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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

Temporary Chairs of Committees—Senators Guy Barnett, Cory Bernardi,
Thomas Mark Bishop, Carol Louise Brown, Patricia Margaret Crossin,
Michael George Forshaw, Gary John Joseph Humphries, Annette Kay Hurley,
Stephen Patrick Hutchins, Gavin Mark Marshall, Julian John James McGauran,
Claire Mary Moore, Stephen Shane Parry, Hon. Judith Mary Troeth and Russell Brunell Trood

Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans

Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy

Leader of the Opposition in the Senate—Senator Hon. Nicholas Hugh Minchin

Deputy Leader of the Opposition in the Senate—Senator Hon. Eric Abetz

Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig

Manager of Opposition Business in the Senate—Senator 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
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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) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Christopher Martin Ellison, resigned.
(4) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

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

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

Prime Minister
Hon. Kevin Rudd, MP

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

Treasurer
Hon. Wayne Swan MP

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

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

Minister for Finance and Deregulation
Hon. Lindsay Tanner MP

Minister for Trade
Hon. Simon Crean MP

Minister for Foreign Affairs
Hon. Stephen Smith MP

Minister for Defence
Hon. Joel Fitzgibbon MP

Minister for Health and Ageing
Hon. Nicola Roxon MP

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

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

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

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

Minister for Climate Change and Water
Senator Hon. Penny Wong

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

Attorney-General
Hon. Robert McClelland MP

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

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

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

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

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

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

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

Shadow Assistant Treasurer
The Hon Tony Smith MP

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

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

Shadow Minister for Housing and Local Government
Mr Scott Morrison

Shadow Minister for Ageing
Mrs Margaret May MP

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

Shadow Minister for Veterans’ Affairs
Mrs Louise Markus MP

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

Shadow Minister for Justice and Customs
The Hon Sussan Ley MP

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

Shadow Parliamentary Secretary for Northern Australia
Senator the Hon Ian Macdonald

Shadow Parliamentary Secretary for Roads and Transport
Mr Don Randall MP

Shadow Parliamentary Secretary for Regional Development
Mr John Forrest MP

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

Shadow Parliamentary Secretary for Energy and Resources
Mr Barry Haase MP

Shadow Parliamentary Secretary for Disabilities, Carers and the Voluntary Sector
Senator Mitch Fifield

Shadow Parliamentary Secretary for Water Resources and Conservation
Mr Mark Coulton MP

Shadow Parliamentary Secretary for Health Administration
Senator Mathias Cormann

Shadow Parliamentary Secretary for Defence
The Hon Peter Lindsay MP

Shadow Parliamentary Secretary for Education
Senator the Hon Brett Mason

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

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

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

COMMITTEES

Legal and Constitutional Affairs Committee

Meeting

Senator O’BRIEN (Tasmania) (9.31 am)—by leave—At the request of the Chair of the 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.

Question agreed to.

MIGRATION AMENDMENT (ABOLISHING DETENTION DEBT) BILL 2009

First Reading

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.31 am)—I move:

That the following bill be introduced: a Bill for an Act to amend the law relating to migration, and for other purposes.

Question agreed to.

Senator LUDWIG—I present the bill and 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 LUDWIG (Queensland—Manager of Government Business in the Senate) (9.32 am)—I table the 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—

MIGRATION AMENDMENT (ABOLISHING DETENTION DEBT) BILL 2009

The Migration Amendment (Abolishing Detention Debt) Bill 2009 amends the Migration Act 1958 (the “Act”) to remove the liability for detention and related costs for certain persons, and liable third parties, and extinguishes all outstanding immigration detention debts.

The Rudd Government is committed to establishing a fairer, more humane and effective system of immigration detention. This bill represents the first legislative step in the Government’s reform of immigration detention. Further reforms, to give legislative effect to the Government’s New Directions in Detention policy announced in July last year, will be introduced in coming months.

The Government considers that fair and effective immigration detention policies and strong border security measures are not incompatible. This bill reflects that conviction: striking an appropriate balance by abolishing an ineffective system that penalises former detainees with enormous debt burdens, while ensuring that liability for detention costs remains a deterrent in relation to convicted illegal foreign fishers and people smugglers.

This bill contains four key measures to reform the system of detention debt.

The bill will, firstly, repeal provisions in Division 10 of Part 2 of the Act in relation to the liability of a non-citizen who is detained in immigration detention, and third parties in certain circumstances to pay the

Commonwealth the costs of a detainee’s transport between a place where the non-citizen is detained and another place within Australia as well as the daily maintenance amount for each day of the non-citizen’s detention. Liability for costs associated with the removal or deportation of unlawful non-citizens under Division 10 of Part 2 to the Act will remain unchanged.
Secondly, this bill will retain and clarify provisions in Division 14 of Part 2 of the Act which relate to the liability of convicted illegal foreign fishers and convicted people smugglers for detention and transport costs. These provisions are being retained in response to the serious nature of the offences covered by section 262 and in recognition of the need for a significant deterrent to apply to these offences.

Together, these amendments will mean that the detention debt regime will be prospectively abolished for all classes of detainees other than convicted illegal foreign fishers and convicted people smugglers.

Thirdly, the bill will provide for the extinguishment of all outstanding detention debt for non-citizens who are in immigration detention, or persons who have been in immigration detention, and liable third parties at the time of commencement of the legislation.

Finally, the bill will make consequential amendments to:

- clarify in Subdivision B and C of Division 4 of Part 2 to the Act (that relate to Criminal Justice Certificates) that the cost of keeping a non-citizen in Australia under these provisions does not include the cost of immigration detention; and

- ensure that the regulations can no longer prescribe sponsorship undertakings or obligations that include paying the Commonwealth an amount relating to the cost of a person’s immigration detention. The bill also ensures that the element of undertakings or obligations made by a sponsor prior to commencement of this bill that relate to paying detention costs of a visa holder sponsored by the sponsor will cease to have effect.

In introducing this legislation the Government has accepted the unanimous recommendation of the Joint Standing Committee on Migration (JSCM) that the Australian Government, as a priority, introduce legislation to repeal the liability for immigration detention costs, and immediately waive all existing detention debts for all current and former detainees.

In the first of three reports in its current inquiry, Immigration Detention in Australia: a new beginning, released in December last year, the JSCM commented on the administrative inefficiencies of the policy. Noting that less than 2.5 per cent of the detention debt invoiced since 2004-05 had been recovered, with the vast majority of debts incurred under this system waived or written off,
the JSCM concluded that: “The practice of applying detention charges would not appear to provide any substantial revenue or contribute in any way to offsetting the costs of the detention policy. Further, it is likely that the administrative costs outweigh or are approximately equal to debts recovered.”

The JSCM focused on the adverse impact of detention debt on those who either remained in Australia or had connections to the country, citing concerns about “the burden on mental wellbeing, the ability to repay the debt, and the restrictions a debt could place on options for returning to Australia on a substantive visa.”

Like the Commonwealth Ombudsman, the JSCM noted concerns raised with the Committee that “detention debts are a source of substantial anxiety to ex-detainees, and may impede the capacity of the ex-detainees to establish a productive life, either in Australia or elsewhere.”

The JSCM’s report made particular reference to the adverse impact detention debt often had on the mental health of former detainees, noting that the imposition of a significant debt often prolonged or exacerbated mental health problems relating to immigration detention, particularly where there was a history of torture and trauma.

