government’s aviation green paper late last year.

The Civil Aviation Safety Authority will have its governance enhanced by the creation of an expert board to provide high-level direction to the organisation’s regulatory and safety oversight role. The Civil Aviation Amendment Bill will also make changes to improve CASA’s oversight of foreign carriers flying into Australia. The bill strengthens the provisions for preventing operators from continuing to operate services where CASA considers it unsafe for them to continue. Finally, it closes a gap in the current legislation by introducing an additional offence of negligently carrying or consigning dangerous goods on an aircraft. The Transport Safety Investigation Amendment Bill reinforces the ATSB’s independent status by establishing it as a separate statutory agency with a full-time chief commissioner and two part-time commissioners. It also gives the ATSB new powers to compel agencies and operators within the aviation industry to respond to its formal recommendation within 90 days. The amendments in these two bills strengthen public confidence in the safety and reliability of air travel.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.
AUSTRALIAN ENERGY MARKET AMENDMENT (AEMO AND OTHER MEASURES) BILL 2009

First Reading

Bill received from the House of Representatives.

Senator ARBIB (New South Wales—Parliamentary Secretary for Government Service Delivery) (6.26 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 ARBIB (New South Wales—Parliamentary Secretary for Government Service Delivery) (6.26 pm)—I table a replacement explanatory memorandum relating to the bill and 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—

AUSTRALIAN ENERGY MARKET AMENDMENT (AEMO AND OTHER MEASURES) BILL 2009

In recent years, a number of significant reforms have been made to energy markets in Australia. Under the guidance of the Ministerial Council on Energy, Australia has moved towards greater national consistency of governance and regulation. The reforms have aimed to ensure efficient infrastructure investment, promote competitive energy markets and provide lower energy prices for consumers.

The bill I am introducing today, although only making minor amendments to Commonwealth legislation, reflects another significant reform of the energy sector overseen by the Ministerial Council - the proposed commencement of a single national energy market operator for both the electricity and gas sectors. This operator, to be known as the Australian Energy Market Operator, or AEMO, is anticipated to commence operations on 1 July this year. Its commencement will strengthen the national character of energy market governance.

Upon its establishment, AEMO will assume the responsibilities and functions of existing gas and electricity market operators, including the National Electricity Market Management Company, NEMMCO. AEMO will also adopt a number of new functions such as the proposed National Transmission Planner function for electricity.

The bill provides for minor amendments to be made to Commonwealth legislation, namely the Renewable Energy (Electricity) Act 2000 and the Trade Practices Act 1974, as a consequence of AEMO’s assumption of NEMMCO’s functions. The broader functions, powers and duties of AEMO will be primarily set out in legislation to be introduced into the South Australian Parliament, as lead legislator for the national energy market. These will be amendments to the National Electricity Law, a Schedule to the National Electricity (South Australia) Act 1998, and the National Gas Law, a Schedule to the National Gas (South Australia) Act 2008. These amendments are expected to be put to the South Australian Parliament in the first half of this year to facilitate the commencement of AEMO’s operations by 1 July. Other jurisdictions apart from Western Australia and the Northern Territory will also amend their legislation to effect the change.

The bill I am introducing today also corrects references in Commonwealth legislation to the title of Western Australian gas legislation. In 2008 a Bill to apply the National Gas Access Law, that is, key elements of the National Gas Law, was introduced into the Western Australian Parliament. However, the Parliament was prorogued before the bill was passed. It is now anticipated that the legislation applying the National Gas Access Law will commence in the first half of 2009. As a consequence of the delay the title of the Western Australian application legislation has also changed, requiring correction to references in the Australian Energy Market Act and other Commonwealth legislation. While the corrections are minor, they are important in facilitating the move by Western Australia to become a partici-
pating jurisdiction in the national framework for regulating access to gas pipeline services.

Senator ABETZ (Tasmania) (6.26 pm)—Before commencing some remarks on the Australian Energy Market Amendment (AEMO and Other Measures) Bill 2009, can I congratulate Senator Arbib on his appointment. I note that he is in the ministerial chair, taking through legislation on behalf of the government. It is a great honour to serve on the frontbench, especially in government. I simply congratulate him and wish him well in the new role—but, of course, not too much so. But, whilst he is there, may he enjoy it and be of great service to the Australian people.

The coalition supports the Australian Energy Market Amendment (AEMO and Other Measures) Bill 2009 and believes the changes being implemented by it are non-controversial. These minor changes to Commonwealth legislation, to both the Renewable Energy (Electricity) Act 2000 and the Trade Practices Act 1974, will allow for the establishment of a single national market operator for electricity and gas—the Australian Energy Market Operator. The bill also amends legislation to reflect a name change in Western Australian gas legislation. Whilst these may be minor changes to the legislation, they are an important reform for the energy sector. AEMO will assume the responsibilities and functions of existing gas and electricity market operators, including the National Electricity Market Management Co., NEMMCO.

Mr Acting Deputy President, don’t you just love all these acronyms!

The Australian Energy Market Operator, or AEMO, is anticipated to commence operation on 1 July 2009, and the coalition’s support for this legislation, we trust, will facilitate this commencement. These reforms will ensure more efficient investment in energy infrastructure. They will continue the process of promoting competitive energy markets and enable the commencement of a single national energy market operator for both the electricity and gas sectors.

The development of this bill has been overseen by the Ministerial Council on Energy, which was created in 2001, and stems from the reforms to the energy sector made by the Howard government. AEMO will assume the responsibilities and functions of existing gas and electricity market operators, including NEMMCO.

Having indicated our support for the bill, I put on record the opposition’s concerns more generally as they have been stated by our coalition shadow minister, the Hon. Ian Macfarlane. AEMO is taking on the transmission planning functions of the energy market. If AEMO identifies a need that is not commercially viable for the private sector to invest in, how do we prevent the public sector—that is, the Rudd Labor government—taking ownership or investment in energy infrastructure?

First, it is not appropriate for the Commonwealth, or any government for that matter, to own energy infrastructure; and, second, will the Rudd government rule out using the Building Australia Fund for energy infrastructure? To the casual observer these concerns about the Rudd government taking public ownership of energy infrastructure may sound spurious, but the reality is that the Prime Minister and the Treasurer—now known as ‘Doom and Gloom’—have been throwing money around of late, with no regard for the quality of spend or the future risks. We do not want this to be repeated in the area of energy infrastructure and will be relying on the Minister for Resources and Energy to hold the Rudd cabinet to account on this—as the minister knows what is right and what is wrong, as we saw with him blowing the cover off Fuelwatch. In short, despite our broader concerns about the poli-
cies of the Rudd government, we do support this bill. On behalf of the coalition, I commend it to the Senate.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (6.31 pm)—The Minister for Resources and Energy brought this bill to parliament with the support of colleagues from the Ministerial Council on Energy to continue our progress toward the creation of an efficient and effective national energy market. By passing the Australian Energy Market Amendment (AEMO and Other Measures) Bill 2009 the Senate will play an important role in facilitating the ministerial council’s cooperative approach to national energy reform. Lead legislation to be enacted in South Australia will see essential functions conferred on the Australian Energy Market Operator. The lead legislation will amend the national electricity law and the national gas law and will then be applied by all remaining jurisdictions, excluding the Northern Territory and Western Australia, through legislation known as the application acts.