The JSCM referred to the limited earning capacity of many people on their release from detention, and the financial hardship that substantial debts caused. The Committee also acknowledged the detrimental flow-on effect for families and dependants in these situations.

Turning to each of the measures in this bill.

Part 1 of Schedule 1 to the bill will provide for the general amendments to the Act. Part 1 will repeal provisions in Division 10 of Part 2 of the Act in relation to the liability of detainees and third parties for the cost of detention and the costs of transporting a detainee between places of detention.

As demonstrated most recently by the JSCM, the original objective behind the detention debt policy —to minimise the costs to the Australian community of the detention, maintenance and removal or deportation of unlawful noncitizens by ensuring all unlawful non-citizens bore primary responsibility for these costs—is simply not being met.

While the cost of immigration detention is significant, debt recovery under the existing system is so low as to be virtually ineffective. The majority of those persons with an immigration detention debt have their debts written off as uneconomical to pursue, while persons without an accurate forwarding address or with ongoing non-responses are also not pursued by my Department for practical and administrative reasons. A small proportion of debts are waived, where special circumstances are established and the Commonwealth considers that it has a moral, rather than a legal, obligation to extinguish the debt.

Recent figures provide an apt demonstration of the ineffectiveness of this policy. During 2006-2007 and 2007-2008 immigration detention debt raised was $54.3 million of which $1.8 million (or 3.3 per cent) was recovered. $48.2 million was written off by the Department as uneconomical to pursue and $4 million was waived. For the 2006-2007 and 2007-2008 financial years the balance of $0.3 million is under active debt management.

Making immigration detainees primarily responsible for the costs associated with their detention, has not, in any significant way, contributed to minimising costs to the Australian community. And in the meantime, the Department is required to meet the high cost of administering a debt that it is largely unable to collect.

These debts are not insignificant. The current daily maintenance amount of $125.40 can see a person in immigration detention for a year incur a debt of more than $45 000. As the JSCM report detailed, detention debts in the hundreds of thousands of dollars are not uncommon.

These debts have little effect on those with sufficient funds to repay, and no effect on those (the majority) who cannot readily be contacted. It is only the minority with a genuine desire to seek legal stay in Australia who are directly affected.

Departmental operational policy provides that detainees, once repatriated, must repay their debt in full or make satisfactory arrangements for repayment, before they can meet eligibility criteria for a visa. Since I have been Minister I have seen
the requirement act as a barrier to a person returning to Australia (even when partners or family members are Australian citizens), impede the transition from a temporary to permanent visa (as in the case of spouses), and prevent former detainees from sponsoring and being reunited with their family members (even, on occasions, when the former detainee has been found to be a refugee). As such, this requirement inequitably affects those who seek to remain and settle in Australia, while the majority of people released from immigration detention are removed from Australia and are therefore under no obligation to repay their debts to the Commonwealth.

It is significant that no other country with immigration detention facilities holds people liable for their detention costs.

In terminating the detention debt regime under Division 10, this bill not only prospectively abolishes a harsh, inequitable and punitive system which adversely impacts on the ability of former detainees to settle in Australia, but also brings to an end a system that has been demonstrated to be ineffective and inefficient. For many seeking to start a new life in Australia, this bill removes an onerous burden of debt that is selectively harsh in its effects on the most vulnerable.

It is important to note that liability for costs associated with the removal or deportation of unlawful non-citizens under Division 10 of Part 2 of the Act will remain unchanged. People deported or removed from Australia will continue to be subject to the costs incurred. This Government recognises that the policy in relation to removal costs provides a deterrent against non-citizens electing to be removed from Australia to avoid payment of travel costs. The Government has no intention of encouraging visitors to this country to become destitute and then rely on the Australian Government —and Australian taxpayers—to pay for their return.

Part 1 of Schedule 1 to the bill will also clarify the operation of provisions under Division 14 of Part 2 of the Act.

The Australian Government recognises that there are cases where the deterrent effect of detention debt is appropriate: persons convicted of illegal foreign fishing or of people smuggling offences under the Act.

The Australian Government remains very concerned with illegal, unreported and unregulated fishing in our northern waters and the abhorrent and despicable trade of people smuggling. Unlike many people who enter Australia, convicted illegal foreign fishers and people smugglers have no interest or intent to live in or contribute to Australian society. In fact, the actions resulting in their convictions are in direct conflict with the interests of the Australian community.

The nature of these offences calls for a significant deterrent. While the Government maintains rigorous ongoing surveillance and enforcement measures to tackle illegal foreign fishers and people smugglers, we recognise that we must use all measures available to preserve the integrity and security of our borders.

For these reasons this bill will retain and clarify the provisions in Division 14 of Part 2 of the Act, to continue the liability of convicted illegal foreign fishers and convicted people smugglers for the costs of their detention. The retention of detention debt liabilities for persons convicted of illegal foreign fishing and people smuggling will act as an adjunct to penalties already in place, strengthen the Government’s operational and national security response to illegal foreign fishing and people smuggling, and support the integrity of Australia’s border security regime.

Section 262 in Division 14 of Part 2 of the Act will be amended to enable the Minister to make a legislative instrument determining the daily amount for keeping and maintaining a person in immigration detention at a specified place in a specified period. This measure will ensure that the detention costs payable by convicted illegal foreign fishers and convicted people smugglers and liable third parties are clearly specified.

A new system for the management of detention debts incurred by convicted illegal foreign fishers and convicted people smugglers under amended Division 14 of Part 2 of the Act will be established by my Department to ensure that it operates as intended.

Part 1 of Schedule 1 to the bill will also provide for the extinguishment of all outstanding debt for non-citizens who are in immigration detention, or persons who have been in immigration detention, and liable third parties, in relation to the costs of
detention payable at the time of commencement of the bill.

The bill extinguishes all existing debts incurred under the detention debt regime. The amendment to extinguish all outstanding immigration detention debt is necessary to provide a one-off blanket removal of a whole class of debts. After discussions with the Department of Finance and Deregulation it was determined that the extinguishment mechanism was more appropriate to use than either a waiver or a write off of existing debts. A waiver approach (as recommended by the JSCM) would require that consideration should be given to the individual circumstances of each debt, which would be administratively cumbersome; while a write-off approach is not appropriate because even when a debt is written off, it may be reinstated and pursued at a later date.

The total of the detention debt to be extinguished by this bill is the amount owed to the Commonwealth at the time of commencement including amounts written off and debts under active debt management. Given that such debt arrangements have been in place for many years, the unavailability of comprehensive records over that time and payment of debt by some persons, a precise total figure is not available. However, based on the annual financial statements the estimated total of the debt to be extinguished is in order of $350 million of which, less than 5 percent is recoverable and the majority has been written off.

The extinguishment is not retrospective and therefore will only apply to debts that exist at the commencement of the legislation. There will be no refunds of any debts that have been paid in part or full before the commencement of the legislation. It is recognised that such payments were made in the discharge of a legal liability existing at the time of payment.

However, existing frameworks will continue to be available to allow for the recovery by an individual of an amount paid to the Commonwealth where there has been a mistake or illegality involved. For example, if it is found that a person was unlawfully detained, any immigration detention debt paid in relation to the unlawful detention may be recoverable through legal action, settlement, the Compensation for Detriment caused by Defective Administration Scheme or act of grace payments through section 33 of the Financial Management and Accountability Act 1997. This may also extend to third parties who were liable and previously paid for the costs in relation to immigration detention.

All former detainees currently under active debt management will be notified of the changes through individual letters to their last known address. General information about the extinguishment will also be provided to community groups and placed on the department’s website.

By extinguishing existing debt for all detainees, this bill will allow people to move on in their lives without the weight of detention debt holding them back.

Parts 2 and 3 of Schedule 1 to this bill amend the Act to ensure that regulations made for the purposes of subsection 140H(1) of the Act cannot prescribe a sponsorship undertaking, or if the Migration Legislation Amendment (Worker Protection) Act 2008 has commenced, cannot prescribe a sponsorship obligation to pay the cost of a person’s immigration detention. These Parts further provide that an undertaking prescribed by the Migration Regulations 1994 made for the purposes of subsection 140H(1) of the Act (that relates to paying the Commonwealth an amount relating to the cost of a person’s immigration detention), will cease to have effect on the commencement of this bill.

The Government expects that people who come to Australia will enter and leave in accordance with their visa conditions. Immigration detention will continue to be used as an appropriate tool to manage compliance and the prompt removal of those who have no legal right to remain in Australia. In short, immigration detention will continue to support the orderly processing of migration to our country.

The Government considers that fair and effective immigration detention policies and strong border security measures are not incompatible. This legislation will strike an appropriate balance.

This bill marks an important change in the treatment of persons who have been subject to immigration detention. I hope it will have the support of all members of this Parliament.
I commend the bill to the chamber.

Ordered that further consideration of the second reading of this bill be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

BUSINESS
Consideration of Legislation

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.32 am)—As I understand it, there are three bills which should be removed from the list of bills to be exempt from the cut-off: the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009, the Australian Business Investment Partnership Bill 2009 and a related bill. I seek leave to amend government business notice of motion No. 2 to remove these three bills from the list, I understand I will succeed in that motion.

Leave granted.

Senator LUDWIG—In respect of the remaining bills, I understand we will seek to debate those now. I now move the motion as amended:

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

Social Security Amendment (Liquid Assets Waiting Period) Bill 2009
Social Security and Veterans’ Entitlements Amendment (Commonwealth Seniors Health Card) Bill 2009

Question agreed to.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.35 am)—I seek leave to move that the Australian Business Investment Partnership Bill 2009 and a related bill and the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009 be exempt from the cut-off.

Senator Bob Brown—It would be preferable if those bills were taken separately; otherwise, we are being asked to vote on bills which are entirely unrelated and for which there may be—I do not know—a different outcome. I recommend to the government that it put forward each bill separately.

Senator LUDWIG—Although those bills will be dealt with together, we can vote on them separately. Clearly there is a difference about these matters and it is best that we have the debate as one debate. Then by leave, if leave is necessary, we can put each bill separately so that there is a true reflection of the intent of the Senate.

Leave granted.

Senator LUDWIG—by leave—I move:

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

Australian Business Investment Partnership Bill 2009
Australian Business Investment Partnership (Consequential Amendment) Bill 2009
Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009.

In respect of the bills for which we seek exemption from the cut-off, the Australian Business Investment Partnership Bill 2009 and related bill introduce measures to establish the Australian Business Investment Partnership Ltd, ABIP, and to create appropriations for the government’s investment in ABIP and the government guarantee on any additional debt-ABIP issues. The procedures that have been followed are that on 24 January 2009 the Prime Minister and the Treasurer announced the establishment of the Australian Business Investment Partnership.
Building Australia’s Future announced the $4 billion Australian Business Investment Partnership to support Australian jobs. The media release also announced that ABIP would be operational by March 2009. Because of a range of circumstances, the government announced the matter and sought agreement that it be progressed by March 2009. To that end the drafting was undertaken and the bill was introduced into the House last week. We sought to have it introduced into the Senate this week, to be concluded this week also.

We see it as a necessary vehicle to provide certainty for the commercial property sector, which employs around 150,000 people. The vehicle will refinance otherwise financially viable commercial property assets for which refinancing from other commercial lenders cannot be obtained. The bills are critical and we require their passage this week. To that end, the government not only announced on 24 January 2009 that they would be dealt with in March 2009 but also, in programming of the Senate, advised the Senate as early as last week that these bills would be introduced in the second week—week 5. We then indicated to the opposition, to the minor parties and to the Independents the necessity that the bills be dealt with within the fortnight.

We now face an extraordinarily disappointing position. We signalled quite clearly our intention and sought agreement last week through a leaders and whips meeting that these bills be dealt with in this sitting fortnight. The bills are not only on the list but also on the short sheet. The government indicated back in January that it wanted the bills to be passed by March. Drafting instructions were then dealt with and the bills were introduced. We also signalled that the bills would be dealt with in this second week. We did that in two ways. First, we provided the opposition, the minor party and the two Independents an outline of what the bills would do. I can go to that in particular. On page 5 we indicated the bills would be introduced into the House of Representatives in week 4, which they were. The outline read that the bills ‘would establish the Australian Business Investment Partnership, a special purpose vehicle to provide liquidity support for viable commercial property projects where traditional financers withdrew from debt financing arrangements due to abnormal conditions in global capital markets’. We indicated that the bills could be debated for at least two or three hours. We also put them on the second sheet, indicating that we would seek to deal with the bills to finality in week 5.

Unfortunately, the opposition have, to all intents and purposes, reneged on what they had agreed to in dealing with the bills to finality. They are now seeking to use a device to not exempt the bills from the cut-off. It is a technical device. The usual rule is that bills are introduced in a sitting period and deferred to the next sitting period—unless an exemption from the cut-off is sought. The government flagged its intention right from the very start—without response from the opposition, the minor party or the two Independents—that the bills would be proceeded with during the fourth week to finality. The opposition provided no indication that they would object to the exemption of the bills from the cut-off and are now using the device of the exemption from the cut-off to not allow the bills to come forward for debate. We do not ask that you signal whether you intend to vote for or against the bills. We expect the bills to be dealt with to finality in this chamber and that you not prevent that by a procedural device because you do not want to deal with them at all. You are effectively hiding behind a procedural device to deal with the bills.

On the exemption from the cut-off, more broadly it is not unusual for the government
to seek an exemption from the cut-off in respect of bills of this nature. There is a global financial crisis. There is a global recession. The government believes these bills are not only necessary but critical to support a range of jobs in the commercial property market. We have sought the agreement of the opposition, the minor party and the two Independents to ensure that we can proceed with this legislation.

This debate is not about whether or not the opposition, the minor party or two Independents will support or oppose the legislation; that is a matter for them. This debate is to deal with the Australian Business Investment Partnership Bill 2009 and the related bill. What the opposition are now effectively saying is that they want to hide behind a procedural debate so that the matter cannot be debated in this chamber—for no other reason, it appears, than they simply do not want to deal with it. They do not want to put themselves in a position of either supporting or not supporting the bills. They cannot hide behind that procedural device. Effectively, they are not agreeing to the bills being exempt from the cut-off but they are putting themselves in a position of saying, ‘We don’t agree with these bills.’ That is the position they are now adopting. We have certainly signalled our intention for these bills to come forward and be dealt with this week. Now, through a procedural device, they are denying the ability of the government to deal with its legislative program in the manner that it has signalled clearly to the opposition, the minor party and the two Independents. The opposition are now putting a position which they could have raised any time over the last week and a half. They could have indicated that they did not want to proceed with the bills, that they were going to oppose their exemption from the cut-off and that they were not going to deal with the bills to finally. They are now sitting on the fence in relation to these bills.