AEMO will assume the functions carried out by the Gas Market Company in New South Wales, the National Electricity Market Management Company, the Victorian Energy Networks Corporation, the Gas Retail Market Operator in Queensland and the Retail Energy Market Company in South Australia. The AEMO legislation itself is currently the subject of a rigorous consultation process engaging all relevant stakeholders. The ministerial council’s AEMO Implementation Steering Committee has sought stakeholder comment and will be finalising the legislation in the near future, taking into account this input. The bill that the Senate is considering amends the Renewable Energy (Electricity) Act 2000 and the Trade Practices Act 1974 to replace references to the National Electricity Market Management Company Ltd with the Australian Energy Market Operator Ltd, AEMO. The bill also makes minor amendments to the Australian Energy Market Act 2004, the Administrative Decisions (Judicial Review) Act 1977 and the Trade Practices Act 1974 to ensure that those acts correctly reference Western Australian legislation which will apply to the Commonwealth’s offshore area, with Western Australia adopting elements of the national gas law.

In summary, passage of this bill, which makes minor technical amendments to Commonwealth legislation, will allow the smooth implementation of the cooperative energy reform agenda. This bill has the full support of our state and territory colleagues on the Ministerial Council on Energy and I commend it to the chamber.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

BUSINESS

Rearrangement

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (6.34 pm)—by leave—I move:

That consideration of government documents be called on immediately.

Question agreed to.

DOCUMENTS

Consideration

The government documents tabled earlier today and general business orders of the day Nos 59 to 76 relating to government documents were called on but no motion was moved.
ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Pacific Friends of the Global Fund to Fight AIDS, Tuberculosis and Malaria

Senator PAYNE (New South Wales) (6.37 pm)—I want to speak this evening about a newly formed organisation called the Pacific Friends of the Global Fund to Fight AIDS, Tuberculosis and Malaria. It is a very important new initiative in the fight against three terrible diseases which cause extraordinary suffering and very significant numbers of deaths in our region particularly, which is a matter of great interest to this organisation. I acknowledge that Senator McLucas, the Parliamentary Secretary to the Minister for Health and Ageing, was also present at the launch of the Pacific Friends in Sydney the week before last. It was a very impressive occasion.

Each year, the combined toll of HIV-AIDS, TB and malaria is around five million people worldwide. The poorest people in the poorest communities are the worst affected, and children in particular suffer as victims of disease or as the orphans left when their parents die. The statistics for each disease are beyond alarming. It is estimated that, in relation to HIV-AIDS, 33 million people worldwide are infected with HIV, 95 per cent of whom live in developing countries. In 2007, approximately 2½ million people were newly infected with the virus. In the same year, more than two million people died of AIDS related causes. Indeed, HIV-AIDS has killed more than 25 million people worldwide. AIDS is the leading cause of death in sub-Saharan Africa and the fourth-leading cause of death worldwide. Since just 2005, the number of women and girls infected with HIV has increased in every region of the world, with rates rising more rapidly in Eastern Europe, Asia and Latin America. In fact, women and girls account for 50 per cent of all people living with HIV worldwide and 61 per cent of HIV infections in sub-Saharan Africa. The estimated number of children living with HIV increased from 1½ million in 2001 to 2½ million in 2007. Almost 90 per cent of all HIV-positive children live in sub-Saharan Africa. Globally, over 15 million children under the age of 18 have lost one or both parents to AIDS. It is estimated that per capita growth in half of the countries in sub-Saharan Africa is falling by 0.5 per cent to 1.2 per cent each year as a direct result of the impact of AIDS.

In relation to TB, more than 2 billion people—that is, one third of the world’s population—are infected, over 90 per cent of them in developing countries. Globally, 1.7 million deaths from TB occurred in 2006. Due to a combination of economic decline, the breakdown of health systems, the insufficient application of TB control measures, the spread of HIV-AIDS and the emergence of multidrug-resistant TB, the rate of TB infection is not declining in many developing countries. Unfortunately, HIV and tuberculosis form an absolutely lethal combination, each speeding the other’s progress. In 2006, more than 700,000 people living with HIV were infected with TB and 200,000 HIV-positive people died from TB. In 2007, the African, South-East Asian and western Pacific regions accounted for 83 per cent of total TB cases. The vast majority of deaths are in the developing world, with more than half of all deaths occurring in Asia. More than 75 per cent of TB related disease and death occurs amongst relatively young people—those between the ages of 15 and 54—which is also the most economically active segment of the population. TB is consequently estimated to deplete the incomes of...
the world’s poorest communities by a total of US$12 billion.

Finally, the third disease which the global fund addresses is malaria. Each year, malaria causes nearly one million deaths, mostly among children under five years of age, and an additional 189 million to 327 million clinical cases, the majority of which occur in the world’s poorest countries. Almost half the world’s population—3.3 billion people—is at risk of malaria, and the proportion increases yearly due to deteriorating health systems, growing drug and insecticide resistance, climate change and, of course, war. In 2006, 86 per cent of malaria cases occurred in Africa. Each day, approximately 2,200 Africans die from malaria; 85 per cent are children under five years of age. Of those cases that occurred outside Africa, 80 per cent were in India, Sudan, Myanmar, Bangladesh, Indonesia, Papua New Guinea and Pakistan. It is rural and poor populations which carry the overwhelming burden of malaria, because access to effective treatment, which is so simple, is extremely limited. Malaria has been estimated to cost Africa more than US$12 billion every year in lost GDP, even though it could be controlled for a fraction of that sum.

The Global Fund to Fight AIDS, Tuberculosis and Malaria was established in 2002 as a unique, global public-private partnership dedicated to attracting and disbursing additional resources to prevent and treat HIV-AIDS, TB and malaria. It was developed after the action of the United Nations and, in particular, then Secretary-General Kofi Annan, who called for the creation of a global fund to channel additional resources to fight those three diseases. The UN General Assembly committed to it and, soon after, the G8 endorsed and helped finance it. It was launched in 2002, and the first round of grants was then approved to 36 countries. Since then, the global fund has become the main source of finance for programs to fight these three diseases. In fact, it has committed more than $15 billion in 140 countries for prevention, treatment and care programs. It is designed to be a new and better approach to international health funding. It is a partnership between governments, civil society, the private sector and affected communities. It works in close collaboration with other bilateral and multilateral organisations, supporting their work through substantially increased funding.

The fund is guided by seven important principles, which I would like to briefly enunciate: to operate as a financial instrument, not an implementing entity; to make available and leverage additional financial resources, as I have said; to support programs that actually evolve from national plans and priorities; to operate in a balanced manner in terms of different regions, diseases and interventions; to pursue an integrated and balanced approach to prevention and treatment; to evaluate proposals through independent review processes; and to operate with transparency and accountability. In all its work, the global fund seeks to ensure the effectiveness of its financial aid, modelled closely on the principles of the Paris declaration. These principles are helping the global fund to achieve its vision. It is a pretty simple vision, but a pretty compelling one: a vision of a world free of the burden of HIV-AIDS, TB and malaria.

As part of this collective effort of the global fund, a new initiative was launched on 23 February this year: the Pacific Friends of the Global Fund to Fight AIDS, Tuberculosis and Malaria. It is the seventh friends group of the global fund around the world. It is an advocacy organisation in its own way, founded to create awareness of the global fund and its work across the Pacific region. It aims to build very important political and financial support for the fund’s fight against
the three diseases, to mobilise regional awareness of the threat posed by these three pandemics to societies and, importantly, to economies in the region and to mobilise support for the global fund in its vital role resourcing effective country based plans to reduce the impact and spread of the diseases.

The global fund benefits very much from the work of the friends organisations, and this one hopefully will be no exception. It is chaired by Wendy McCarthy and includes amongst its number Andrew Forrest, the Rt Hon. Helen Clark, Professor Tony Cunningham from Westmead Hospital, the Hon. Michael Kirby, Dr Nafsiah Mboi from the Indonesia National AIDS Commission and Sir Peter Barter, the former health minister of Papua New Guinea, to name just a few. It is a group of very determined people who are committed to ensuring that it does an effective job in its advocacy. I am very honoured and very pleased to have been invited to join this group as one of the inaugural Pacific Friends of the Global Fund.

Senator McLucas—Congratulations.

Senator PAYNE—Thank you. It would not have been possible without the support of the Lowy Institute for International Policy or the Bill and Melinda Gates Foundation. The support of the foundation in particular is beyond invaluable; it is almost incalculable. The Pacific Friends is based at the Lowy Institute in Sydney. Its inaugural executive director is Bill Bowtell, known to many of us in this parliament. He is also the Director of the HIV-AIDS Project at the Lowy Institute.

I know Bill, I know his commitment and I know he will do an outstanding job. The work of the fund is in all of our interests and worthy of our strong support. It is a very important regional initiative and one of which I am delighted to be a part. I thank the inaugurators of the Pacific Friends of the Global Fund for that opportunity.

Senator FURNER (Queensland) (6.46 pm)—Six days following the Senate’s endorsement of the Rudd government’s Nation Building and Jobs Plan, I took the opportunity to accept an invitation from the General Manager of CSR Bradford, Anthony Tannous, to visit a new state-of-the-art business in Brendale in the north of Brisbane. The new factory opened its doors in January, operating with a small number of staff working Monday to Friday, 8 am to 4 pm each day. Following the announcement of the Energy Efficient Homes Package, the business is quickly gearing up to employ up to 70 staff and move to a 24-hour, seven-day operation. Clearly the component in the $42 billion stimulus package will generate local jobs in the community. In fact, in explanation on the subject of jobs, Mr Tannous claimed that the insulation industry prediction of 4,000 jobs may have been a serious underestimate. He went on to explain growth in installers, the company call centre, sales staff and transport operators as examples of where the job growth will occur.

The program will allow eligible Australian owner-occupiers to access and have installed for free insulation up to a cost of $1,600 from 1 July 2009 until 31 December 2011. Renters will also benefit from this scheme, with landlords entitled to a rebate of $1,000 per installation in their rental properties. Those who do not currently have insulation and organise for it to be installed before the date of the program’s commencement will be able to seek reimbursement from 1 July. Having never visited an insulation plant previously, I was amazed at the technology involved in making the product. The main hub of the factory is the furnace, which will operate 24 hours a day over the next six to eight years, melting recycled glass to make insulation rolls and batts.
During debate on the Nation Building and Jobs Plan legislation, those opposite, rather than develop an understanding of the benefits of this part of the package, continued with scepticism by the bucketload. In her contribution to the debate, one Queensland senator explained receiving an email suggesting that, if we were worried about energy efficiency for homes, better curtains would be a great starting point for many homes. This contribution reminded me of the sceptics of the daylight saving trials in Queensland many years ago. People worried about whether curtains would fade as a result of the extra sunlight. Sure, an additional supply of curtains would assist, but they must have pelmets to stop convective heat loss. I arranged for my office to conduct some detailed research in this area with the following findings. Andersons Window Furnishings were very helpful. For a three-bedroom, two-bathroom, family-and-dining-room home, they said they would charge from $15,000 to $20,000 for curtains and pelmets. They said pelmets were expensive and if we picked curtains with linings without pelmets it would bring the cost down to about $10,000. The second place contacted was Curtain Wonderland. They said pelmets cost about $150-plus a metre, with the fabric price on top of that for the curtains. The senator went on to describe how the construction supply industry should be introduced in an orderly and sensible way—there is no argument about that—so as not to encourage, in her words, 'every cowboy in town who went broke on the last fad to become an insulation installer'.

The government’s new guidelines will set strict registration and competency training requirements for new entrants into the industry, but they will not restrict job growth. Senator Fifield asked:

But how many Australian jobs are going to be created or saved by such a massive boost to a small industry?

He went on to hypothetically suggest:

What is likely to happen is this: a massive, unscheduled increase in demand for home insulation will see a major spike in the prices of home insulation. Some employees from other productive sectors of the economy will switch over to installing insulation in people’s homes. Once the government incentive stops or the installations are complete, the insulation sector will experience a massive contraction and a huge percentage of its workforce will be laid off.