They are, as the government has indicated, bills that have passed the House of Representatives. It is a matter that we do want debated in this chamber during this period. It is not unusual for an exemption from the cut-off to be granted to critical bills of this nature. This chamber works through the general cooperation of the opposition, the minor party and the two Independents to ensure that the legislative program is dealt with. The program for this period is not heavy, if you look at the number of bills that we sought to address during it. We are now, unfortunately, burning time while the opposition utilise a procedural device to hide behind their inability to deal with the bills.

The bills will initially finance the government’s $2 billion and $0.5 billion from each of Australia’s four banks. This could be extended. They will provide support for over 150,000 jobs in the commercial property sector. The opposition are now completely in denial about the need for this legislation. The government are seeking to set up ABIP to support the commercial property sector and the jobs and the businesses that it supports should lenders withdraw their funding because of unrelated and uncontrollable fluctuations in global credit markets. The global credit conditions are likely to remain tight in 2009. Foreign banks play an important role in the Australian financial system, but the global economic conditions mean that some foreign banks may consider withdrawing funding from viable Australian businesses, creating a funding gap. These bills seek to ensure support for the commercial property market. The commercial property market plays an important role in the Australian economy in terms of businesses and employment opportunities during the development phase of projects and after they are completed.
It is extraordinarily disappointing from the government’s perspective that the opposition is using this procedural device not to allow these bills to come on for debate. Rather than hide behind a procedural device as the Liberals on the other side are doing, I urge the Independent senators and the Greens to support the bills’ exemption from the cut-off so that matters concerning them can be debated and argued in this chamber.

Senator PARRY (Tasmania) (9.48 am)—This debate is all about time management. We have just had the Manager of Government Business in the Senate take over 10 minutes on a procedural matter. We certainly will not be speaking for that long. The whole idea of us objecting to the cut-off is that we want the bills debated properly and in the fullness of time. We want them debated in an appropriate manner. We do not want them rushed through in the last two days of sitting before the next session of parliament. There is no urgency demonstrated for these bills. It is a $28 billion package that needs proper consideration, and the Senate does not have any more time left this week to consider that legislation.

I will just give you some examples of where the government has mismanaged the entire chamber during this session of parliament. Last week 71 minutes were wasted: the Senate was suspended because the government did not have any legislation ready to go. These bills were first flagged on 24 January this year and now, on the second last day of the sitting of this session, the government want to introduce major bills of this nature. That is our main opposition. Also, I think it is important to place on the public record again that we have given up general business items—which is a traditional time for the opposition to introduce important issues that it sees as necessary to raise with the public—in favour of government business, and government business was still wasted. We have also had filibustering like I have never seen before in this chamber, especially during debate on the stimulus package. The government are sometimes using these tactics to delay their program so that they can negotiate with the minors on the crossbenches. The part that we object to is that we have given up our time—we have matters of public importance that we wish to debate—purely to facilitate the government’s program, and the government are treating us like this. On the second last day of sittings they introduce bills of this magnitude which we will not have time to consider properly.

The manager has indicated that he thinks the bills would require three hours of debate. He has not even bothered to consult with this side to work out how many speakers we may wish to place on this bill. I can tell you that on our side there is a lot of interest in these bills. As far as we are concerned, there is no way that we are going to grant time to the government when it has mismanaged the entire program so far in this session. The bills can go on the list for the next session, when we will have plenty of time to consider them. We have the Fair Work Bill to get through today, and from the way that we are going with the Fair Work Bill—some of the minister’s responses to it have been very long and protracted—I think we are going to need the rest of this session just to deal with it and some of the other legislation on the program. We do not grant an exemption from the cut-off for these bills.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (9.51 am)—I will address my remarks to the electoral legislation that is also subject to this particular cut-off motion and commend to the chamber the arguments that have been put forward by my colleague on other matters. In relation to the other matter before us, the Commonwealth Electoral Amendment (Political Donations and Other
Measures) Bill 2008 [2009], we have a critically urgent measure before the Senate, and unfortunately again we have the opposition trying to block measures which are critically urgent, which improve the integrity of the Commonwealth Electoral Act and our electoral system.

The history of this is as follows. Last year the opposition sent these measures to the Joint Standing Committee on Electoral Matters for a period longer than 12 months. Then, late last year, after the committee had reported early, we heard the opposition argue that these measures should be delayed even further. Last week in this chamber we saw the opposition combine with Senator Fielding and, on equal voting in the chamber, defeat this legislation on the second reading. In the House of Representatives on Monday of this week again the opposition voted against these measures now contained in the 2009 bill.

But the critical issue, the urgent issue here for the Senate to consider, is: what is being blocked? This legislation will implement six key reforms to restore much needed accountability and transparency to our system of political finance regulation. These measures are long overdue. These measures are urgent. These measures have a start-up date of 1 July 2009. What are they? First of all, there is a reduction in the donation disclosure threshold from $10,900, indexed annually, to $1,000, non-indexed—an urgent reform. The bill will also prevent the practice of donation splitting to avoid the disclosure threshold by treating donations to all branches of a political party as donations to the same party. It is an urgent reform. We need it now. We need it by 1 July this year.

The bill will also ban foreign donations—another urgent electoral reform to improve the integrity of our electoral system. The bill will also ban anonymous donations unless they are $50 or less and are received through fundraising activities or events—another urgent reform that needs to be in place as soon as possible, that needs to be in place by 1 July this year. This bill will also increase the reporting obligation on political parties, candidates and others who are involved in the political process—again, urgent, critically important and required now. Finally, this bill will tie public funding to genuine campaign expenditure so we cannot have a situation where a candidate or a party can claim public funding for electoral expenditure that they have not incurred. This is urgent. It has been identified as a major loophole in the Commonwealth Electoral Act for many years. It needs to be fixed and we need to address it by 1 July this year.

At no stage have the opposition ever engaged in this debate with the actual substance of the reforms. They have never been able to bring themselves to say they do not support these important reforms. What they have done is hidden behind a few fabricated process and timing arguments. I happen to believe that this bill is important. It is critically important, and those who have shown a genuine interest in reform of our political system agree. They are urgent and important measures. They should commence as soon as possible so that we can have in our Electoral Act and our electoral system more transparency, more scrutiny and more disclosure applying to political donations. That is why when I first introduced this bill I wanted to see a start-up date of 1 July 2008, and now, when the bill has been returned from the Joint Standing Committee on Electoral Matters, we have inserted a commencement date of 1 July 2009, to coincide, as you would of course appreciate, with the commencement of the next financial year.

When the opposition blocked this important legislation in the Senate of course we adopted the only possible course to give the
opposition and Senator Fielding a second chance to put these important integrity measures in place. You have got to give the Australian Electoral Commission an opportunity to implement these changes. You have got to give the political players—the parties, the candidates and the associated entities—time to adjust to the measures. That is why at the end of last year I came into this chamber and flagged and tabled the government amendments to the bill in response to the Joint Standing Committee on Electoral Matters. There was maximum opportunity for consideration by all involved and maximum transparency. But we have still got a situation, even this morning, where the opposition are hiding behind fabricated arguments about process. What is it all about? It is all about trying to stall and block these important integrity measures.