We now know the industry has underestimated the 4,000-job growth in this area of the package alone. We are informed that the government expects that, once the economy has recovered, in the construction industry in particular there will be little, if any, impact in this area. Only six months ago, the construction industry was desperately short of labour due to 11½ years of a lack of training and job placements—neglect from the past government. Senator Williams in his contribution spoke generally about there being many people in Australia, especially in New South Wales and Queensland, who live in timbered homes. He went on to explain how Nancy, who has a small, two-bedroom timber home in Bingara near the Tamworth-Inverell area, where it gets extremely hot, a couple of years ago put batts in the ceiling and none in the walls. The senator went on to assert that, due to not having insulation in the walls, somehow the house is hotter, despite having insulation in the roof. I checked with the industry on this theory, and they explained that, although insulation in the walls would assist, the temperature would be worse in general without the insulation in the ceiling. Additionally, a home with an insulated roof lets less heat in than an uninsulated home, so there is less heat to remove.
Turning to the other advantages, there are copious benefits to the environment from installing insulation in dwellings. Insulation works as a barrier to heat transfer, helping to keep out unwanted heat in summer and preserving precious warmth inside the home in winter. It can also help soundproof the home from unwanted airborne noise transfer. Heating and cooling account for around 38 per cent of a typical home’s energy use. Installing ceiling insulation alone can save over 40 per cent of heating and cooling costs. Energy efficiency offers ongoing economic, environmental and social benefits—in particular through reduced energy bills, which effectively are equivalent to an ongoing tax cut. The ongoing savings in household energy bills provide a significant offset to rising energy costs and also reduce pressure on Australia’s seriously stretched energy supply system.

In residential homes alone, it is estimated that Australians are expelling over 70 million tonnes of greenhouse gases annually—an amount projected to increase each year. By installing R3.5 ceiling batts, an average uninsulated home will reduce its greenhouse gas emissions by around 850kgs every year. New energy generation capacity delivers direct and ongoing benefits to the environment in greenhouse gas savings. I am informed that, in general, installing ceiling insulation such as Bradford Gold batts allows a home to be 10 degrees warmer and stops up to 70 per cent of heat transfer, making winter a lot more comfortable. In summer, insulation keeps a home up to seven degrees cooler, making it easier and cheaper to maintain a regular and comfortable temperature. So there we have it: the economy and the environment being well balanced by this government. All the facts need to be examined before the sceptics go about their salvo of fanciful comments on this part of the Rudd government’s Nation Building and Jobs Plan.

**Trade Training Centres in Schools Program**

**Senator RONALDSON** (Victoria) (6.54 pm)—I want to speak tonight about a matter of great concern in the Geelong region. It involves two members from the other place, Mr Marles and, in particular, Mr Darren Cheeseman, the so-called member for Corangamite. I will provide a quick potted history because I have a short period of time tonight. On 4 September 2007 the Prime Minister and Ms Gillard made a lightning visit to the Oberon High School in Belmont, promising $600 million for secondary schools in Victoria to build trade training centres. I note this was the only visit to Corangamite by the now Prime Minister. It is reported in the *Geelong Advertiser* that as a result of this visit:

> The leaders were also thanked by the Corangamite candidate Darren Cheeseman and Corio candidate Richard Marles.

> “For us this is practical business, it’s core business. It’s the education business, it’s the training business. And it’s very good also to be able to partner with school communities like this one at Oberon to make sure each young person can realise their potential.”

There is no potential being realised down there as a result of the complete inactivity of the member for Corangamite, Mr Cheeseman, and the member for Corio, Mr Marles.

On 15 July 2008, Minister Gillard announced successful schools for phase 1 of round 1 of the Trade Training Centres in Schools Program. According to the official documentation, no schools in Corio or Corangamite received funding for this program. However, on 18 July in the *Geelong Advertiser* it was reported that five Geelong and Bellarine Peninsula schools had together successfully applied for a trade training facility at one of their campuses. It was reported:
It was not yet known how much money … will be granted.

That was fascinating, because at the same time the member for Corangamite, Mr Cheeseman, was complaining that people had not put in for this particular program. But, rather than doing something about it, Mr Cheeseman chose to have a whack at the regional education authorities in Geelong and blame them for not doing the work to make sure that the schools were applying. He was given a lesson in politics by the senior education officer with the state education department in the Geelong region, Peter Brain. He said:

We don’t apply, a cluster of schools applies to the Federal Government directly, and each year the Federal Government will approve which ones get up and which ones don’t …

So it was nothing to do with the state education department and nothing to do with the regional office but, again, everything to do with Mr Cheeseman, the boy wonder from Geelong, who has been an absolute failure as a member, again blaming someone else for his own inadequacies. Then we get to an op ed in the Geelong Advertiser on 23 July, again from Mr Cheeseman. It starts off:

THEY wouldn’t have a clue, mate.

Please excuse the stereotype. But I’m sure a lot of tradies in our region reading the news, fully aware of the chronic trade skills shortage, must be eating their pie, shaking their heads, and saying ‘They wouldn’t have a clue, mate.’

Later on in this article he says:

It’s time to get on with it and boost our trade school training capacity in this region.

Let’s give the next generation of kids a chance to buy a more affordable home, to get a trade behind them and work locally if they want.

At the same time, he was talking about this huge project at Armstrong Creek which was going to require tradies. Funnily enough, it actually did not get up under the Housing Affordability Fund. And what did Mr Cheeseman do? He blamed everyone—everyone except the very person who should have taken some ownership of this, the great buck-passer from the Geelong region himself, the member for Corangamite. In a newsletter in September 2008 the member for Corangamite was at it again, talking about:

… the $2.5 billion Trade Training Centres In Schools Program and Skilling Australia … which will deliver an additional 630,000 training places over the next 5 years.

At it again: talking the talk but not walking the walk. I go on to 12 February and again a report in the Geelong Advertiser. The report said that the Australian technical college at Geelong was going to be rolled into the Gordon Institute of TAFE. So they were closing down the Australian technical college and rolling it into the Gordon institute. It said:

It’s understood teaching staff will keep their positions but that some administrative staff will lose their jobs.

Well, lo and behold, a letter to the editor on Monday, 16 February, from the wife of one of these teachers, said:

I am writing in regards to the closure of the Australian Technical College in Geelong.

The college was originally started by the then Liberal Government when in power and since the change of government, the college is now about to close.

Many of the current teachers, my husband being one of them, have moved to the area under the incentive of a two year contract until December—I think it says 2010; I can’t quite read this photocopy. It continued:

This has been terminated.

So the teaching staff have been terminated. This is all about the Australian Labor Party’s hatred of a very successful program: the Australian technical colleges program. That is
not just from me. The member for Corio, Mr Marles, said:

While the Government focus in trade training will be through the $2.5 billion trade training centres in schools program, the Geelong Technical College has worked well, particularly with industry. We want to preserve what they have achieved …

Preserve it? They are getting rid of it, because they do not like the notion of success. They do not like the notion of the Australian technical college in Geelong working, so they have completely disregarded the views of the students, the teachers and others. While we are on that subject, there was also a quote from some students at this college, who said:

We’ve made such a good connection with the teachers, our understanding is that everyone’s getting sacked and whoever the Gordon—
as in the Gordon Institute of TAFE—wants back they re-hire …

Mr Marles could not be contacted to comment on this. But again there is the banging on about this $2.6 billion program. The trouble with the $2.6 billion program is that none of it has gone to Corio or Corangamite—not one red cent of it. So we have all the talking the talk in relation to it but not one place delivered. Mr Cheeseman is happy for the ATC in Geelong to be culled, taken out and all the teachers sacked, and apparently rolled into the Gordon institute, but there is not one place. Where is this man when it comes to standing up for Corangamite? What a disgrace. He was elected a year and a half ago and he has done nothing. It is a pitiful record for a new member of parliament. I also note the comment of the Chairman of the ATC, Mr Michael O’Brien, in the Geelong Advertiser online version. He said:

We have been regularly advised the Geelong Australian Technical College has been among the best in Australia. This success has largely been due to the contribution of the staff and huge support and interest from industry partners …

That is what this is all about. This is about partnerships. That is why the ATCs have worked so well. That is why the 260 young people who had gone through the Geelong ATC thought it was such a success.

Then on 5 March, last week, it is revealed that the ‘education revolution’ has completely bypassed Geelong, with no schools receiving funding under round 1, phase 2, of the Trade Training Centres in Schools Program. It also now turns out that the cluster that apparently had been given funding has been unsuccessful. So it was reported that they had got it and now it has been reported that they have not got it. This is a huge slap in the face for Geelong. It is another example of the total inadequacy of the member for Corangamite, and quite frankly it is about time we had someone there who was prepared to stand up for the people of Corangamite and not someone who constantly buck-passes responsibility to other people. (Time expired)

**Australia Day Honours**

**Mr Raymond Gordon Baldwin**

Senator McEWEN (South Australia) (7.04 pm)—I would like to belatedly extend my congratulations to all those Australians who were recognised for their contributions to our nation in this year’s Australia Day Honours. I would also like to place on record my appreciation to the people recognised by those awards, who in some way or another have demonstrated courage, selflessness, dedication and service to their community. As the Prime Minister said at the Australian of the Year Awards this year:

These are great Australian values and you see them writ large in Australian heroes past, Australian heroes today and those of tomorrow.

I would also like to acknowledge our Australian of the Year 2009, Professor Mick
Dodson AM, a tireless campaigner for justice for our Indigenous Australians and a fearless critic of governments—a truly worthy recipient of the accolade he received.

Tonight I would like to take some time, however, to acknowledge and congratulate one particular recipient of the medal of the Order of Australia this year, a man who has definitely demonstrated those Australian traits of courage and service. Mr Raymond Gordon Baldwin, of Glenelg in South Australia, was honoured for his service to veterans and their families through a range of roles with the 2nd/27th Battalion Ex-servicemen’s Association. The 2nd/27th, which was also my father’s battalion, served during the Second World War. At the conclusion of the war Ray Baldwin went on to become involved further with the Australian Army and he also became editor of the 2nd/27th Battalion’s journal, the Brown and Blue Diamond, so named for the battalion’s insignia. In his role of editor Ray Baldwin became the constant link between the battalion’s past and future, maintaining the lines of communication between all those who fought with the 2nd/27th Battalion and also a contact point for their families.

The 2nd/27th was uniquely South Australian. It was a battalion which served Australia with esteem and pride. The battalion’s headquarters opened for the first time in May 1940 in the Adelaide Hills town of Woodside. All of its founding members were from South Australia. After five months, the battalion—Ray included—left Woodside for Melbourne, bound overseas for Egypt via India. The soldiers’ training was completed in Palestine, before their first operational assignment bolstering defences along the Egypt-Libya frontier against an unexpected German attack. The battalion’s first offensive operation—the invasion of Syria and Lebanon—began on 8 June 1941. In Syria, at only 19 years of age, Ray was amongst others who had their first experiences of fighting at close quarters when the battalion took part in the coastal advance against French forces, including the French Foreign Legion. After that campaign, for which they later received recognition, the battalion remained in Syria on garrison duties until early 1942, when they left to take part in the war against Japan in the Pacific.

Some of the hardest and most costly battles of World War II were to be fought against the Japanese in Papua New Guinea between 1942 and 1943. Fighting in perilous conditions along the Kokoda Track, the battalion suffered heavy casualties due to the strength of the Japanese forces. Ray was one of the injured, severely concussed and wounded by shrapnel from hand grenades. But, not letting the injuries deter him, Ray left the hospital he had been evacuated to as soon as he could walk again and returned to join his unit fighting the assaults on the well-prepared Japanese positions at Gona. This is a story we hear time and again in the histories of World War II and especially the war in PNG: a story of men who were injured but who soon afterwards and with minimal recovery time returned to battle to support their fellow service personnel. Of course, many of them were not lucky enough to survive to return to the battlefront. Official figures say that the 2nd/27th Battalion landed at Port Moresby in August 1942 with some 34 officers and 743 other ranks. The battalion returned home to Australia early in 1943 after the recovery and burial of the Australian and Japanese dead with only three officers and 87 other ranks. With only relatively minor injuries, Ray Baldwin was one of the lucky ones.

Ray was discharged from the 2nd/27th in November 1945 but not before returning to predominantly patrol-only campaigns in Papua New Guinea and Borneo between 1943 and 1945. Following his discharge, Ray
was restless and struggled to return to a regular civilian lifestyle, finding it hard to work in the confined office space required of his glass trade. His trade, however, did enable him to join a special group, the German and Italian Voyage Guard. Once again he set off, accompanying the German and Italian prisoners of war from their camps in Australia back to their home countries, travelling to England, Scotland, Japan and elsewhere on the way. It must have been the beginning of Ray’s subsequent love of travel.

In 1948, Ray enlisted in the Australian Regular Army as a training officer. He spent the next 20 years in various postings, training cadets, national servicemen and soldiers embarking on overseas trips. He fought in yet another war as part of the Malaya-Borneo campaign in the early 1960s, before being placed in charge of the Mount Gambier depot of the 27th Battalion RSAR. The last few years of his duty was served with the Adelaide university regiment, before he was finally discharged in December 1970. From the Army, Ray went on to play a vital role within the South Australian education department as an attendance officer in the northern region. His work with young offenders gained him much respect and admiration amongst the community as he demonstrated an extensive knowledge and experience of youth, understanding their different individual personalities and needs. Ray’s work mentoring, educating and guiding resulted in many of these young people becoming valued members of their community.

After a final retirement from working life in 1980, Ray selflessly accepted the position of editor for the 2nd/27th Battalion AIF Ex-Servicemen’s Association Journal. The first journal had been published in 1948 as a way of keeping all the close-knit former members of the unit informed of people’s movements and news updates—and in later years of members who became deceased. It also announced wedding anniversaries and birthdays. The journal was described as the life-blood of the ex-servicemen’s association. Ray, who was editor for more than 20 years, was described as its heart and soul. Origin-ally using an old portable typewriter to compose the journal, Ray went on to learn how to use a computer to help improve the journal. He spent hours going through mail and arranging it in an appealing and informative fashion and finding interesting facts to incorporate into the journal. He also had a great liking for jokes and they would often turn up in the journal to entertain its readers. Importantly, Ray Baldwin showed a devotion to the association that was unwavering.