I suspect that the ugly truth here is that the opposition do not support greater integrity in our electoral laws. If they did, they would get on with it. After all, you have just got to look at the voting record on these particular matters. They have actually supported a system which enables donors, parties and candidates to hide behind fabricated arguments about process. What is it all about? It is all about trying to stall and block these important integrity measures.

I was very disappointed, however, that Senator Fielding joined with the opposition to block the earlier bill. Senator Fielding said publicly that he would vote against this measure because the government did not support his amendment limiting public funding to political parties to $10 million. He is right about that: the government does not support his amendment. Okay, the government does not support this amendment—first, as every senator knows, because we are looking at public funding and associated issues through the green paper process. I do not believe that the quantum of public funding should be changed or fiddled with through this legislation. This is not the appropriate time to do it. We have six critically important, stand-alone, urgent measures before us. Let’s deal with those.

But, of course, it is not just the fact that this is not the appropriate time or place to deal with that matter; the fact is that Senator Fielding’s amendment is very poorly drafted. What it proposes is a $10 million cap on public funding available to any political party. What does this actually mean? What would it do if this occurred? The final funding payment for the Labor Party for the last election was a little over $22 million; for the Liberal Party, a little over $18 million; for the National Party, a little over $3 million; and for the Northern Territory Country Liberal Party, about $170,000. It would mean that the Liberal Party and the Labor Party
would be capped at $10 million. Under this proposal from Senator Fielding the National Party would keep their $3.2 million and the Country Liberal Party would keep their $169,000. We now have a new party registered in Queensland. It would get its money. So what you would actually have is what I never want to see: an advantage given to one side of politics in the Commonwealth Electoral Act. The Labor Party would get $10 million, but for the coalition it would be $10 million to the Liberals, over $3 million to the Nationals, another slice of money to the Country Liberal Party and another slice of money to the Liberal-National Party in Queensland. This may not be what Senator Fielding intended. It is a poorly drafted amendment that probably does not achieve what Senator Fielding wants it to achieve.

Political disclosure, political funding and campaign financing reform is critical. I agree with Senator Fielding, and any other senator who wants to raise these issues, that they are important. They are a very high priority for me; they have been throughout my life in this parliament. I intend to progress this seriously and in consultation with all parties: the opposition, the Greens and minor party and Independent senators in this chamber. I have given that commitment to senators previously, and I stand by it. I mean it, but I am not going to have a very important measure that goes to the very integrity of our electoral system dragged down by some poorly drafted amendment that in fact will give a partisan advantage to one side of politics. We should not be on about these things. We should not support some isolated amendment, however well motivated it is—and I am willing to say that I am sure Senator Fielding was well motivated in what he proposed, but the consequences of it are serious, as I have outlined. It would have a disproportionate, unfair, untenable and unacceptable impact on public funding and campaign financing law in this country, and I will not accept that. The government will not accept that.

So I ask Senator Fielding to drop that position and support the critically important and urgent reforms in this bill. Do it now so we can start to address this issue of integrity of our electoral laws in this country. Nothing should be more important to all the players who are involved in the political process in this country. Nothing should be more important, and I would urge Senator Fielding, as well as Senator Xenophon, who has already indicated his strong support, as has Senator Brown on behalf of the party he leads, the Australian Greens, to join with the government—and I would hope that the opposition would—in a bipartisan, cross-party effort on the part of all parliamentarians and those involved in the political process to do something about improving the integrity and standing of our electoral system in this country.

What I support of, and what all senators and all members of parliament in Australia ought to support, is greater integrity in our electoral laws. Here is a chance to do it; here is a chance to start. Here is a chance to give candidates, parties and associated entities, all of those involved in the electoral process, fair warning about these changes. Here is a chance to see these critically important and urgent amendments to the Electoral Act commence on 1 July this year. I urge all of my colleagues in this chamber to support the government in relation to exemption from the cut-off for this particular bill and then get behind the government and support this important legislation.

Senator RONALDSON (Victoria) (10.10 am)—I have just about heard it all today—three minutes from the Manager of Opposition Business in the Senate and 30 minutes of filibustering from the Australian Labor
Party. One can only imagine that they are out there at the moment trying to nail Senator Fielding to the mast in relation to this matter. That is the way they operate. They come in here and they talk about openness and transparency, and then they go around and bang on doors, forcing these people to agree with their position.

Let us just go back and have a close look at this. Senator Faulkner was talking about his desire for change, the drive for electoral reform. I take the Senate back to March last year when, in this very chamber, there was a notice of motion put up by the opposition in relation to a reference to the Joint Standing Committee on Electoral Matters which talked about disclosure, which talked about tax deductibility, which talked about third-party involvement and which talked about electoral reform in its most holistic sense. Who supported that motion? Let us go through it: the National and Liberal parties in coalition, the Greens, the Democrats—God bless their souls—and Senator Fielding supported that reference to the joint standing committee for wholesale electoral reform. Who was the party who refused to support it?

Senator Williams—The Labor Party.

Senator RONALDSON—The Australian Labor Party. Senator, you are absolutely right. The Australian Labor Party refused to support a reference to the Joint Standing Committee on Electoral Matters in relation to holistic and wide-scale finance campaign reform. They opposed it, and we have just had a 20-minute speech from the minister in relation to the importance of this matter. They do not do as they say. I hope that Senator Xenophon is still here.

Senator Xenophon—I’m here—you know I’m here.

Senator RONALDSON—I am going to talk to Senator Xenophon in the context of a polite conversation. I am not going to try to take him out the back and beat him up the way the Labor Party does with the Independent senators, because that is not the way we operate.

Senator Xenophon—Mr Acting Deputy President, I rise on a point of order. The senator has made quite a serious allegation that I have been beaten up by the Labor Party. I ask him to withdraw that. I can assure the chamber that I have not been beaten up by anyone on either side of the chamber. It was a ridiculous and inaccurate statement and I ask the senator to withdraw it.

Senator RONALDSON—I will withdraw it. Senator Xenophon thought that I said he had been beaten up. That is wrong: I said they tried to beat him up. I agree with him—

The ACTING DEPUTY PRESIDENT (Senator Trood)—Excuse me, Senator Ronaldson.

Senator RONALDSON—I withdraw the remark.

The ACTING DEPUTY PRESIDENT—Thank you, Senator. You may proceed.

Senator RONALDSON—I want Senator Xenophon and Senator Fielding and those who are listening to this to remember how many times this urgent matter has been on the Notice Paper. As honourable senators would note, this is the second incarnation, if you like, of a bill that was rejected by the Senate last week. How urgent was this matter for the government? How urgent was this matter for the minister, who is apparently staking his reputation on it? Not urgent at all. On three occasions this actually got to the Notice Paper. Was it debated? We are going back to February. It was on the Notice Paper at least twice in February and, from my recollection, it was on at least once last year, so there is absolutely nothing urgent about this at all.
The other fallacy of the minister’s argument is that he constantly neglects to talk about the fact that he has cherry-picked from electoral reform tax deductibility and disclosure. Why didn’t he come into this place and tell us why the union movement is not part of a cherry-picked campaign finance reform? Honourable senators on this side know there is a very good reason for that and there are $31 million worth of reasons why the trade union movement is not part of holistic reform: $31 million-plus was paid by the union movement to go into the Labor Party’s campaign finances. How have we seen that repaid? We have seen it with the so-called Fair Work Bill 2008. What has been given to the union movement in a non-mandated part of this legislation are those appalling rights of entry, an appalling breach of privacy which the Australian Labor Party has given to the trade union movement as a square-off for their $31 million-plus.