Anzac Day 2008 was the final reunion of the 2nd/27th Battalion AIF Ex-Servicemen’s Association, as the association had to be wound down due to dwindling numbers. It was also the year the final edition of the Brown and Blue Diamond was published. The final battalion association farewell was held in Adelaide. I was fortunate enough to attend and witness this chapter of our wartime history come to a close. A message of thanks from the Prime Minister, Kevin Rudd, to the battalion was relayed to the battalion members and their families by me. It was an apt tribute to commemorate those ordinary citizens who made extraordinary efforts and who suffered unbelievable hardships, too many of whom died to help make us what we are today as a nation.

In a move of sincerity and kindness, the battalion association donated the last of its funds to a school in Efogi in Papua New Guinea, a place well known to anyone who has walked the Kokoda Track and just alongside where one of the battalion’s major battles was fought. The people of Efogi assisted the Australian troops during the war and the association felt it befitting to in some way try and return the favour. The funds contributed to new school desks and essential school
needs, and a plaque has been erected on wall of the school to offer eternal memories and thanks to the people of Efogi. Speaking in a local newspaper after receiving his OAM, Ray Baldwin said that he was surprised but pleased to receive the award. He said, ‘I felt a great sense of pride and satisfaction’. I would like to again congratulate Ray Baldwin, enlistment No. SX2905, and thank him for his hard work and determination to continue the legacy of the 2nd/27th Battalion.

**Senate adjourned at 7.15 pm**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:


*Department of Finance and Deregulation—Office of Evaluation and Audit (Indigenous Programs)—Performance audit of Centre-corp Aboriginal Investment Corporation Pty Ltd, November 2008.*


*Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 492/08 to 508/09—Commonwealth Ombudsman’s reports—Corrigenda.*


**Tabling**

The following documents were tabled by the Clerk:

*[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]*

*Commonwealth Inscribed Stock Act—Declaration of special circumstances which justify an increase in the amount of Commonwealth Government Securities on issue, dated 10 March 2009.*

*Directions relating to Commonwealth borrowing, dated—15 December 2008.*

*11 March 2009.*

*Directions relating to Commonwealth borrowing, securities lending and the investment of public money 2009, dated 3 February 2009.*

*Currency Act—Currency (Royal Australian Mint) Determination 2009 (No. 1) [F2009L00842]*.

*Customs Act—Tariff Concession Orders—0812759 [F2009L00599]*.

*0823068 [F2009L00603]*.

*0823069 [F2009L00669]*.

*0823747 [F2009L00667]*.

*0823798 [F2009L00670]*.

*0824440 [F2009L00598]*.

*0825007 [F2009L00602]*.

*0825247 [F2009L00414]*.

*0825280 [F2009L00597]*.

*0825353 [F2009L00600]*.

*0825386 [F2009L00412]*.

*0825423 [F2009L00688]*.

*0826064 [F2009L00665]*.

*0826091 [F2009L00399]*.

*0826127 [F2009L00664]*.

*0826221 [F2009L00601]*.

*0826244 [F2009L00663]*.

*0826255 [F2009L00405]*.

*0827147 [F2009L00817]*.

*0827738 [F2009L00338]*.

*0827796 [F2009L00342]*.

*0827797 [F2009L00341]*.

*0827990 [F2009L00340]*.

*0828028 [F2009L00339]*.

*0828206 [F2009L00334]*.

*0828209 [F2009L00335]*.

*0828344 [F2009L00560]*.
Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2008—Statements of compliance—

Environment, Water, Heritage and the Arts portfolio agencies.
Workplace Authority.
The following answers to questions were circulated:

**Beijing Olympic Games**
*(Question Nos 652, 653, 654, 680 and 685)*

Senator Minchin asked the Minister representing the Minister for Education, the Minister representing the Minister for Employment and Workplace Relations, the Minister representing the Minister for Social Inclusion, the Minister representing the Minister for Employment Participation and the Minister representing the Minister for Youth, upon notice, on 25 August 2008:

1. Did the Minister or Parliamentary Secretary within the Minister’s portfolio attend any event at the Beijing Olympic Games; if so, which events did the Minister/Parliamentary Secretary attend.
2. Was the Minister/Parliamentary Secretary accompanied by: (a) family; (b) personal staff; and (c) departmental officials; if so, how many.
3. Did any officials from the department attend the Beijing Olympic Games in their capacity as an employee of the Australian Government; if so, how many and in what capacity did they attend.
4. In regard to the attendance by the Minister/Parliamentary Secretary and/or departmental officials at the Beijing Olympic Games, what was the total cost of: (a) travel; (b) accommodation; and (c) any other expenses.

Senator Carr—The answer to the honourable senator’s question is as follows: No Minister, Parliamentary Secretary or departmental official representing the Education, Employment and Workplace Relations Portfolio attended the Beijing Olympic Games.

**Proposed Pulp Mill** *(Question No. 767)*

Senator Milne asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 7 November 2008:

1. Were any of the hydrodynamic modelling reports, including addendums, and any additional modelling reports prepared by consultants on behalf of Gunns Limited for the pulp mill at Long Reach in Tasmania, peer reviewed by any: (a) specialists within the department; if so: (i) by whom, and (ii) what were their findings, conclusions, and/or recommendations; and (b) third parties; if so: (i) by whom, and (ii) what were their findings, conclusions, and/or recommendations.
2. Did any of the hydrodynamic modelling reports including addendums and any additional modelling reports prepared by consultants on behalf of Gunns Limited for the pulp mill at Long Reach contain any assumptions; if so, what was each assumption.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

1. (a) Yes.
   (i) The Environment Quality Branch of the Department prepared a document entitled Review of the Marine Impact Assessment of effluent from the proposed Bell Bay Pulp Mill.
(b) Yes.

(i) Modeling of the behaviour of the effluent in the marine environment, carried out on behalf of Gunns by GHD (Tasmanian Draft Integrated Impact Statement, Vol 18, Appendix 63), was reviewed for the Department by Patterson Britton and Partners (Patterson Britton, 2007) and BMT WBM (2007).

A report provided by Dr Stuart Godfrey (August 2007) describing perceived inadequacies of the hydrodynamic modeling performed for the Gunns pulp mill assessment was provided to the Department as a submission to the assessment process. This report was reviewed for the Department by BMT WBM (August 2007).

These documents were also subject to further third party review by the then Chief Scientist of Australia and a panel of eminent Australian experts appointed to assist him with his review. The then Minister for the Environment asked the Chief Scientist to review the draft decision and conditions associated with the proposal, included in the Department’s Recommendation Report, and to provide his opinion of the likelihood of significant impacts on the three areas of Commonwealth responsibility: listed threatened species and communities; listed migratory species; and the Commonwealth marine environment. The modelling of the pollutants that were proposed to be emitted to the ocean, their distribution and fate, were important aspects of this review. For this reason the panel of experts included: Dr Graeme Batley, Co-Director of the CSIRO Centre for Environmental Contaminants Research; Dr John Parslow, Leader of the CSIRO Coastal Environmental Modelling Team; and Dr Mike Herzfeld, Coastal Environmental Modeller, CSIRO Marine and Atmospheric Research; experts in hydrodynamic modelling and related chemical fate modelling.

(ii) All of these documents present conclusions and can be consulted at the Department’s website: http://www.environment.gov.au/epbc/notices/assessments/2007/3385/documents.html

(2) All modelling of complex phenomena of necessity involves the adoption of assumptions. The assumptions used are described and discussed in the material itself, which is available on the above website.

Finance and Deregulation: Media Monitoring
(Question No. 902)

Senator Ronaldson asked the Special Minister of State, upon notice, on 24 November 2008:

What is the aggregate amount spent by the department on media monitoring during the 2008 calendar year.

Senator Faulkner—The answer to the honourable senator’s question is as follows:

Please refer to the response to QON 907 asked of the Minister representing the Minister for Finance and Deregulation.

Finance and Deregulation: Media Monitoring
(Question No. 907)

Senator Ronaldson asked the Minister representing the Minister for Finance and Deregulation, upon notice, on 24 November 2008:

What is the aggregate amount spent by the department on media monitoring during the 2008 calendar year.
Senator Sherry—The Minister for Finance and Deregulation has supplied the following answer to the honourable senator’s question:

The Department of Finance and Deregulation spent a total of $161,746.75 on Media Monitoring from 1 January 2008 to 24 November 2008.

Families, Housing, Community Services and Indigenous Affairs: Consultancies
(Question No. 929)

Senator Ronaldson asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 24 November 2008:

For the 2008 calendar year, can details be provided of the start date, duration, cost and nature (direct source or open source) of tender for each individual consultancy contract with the department dealing with: (a) media relations; (b) public relations; (c) public events management; (d) communications; and (e) communications strategy.

Senator Chris Evans—The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

For the 2008 calendar year, as at 11 December 2008, FaHCSIA had not undertaken any tenders (direct or open source) for individual consultancy contracts for (a) media relations; (b) public relations; (c) public events management; (d) communications; or (e) communications strategy.

Proposed Pulp Mill
(Question No. 1044)

Senator Milne asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 28 November 2008:

What is the approved level of chlorinated dioxins and furans, in kilograms, that will be discharged into the Tamar River by the proposed Gunns Limited pulp mill on each day of operation.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

No dioxins and furans will be discharged into the Tamar River. Effluent from the Gunns pulp mill will be piped north from the mill site on the Tamar River at Bell Bay to Bass Strait in accordance with the approval granted by the former Minister.

Condition 32 of the Gunns pulp mill EPBC Act approval provides that the monthly maximum limit for dioxins and furans in effluent discharged from the mill is 3.4pg (picogram) TEQ/L (toxic equivalent per litre).

Infrastructure, Transport, Regional Development and Local Government: Program Funding
(Question No. 1065)

Senator Abetz asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 3 December 2008:

(1) Given that spending on individual programs is not reported in either the budget papers or annual reports, did any programs in the Minister’s portfolio: (a) have underspends for the 2007-08 financial year; if so, for each underspend: (i) in what program did it fall, (ii) how much was the underspend, and (iii) what was the reason for the underspend; and (b) have overspends for the 2007-08 financial year; if so, for each overspend: (i) in what program did it fall, (ii) how much was the overspend, and (iii) what was the reason for the overspend.
(2) Will any agencies and/or departments in the Minister’s portfolio return money in the 2008-09 Budget as a result of underspends in the 2007-08 financial year; if so, how much.

Senator Conroy—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

(1) Details of financial performance of programs administered by the Department of Infrastructure, Transport, Regional Development and Local Government are available in the Department’s 2007-08 Annual Report. Other agencies within the portfolio do not have administered programs.

(2) Appropriations for administered programs automatically lapse at 30 June unless a movement of funds has been agreed by the Minister for Finance and Deregulation. Details of programs subject to movement of funds are available in the Department’s 2008-09 Portfolio Additional Estimates Statements.

Tasmanian Wilderness World Heritage Area
(Question No. 1173)

Senator Bob Brown asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 16 December 2008:

(1) Are there any restrictions or conditions on who is responsible for spending the Indigenous component of the funding for the Tasmanian Wilderness World Heritage Area (TWWHA).

(2) Does the Federal Government monitor the Tasmanian State Government’s expenditure of the Indigenous component of the funding.

(3) What measures are in place to ensure local Aboriginal groups are involved in the expenditure of the Indigenous component of funding for the TWWHA.

(4) What recourse do local Aboriginal groups have if they feel the Tasmanian Government is misusing funding earmarked for the Indigenous components of the TWWHA.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(1) The conditions on who is responsible for spending the Indigenous component of the funding for the Tasmanian Wilderness World Heritage Area (TWWHA) are agreed in contractual arrangements between the Australian and Tasmanian Governments.

(2) The Tasmanian Government must report all expenditure under the contract with the Australian Government and provide an independently audited acquittal statement. In 2007-08 the Tasmanian Government reported that all TWWHA funding, including the Indigenous component, had been expended in accordance with the contract.

(3) The local Aboriginal community has membership on the TWWHA Consultative Committee. The TWWHA Consultative Committee, which provides advice to the Tasmanian and State Governments, is consulted on the annual work plan for the TWWHA.

The local Aboriginal community can also apply for funding for projects in the TWWHA under the Australian Government’s Indigenous Heritage Program.

(4) Local Aboriginal Groups can raise their concerns directly with the Australian and / or Tasmanian Governments. In addition the Local Aboriginal Groups representative on the TWWHA Consultative Committee can raise the matter during meetings of the Committee.
Tibet
(Question No. 1272)

Senator Bob Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 4 February 2009:

(1) What information does the Government have on China’s ‘strike hard’ crackdown in Tibet.
(2) Is it true that 600 members of the armed police have apprehended 6 000 people and questioning is aimed at arresting people who may have been involved in the freedom riots on 18 March 2008.
(3) Are guest houses required to report to police on any Australian guests; if so, why.
(4) Have peaceful human rights advocates been arrested.
(5) Are mobile phones being checked for songs or other material that favours Tibetan political or religious freedom.
(6) What action has the Government taken in response to this repressive action in Tibet.