Senator O’Brien—You’re wasting time.

Senator RONALDSON—Senator O’Brien said, ‘You’re wasting time.’ You are the great filibusters of this place. You filibustered all last week and Senator Parry has put on the record how much you filibustered, so do not come into this place, Senator, and talk about time wasting as you are the great filibusters, because you cannot organise your program. You put speaker after speaker after speaker on last week because you could not get your program sorted out, so do not cry crocodile tears in front of me or those on this side about time wasting. What is the reality of the urgency of this bill?

Senator O’Brien interjecting—

Senator RONALDSON—You would be a lot better employed trying to do your job properly, Senator. You are an abysmal failure as the chief whip. You could not organise a chook raffle and that is why we had this issue last week where we had filibustering— and there you were on the phone saying, ‘You’ve got to speak—

Senator O’Brien interjecting—

The ACTING DEPUTY PRESIDENT—
Order! Senator O’Brien, if you wish to contribute to the debate I am sure you will have an opportunity a little later on.

Senator RONALDSON—What we saw last year was the failure of the government to bring this matter on. They had the opportunity to bring that bill on last year. From recollection, I think they had two opportunities in February to bring it on. They did not choose to do so. The urgency does not lie in relation to this bill. It was rejected by the Senate, it was then rushed through the Reps and brought back here. If this were urgent, they would have had this matter dealt with last year. They had opportunity to do so. There was nothing on this side of the chamber standing in their way in relation to having this matter debated when it was on the Notice Paper at least three times.

The other matter which seems to have escaped the Special Minister of State is that this has a start-up date of 1 July. Please tell me why this matter cannot be debated in May for a July start-up. We had all this talk about a sense of urgency before an election. On a rough count, even if a trigger were given today I do not think they could have a double dissolution before about 26 July anyway—so do not run that line about urgency in relation to this bill. The minister, the Manager of Government Business in the Senate, knows that this is not urgent to the extent that this will not interfere with a 1 July start-up if that is indeed the will of the parliament. There is absolutely no reason why this cannot be dealt with in May. There is not a sense of urgency.

I want to talk about this so-called push for campaign finance reform. I have already indicated that the Labor Party stood in front of
proper references to the Joint Standing Committee on Electoral Matters last year. Where has been the government’s drive for change? If you read through the green paper, which was indeed a collection of all those things that had been articulated by others anyway, is there anything in that green paper which is making recommendations in relation to campaign finance reform? No, there is not. Have the government in any way attempted to put on the table some options that must be discussed? No, they have not, and they have dragged this out themselves and then they have had the gall to come into this place today and say this is urgent. Well, they know this is not urgent and the Greens and the Independents know that this is not urgent, because if this were urgent the opportunity to debate the previous bill would have been taken up on those three occasions that I referred to when it was on the Notice Paper.

I want to make absolutely sure that there is no doubt in anyone’s mind about the commitment of the coalition to campaign finance reform. Let us go back and see where this started. When did the Australian Labor Party suddenly become interested in campaign finance reform? It started with the Wollongong sex and bribery scandal. That is when the Australian Labor Party became interested in campaign finance reform. That is when we saw the appalling behaviour of Labor Party apparatchiks in Wollongong in the sex and bribery scandal. That is when we saw the start of the government’s interest in this process. The first time they had the opportunity to respond to Wollongong was in this chamber and they squibbed it. They squibbed the opportunity to respond to the Wollongong sex and bribery scandal. They squibbed it by not being prepared to support the reference from this chamber to the Joint Standing Committee on Electoral Matters, and they have squibbed it ever since. They squibbed it then and they squibbed it when it was on the red and on the Notice Paper. They have had four occasions to actually show their bona fides.

Let no-one be in any doubt about where we stand in relation to campaign financial reform. We drove this process in March last year and we will help drive it through to a proper conclusion, which will give the Australian people some sense of confidence that the campaign finance system and the whole electoral system has a degree of openness and transparency which will reinforce their trust in this fantastic democracy of ours. That is what this has got to be about. It has got to be about giving some ownership back to the Australian people with a level of comfort that the democracy we cherish is not in any way being bastardised by campaign finance laws or anything else.

We are determined to see this through to a proper conclusion, but we are not prepared to sit back and let the Labor Party, which is apparently committed to campaign financial reform, leave hanging a funding group such as the trade union movement, which has become so brazen that a leaked document I referred to last week actually had in one of the annual reports from one of the New South Wales unions a subparagraph in it titled ‘Marginal Seat Campaign’. So let us be absolutely sure about who is the piper and who is being paid. Let us be absolutely sure about this. While the minister point-blank refuses to address the undue influence of third parties and associated groups in this country, he stands condemned for his insincerity. While he refuses to take on those bodies that have a level of influence unbelievably greater than those that we are talking about today, and while he still insists on refusing to bring them into campaign financial reform, he stands condemned for his own hypocrisy. That is what we want to see coming out of this debate.
I do not think there is anyone in this chamber on the non-government side who does not believe that we are genuine in our desire to have appropriate and proper campaign finance reform. We are absolutely on the record. We started the process and we will complete it to the satisfaction of the Australian community so they can have some restored confidence. This is a matter of confidence. The Wollongong sex and bribery scandal was such that people started to lose confidence in the system and they need to get that back. They need to be able to say that the openness and transparency means that there is not one group within the community that can buy the sort of influence that we are seeing from the trade union movement.

The Fair Work Bill is a constant reminder that we need to do something, and we need to do it holistically. There is no greater example in the last two weeks than the Fair Work Bill where we have seen a non-mandated aspect of that bill giving to the union movement unfettered power to go in and breach the privacy of Australian workers. That is what it is. When you get down to it, it is about breaching the privacy of Australian workers. We do not think that is reasonable. We think it is even more unreasonable when it is driven by a payback for the $31 million. That is what this debate is about. This was not in the original proposal the Australian Labor Party took to the people. It is not in there because the donations at that stage were still rolling in. Post the election, the unions demanded their pound of flesh for their $31-plus million.

We are absolutely committed to campaign finance reform, but we are not going to let people be conned by a notion that there is some high priority for the government in this. I will finish on this note: the minister said, ‘This is a high priority for me.’ It has not been a high priority for this minister at all. He had at least three occasions on the red to make this a priority. He chose not to do so. This does not need to be debated this week. This can be debated in May for a July start-up, if that indeed is the will of the Senate.

Senator XENOPHON (South Australia) (10.27 am)—I begin in this motion to exempt bills from the cut-off by having a look at what Odgers says about the cut-off. I think it is important that we just have a bit of a history lesson in relation to this because it is important to put this in context. The commentary in Odgers says:

Over many years the Senate was concerned with the end-of-sittings rush of legislation, the concentration of government bills which occurs in the last weeks of a period of sittings and which results in legislation being passed with greater haste than during the earlier part of the sittings, and with inadequate time for proper consideration.