Senator Faulkner—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

(1) Chinese official media have confirmed the existence of the “strike hard” campaign by security officials in Lhasa, which reportedly began on 18 January 2009.
(2) The Tibetan “Government in Exile” in Dharamsala has claimed that 5766 people were detained; Chinese official media has referred to only 18 arrests although it appears many thousands were “investigated”.
(3) We note that, in accordance with existing regulations, all Chinese hotels are required to report to police the presence of foreign guests. Foreigners staying in private homes anywhere in China are required to register their presence with the local police station.
(4) We are not aware of any peaceful human rights advocates being arrested during the current crackdown.
(5) We are aware of reports of police checking Tibetans’ mobile phones for music deemed “reactionary”.
(6) The Australian Government expressed its concern about the human rights situation in Tibet most recently during the Australia-China Human Rights Dialogue, which took place in Canberra on 9 and 10 February 2009.

Agriculture, Fisheries and Forestry: Moncrieff Electorate
(Question No. 1281)

Senator Mason asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 5 February 2009:

With reference to the Government’s funding of organisations and projects between 3 December 2007 and 20 January 2009: (a) which organisations and projects within the Moncrieff electorate received funding from the department; (b) how much funding did each organisation or project receive; and (c) for what purpose was each funding commitment made.

Senator Sherry—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
QUESTIONS ON NOTICE

(a) Organisation | (b) Funding received | (c) Purpose
Gold Coast Racing Club | $45,000.00 | Equine Influenza grant - Non Government, Not for Profit Equestrian Organisation Grant - The grants are for organisations that have provided assistance and services over and above normal activities during the outbreak of Equine Influenza in Australia and have incurred additional costs.

Resources, Energy and Tourism: Moncrieff Electorate
(Question No. 1284)

Senator Mason asked the Minister representing the Minister for Tourism, upon notice, on 5 February 2009:
With reference to the Government’s funding of organisations and projects between 3 December 2007 and 20 January 2009: (a) which organisations and projects within the Moncrieff electorate received funding from the department’s Tourism Branch; (b) how much funding did each organisation or project receive; and (c) for what purpose was each funding commitment made.

Senator Sherry—The Minister for Tourism has provided the following answer to the honourable senator’s question:
Funding has been provided through the Australian Tourism Development Program for one project in the electorate of Moncrieff. Relevant details are provided below. (Note: The Head Office of the organisation delivering the project is located in Melbourne.)
(a) Draculas Pty Ltd, Dracula’s Haunted House - Interactive Walk Through Attraction
(b) A final payment of $11,000 (including GST) was made during the period.
(c) ATDP funds were used towards carpentry, electrical, plumbing and pneumatic systems for the interactive walk-through.

Resources, Energy and Tourism: Moncrieff Electorate
(Question No. 1286)

Senator Mason asked the Minister representing the Minister for Resources and Energy, upon notice, on 5 February 2009:
With reference to the Government’s funding of organisations and projects between 3 December 2007 and 20 January 2009:
(a) which organisations and projects within the Moncrieff electorate received funding from the department’s Resources and Energy branches; (b) how much funding did each organisation or project receive; and (c) for what purpose was each funding commitment made.

Senator Carr—The Minister for Resources and Energy has provided the following answer to the honourable senator’s question:
(a) There are customers under the Ethanol Distribution Grants program located in the Moncrieff Electorate. The Ethanol Distribution Program (EDP) is an eligibility-based grants program targeting retail service stations. It provides a grant of up to $10,000 to reduce the infrastructure cost to enable a service station to supply 10 per cent ethanol blended petrol (E10) and a grant of up to $10,000 to reward increased E10 sales at that service station. The following table outlines:
• which organisations have received funding;
• how much they received; and
• for what purpose was each funding commitment made.
Wednesday, 11 March 2009

Applicant Name | Location Name | Suburb       | Amount received | Purpose of funding
--- | --- | --- | --- | ---
Caltex Australia Petroleum Pty Ltd | Caltex Worongary | Worongary | $10,000.00 | Infrastructure Upgrade
Caltex Australia Petroleum Pty Ltd | Caltex Worongary | Worongary | $5,000.00 | Sales Target
7-Eleven Stores Pty Ltd | 7-Eleven Ashmore | Ashmore | $6,160.93 | Infrastructure Upgrade
7-Eleven Stores Pty Ltd | 7-Eleven Ashmore | Ashmore | $10,000.00 | Sales Target
Caltex Australia Petroleum Pty Ltd | Caltex Southport | Southport | $10,000.00 | Infrastructure Upgrade
BP Australia Pty Ltd | BP Benowa | Benowa | $7,197.38 | Infrastructure Upgrade
BP Australia Pty Ltd | BP Benowa | Benowa | $10,000.00 | Sales Target
The Shell Company of Australia Limited | Coles Express Bundall | Bundall | $5,000.00 | Sales Target
7-Eleven Stores Pty Ltd | 7-Eleven Mermaid Waters | Mermaid Waters | $6,160.93 | Infrastructure Upgrade
7-Eleven Stores Pty Ltd | 7-Eleven Mermaid Waters | Mermaid Waters | $10,000.00 | Sales Target
Brian’s Auto Centre Pty Ltd | Brian’s Auto Centre Miami | Miami | $10,000.00 | Sales Target
The Shell Company of Australia Limited | Coles Express Miami | Miami | $10,000.00 | Sales Target

(b) See answer to part a)
(c) See answer to part a)

Exceptional Circumstances Relief Payment
(Question No. 1289)

Senator Cormann asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 6 February 2009:
Can a breakdown be provided, by state and territory, of how many farmers are receiving the exceptional circumstances drought assistance as at 5 February 2009.

Senator Sherry—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
Uptake of the Exceptional Circumstances Relief Payment for the 5 February 2009 is not available until mid March. As at 31 January, there were 19,361 farm families in receipt of the Exceptional Circumstances Relief Payment. A breakdown by state is provided in the table below.
State breakdown of the number of farm families in receipt of the Exceptional Circumstances Relief Payment at 31 January 2009

<table>
<thead>
<tr>
<th>State or Territory</th>
<th>Number of Farmers</th>
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<tbody>
<tr>
<td>NSW/ACT</td>
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<tr>
<td>WA</td>
<td>237</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
Black Spot Program
(Question No. 1290)

Senator Cormann asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 6 February 2009:

(1) With reference to the projects selected for Black Spot Program funding since November 2007: (a) what is the location of each project, by state and territory; and (b) how much funding has been allocated to each project.

(2) Of the 350 additional Black Spot Program projects announced on 4 February 2009, how will funding be allocated.

Senator Conroy—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

(1) These details can be found on www.auslink.gov.au

(2) States and Territories have a set annual allocation under the Black Spot Program. The additional funding announced on 4 February 2009 will be allocated in accordance with these annual allocations.