It goes on to say:

The causes of this phenomenon are not clear; a view frequently expressed was that ministers or departments deliberately delayed the introduction of legislation until late in a period of sittings in the hope that it would be passed without proper scrutiny. This suspicion was reinforced by ministers regularly claiming that all government bills accumulated at the end of sittings were urgent. There were often grounds for scepticism about these claims, particularly the failure to proclaim legislation stated to be urgent at the time of its passage.

It is interesting to put that in context. Measures were introduced to ameliorate unintended consequences back in 1986 by having a deadline and then a double deadline, which is the rule that we have now, initiated by then Senator Christabel Chamarette from the Greens in WA. The commentary in Odgers is:

… that the Senate’s deadline may have alleviated the situation, having regard to the change from two to three sitting periods per year …

However, the figures given in Odgers—and I think it has actually got worse since the time
of publication—suggest that the problem has tended to creep back but is probably due to the readiness with which the Senate exempts bills from the operation of the standing orders at the request of the government.

Let us put this in perspective. This rule is about not being caught by surprise, not being caught by having to look at legislation on the hop; it is about having a proper level of scrutiny. That is the Senate’s job. So my position in relation to the reasons to exempt the political donations legislation and the Australian Business Investment Partnership Bill 2009 and the consequential amendments bill from the cut-off are different, for those reasons. Firstly, in relation to the issue of political donations: the government introduced its amendments in December last year. There has been a joint committee looking at the whole issue of funding and disclosure reform and it has been the subject of considerable debate. It was dealt with in the Senate last week. There was a debate with respect to that. The government did not succeed; I supported the government in relation to the measures because I believe it is important that we deal with this first tranche of reforms—the level of donations before there is disclosure, foreign donations and related matters. I think it is important that we deal with these measures. I agree with the substance of what Senator Faulkner was saying. I do not think we should delay it.

The issue here is: should the bill now before the chamber be exempted from the cut-off? If you accept what the cut-off provisions are all about—about not being forced to deal with legislation you have not had time to consider, about not dealing with a matter with haste and without proper consideration—then I do not think the cut-off provisions were intended to deal with a bill such as this that has already been dealt with. The government is entitled to bring it back in. My view is that we ought to deal with it again. I believe it is an important and urgent piece of legislation. The opposition say that the cut-off should apply here; I do not believe that is what the cut-off is about. Therefore, when it comes to a vote with respect to the political donations bill I will be supporting the exemption to the cut-off. We ought to be able to deal with it; there is no surprise here.

The Australian Business Investment Partnership Bill is a different matter. Firstly, I have very grave concerns about the way this bill has been handled—or perhaps I should say ‘mishandled’—by the government. The Prime Minister first announced the proposed creation of the Australian Business Investment Partnership on 24 January this year, some seven weeks ago. In his speech about the bank, the Prime Minister made the issue sound particularly urgent. As he saw it, the government needed to act quickly so as to secure the future of jobs in the construction industry. However, the legislation relating to this bill was introduced to the House of Representatives on 12 March, just six days ago. We now find ourselves in the last sitting week of the session being told we have to vote on this immediately. The substance of the bill is quite different from what was first announced by the Prime Minister on 24 January.

I have two problems with what the government is trying to do with this bill. The first is pretty simple: bad planning on the government’s part should not consistently have to constitute an emergency on the Senate’s part. Time and time again we are being told that bills that have been kicking around for weeks or months suddenly need to be voted on immediately regardless of the level of scrutiny those bills have received and regardless of the lack of staffing resources that, particularly, crossbench senators must endure—and the resource levels are pitiful. Since my time in the Senate the government has requested 14 separate motions to exempt
38 bills, none of which were refused, and now we have another motion today to exempt another four bills. These bills have included the economic stimulus package and now this particular bill.

My team of two staffers here in Canberra are expected to be across every piece of legislation that goes through this place. If they are not, I am not doing my job. They do a good job, but do they deserve four or five hours sleep a night? I believe that we are being unfairly pressured and I hope this is not a tactic by the government to run us ragged in the hope that we will simply vote bills through without scrutiny. Let me make this really simple: if you try this tactic it will fail. I will insist on doing my job properly or I will refuse to vote. For the last two days my staff have attempted to work with Treasury to organise a full briefing on this matter and, simply, we have been flat out with the IR legislation and the alcopops legislation. I understand that, as I speak now, one of my staff is currently receiving a briefing from Treasury in relation to this bill. When you consider the scope of this bill and the $26 billion contingent liability that it may expose Australian taxpayers to, I do not want to do this on the fly. I think it is appropriate that there be a degree of scrutiny with respect to this bill.

To consider the context of the government’s guarantee to the banks—the guaranteed bank deposits—that was announced on 12 October, let us look at what some of the commentators said back then. Sam Wylie, a research fellow at the Melbourne Business School, said in the Financial Review of 14 November that the ‘big four’ need to give us something back because of the impact it could have on credit markets and the transparency of the banks. Fast forward to a commentary by Deborah Ralston, the Acting Director of the Melbourne Centre for Financial Studies and a director of the listed company Mortgage Choice in the Financial Review of 11 March. The headline says it all: ‘Guarantee has given big banks the whip hand’. She complains that there is a real issue about the tap being turned off for business lending for smaller businesses as a result of the bank guarantee. She writes:

The net effect of reduced business lending is costly and has an adverse accelerator effect on aggregate demand. In a normal situation, competitive forces would moderate this tendency, but with the banks being the only game in town, we appear to be back to the old credit rationing of pre-deregulation times. Would the banks be so risk-averse if they had more competition?

She goes on to say that there has been a loss of competition in the credit market as a result of the bank guarantee—which I supported, but there have been adverse consequences, unintended consequences. My fear with this piece of legislation is that we will get the same problems arising and to expect the Senate to deal with such a major piece of legislation in such little time, without appropriate scrutiny, I believe is simply not adequate. I have not been given the time and resources to deal with this bill.

I can indicate that if the government wants to come back—and this harks to the proposal put by Senator Brown on behalf of the Greens, which is to have an extra sitting week—I will be prepared to do that. But, right now, to expect to have this bill dealt with, to seek exemption from the cut-off, I believe is unreasonable. It is my belief that when you are talking about a $26 billion exposure for the taxpayers of Australia this bill ought to go off to the Senate Standing Committee on Economics for appropriate scrutiny. I feel that I am in an untenable situation with respect to this motion to exempt the bills from the cut-off. Therefore, I have no choice but to vote against it, denying exemption from the cut-off in relation to these bills.
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.38 am)—I want to take up where Senator Xenophon left off, and that is to reiterate the Greens proposal that we sit an extra week before Easter. That would surely solve the dilemma that the Senate is in at the moment. It was a sensible proposal. Senator Xenophon supported it. Senator Fielding did not and nor did the government or the opposition, and that was a mistake.

The problem here—and we have just heard it very personally delivered by Senator Xenophon—is that there is not enough time to deal with the number and complexity of pieces of legislation we are being asked to deal with. Well, you give yourself more time. But the opposition cannot have it both ways. They cannot be saying, ‘There has to be more time for this, but we will vote down sittings of the Senate which would facilitate us being able to adequately scrutinise and debate such legislation.’

I have been approached about this motion by the opposition in the last few days. While I think it is ultimately not the clinching argument here, I do have to point out that repeatedly—and I am talking about dozens of times—the Greens moved in the Senate during the last parliament, when, you will remember, the now opposition had control of this place, for bills not to be exempted from the cut-off so that we would be able to deal with them and take more time with them. Every time, the government of the day, the coalition, refused the arrangement to have the bills held over until they could be properly scrutinised. That is what we are talking about: taking more time to scrutinise bills. But every time the Howard government rolled over the Senate, using its numbers.

Senator Cormann—Didn’t do us any good.

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator Brown, please ignore the interjection.

Senator BOB BROWN—Senator Cormann says that it did not do the Howard government any good and I agree with that. The fact is that we have two pieces of legislation here. I agree with Senator Faulkner’s argument on the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009: it should be dealt with. In my view, for the cogent reasons that he gave, it should have been passed last week. It failed because of Senator Fielding’s vote joining that of the opposition and, very curiously, allowing the big donors to the political parties to have cover-up. That is what it comes down to. I think we should be dealing with that legislation. We have dealt with it once before, so there is hardly any argument that we need more time to consider it. If it is going to be reconsidered, let it be brought on for reconsideration.

When it comes to the Australian Business Investment Partnership Bill 2009, the so-called Ruddbank legislation, it gets a whole lot more complicated. On the face of it, this is a $2 billion bill from the government, but it has contingent liabilities that could possibly extend closer to $30 billion if things went wrong. It is very worrying and troubling to the Greens. We have had a briefing from Treasury, which means being able to ask pertinent questions of Treasury. We remain concerned about it and look forward to the debate on the legislation. It has been very largely canvassed in the public arena.

The government, again, as with the stimulus bill, has put the argument that we are in very rocky financial times and there is some urgency to pass this legislation. It is impossible to know how well that argument applies to this piece of legislation. But if we are to prevent defaults on major developments—
and that is the aim of the bill—putting the bill off runs the risk of failing to catch defaults that may be coming close at the moment. The Treasurer says that 50,000 jobs may be at stake. We know that that can only be a guesstimate. I have seen direct evidence that that is so, but how can you know before a corporation collapses? We see in an Australian newspaper today that a major building site in Brisbane is threatened if this legislation does not pass. Let us debate it.

The Greens will flag two major amendments which are to do with CEO salaries. We believe that if there are development corporations that are going to be advantaged by this legislation—that is, because the CEOs are unable to find finance and are going to rely on this public financing—then they ought to trim their own income to $1 million or less. If they are going to be leaving the corporation, their shareholders should be able to vet their so-called golden parachute to make sure that they are not taking large amounts of money out of a company that is obviously going to be in trouble and has become dependent upon taxpayers’ dollars.

We are very frustrated that Prime Minister Rudd has not acted on this matter. He should have and he should have done it long ago. The Prime Minister himself says that there are obscene payments going to some CEOs at the big end of town—most CEOs are fine about this—including CEOs who are sacking Australians. Equal Australians have no job at all and are out the back door while multimillion-dollar payouts are being taken by the people in the velvet chairs upstairs. That process should be regulated for when companies fall into hard times due to either mismanagement or financial circumstances they cannot control. Either way, they should be pulling their belts in like everybody else. If they will not do it, we should regulate to ensure that they do do it.

The Greens are very serious about the amendments to this legislation. If the vote is for delay—and we will vote for this legislation to be brought on because we are prepared for it—then we will be submitting these amendments for scrutiny by a committee if there is an inquiry established. That said, we support the government in this measure.

I have asked the opposition if they would produce guidelines for the exemption to the cut-off—in other words, guidelines to determine which bills ought to be not exempted when the government calls for their exemption. Where are the guidelines that will help the Senate understand when the opposition is going to refuse quick passage of a bill through the Senate? This is a very important matter. It cannot be selective. I suspect the opposition’s move today—and they will forgive me if I am wrong, I am sure—is highly politically motivated. That is not what we should be basing our judgment of whether a bill gets quick passage or not upon. It should be based upon the wellbeing of the Australian people. The outcome has to be the most important factor. Let us have a set of guidelines from the opposition that will make consistent their move to block the government exempting bills from the cut-off like this. I am happy to work with all parties in here in coming up with those guidelines.

As Senator Xenophon said, it was Senator Chamarette who introduced this rule. It is a good rule. It means that governments cannot simply expect the Senate to deal with legislation that has not been properly scrutinised. Let us move to the next stage of at least having some guiding rules which establish what it is that makes a piece of legislation so urgent that we should forgo the ability to have a committee, to have proper consideration or to have time to properly consult the sectors of the Australian community that might be affected.
**Senator FIELDING** (Victoria—Leader of the Family First Party) (10.47 am)—Here we are again at the eleventh hour on a couple of other issues. Are there a couple of dollars involved with the Australian Business Investment Partnership Bill 2009? No, it exposes taxpayers to the tune of $26 billion. The government expects to just ram this legislation through. We had this problem with the previous government. We had a brief yesterday from the Treasury and we are looking through it. This is $26 billion of exposure for taxpayers. It needs to go through a better process than just having it for a few days before the vote is brought on. It is just silly. It is a ridiculous discussion to be having really. I do not know how long we have wasted—maybe you could tell us how long we have wasted—this morning debating just this cut-off order.

We have some serious issues before the Senate. We have the industrial relations laws for this land that will be with us for a long time. We need to get those right. We have in front of this chamber as well the issue of binge drinking and creating a culture of responsible drinking. We should be dedicating time to those issues. But the Rudd government is diverting the attention of the Australian Senate. This is ridiculous. This needs to go through a proper inquiry. We need to have a look at it. There is some urgency to address the issue, but we need to get it right with the exposure of $26 billion of taxpayers’ money.

It has taken the Rudd government time to get serious about the amendment we have to the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009. They can bag it all they like. I am happy for them to suggest amendments. We had discussions yesterday with Senator Faulkner. We still have time, but we are wasting the Senate’s time debating this issue now when we should be getting back to the important industrial relations laws that will affect all working families and the issue of the alcohol toll on families across Australia. These are the two things that should be taking up the time of the Senate at the moment.

The Australian Business Investment Partnership Bill 2009 can be put through a Senate inquiry to give us some time and, more importantly, to make sure that we scrutinise the $26 billion exposure for Australians. Family First will not be supporting both of these measures in the cut-off motion for the reasons I have just outlined.

**Senator LUDWIG** (Queensland—Manager of Government Business in the Senate) (10.51 am)—Having listened to the debate this morning these are the critical issues. The parliament had notice of the ABIP bills. Clearly the parliament can deal with the political donations matter in the fortnight. It is a matter that needs to be resolved for transparency across government and for political parties. But I will reiterate the argument for the special purpose vehicle.

In essence, it is this: we are acting decisively in the face of the worst economic times we have seen in my lifetime. The global financial crisis is not the figment of the imagination the opposition think it is. There is a financial recession right across the world. The position we are now taking is that this government will do everything it possibly can to support jobs and businesses in the community. This vehicle will ensure that the commercial property sector, which employs 150,000 people, including plumbers, electricians and carpenters, is supported. The second part of it is that, without this action, a combination of weak demand and tight credit could see up to 50,000 people in this sector lose their jobs, according to Treasury figures, with flow-on effects on jobs and other parts of the economy. This government is taking decisive action to ensure that it supports jobs in the community.
The opposition, Senator Fielding and Senator Xenophon are saying that they want more time. But this was a matter that was announced as early as 24 January and introduced into the House on 12 March. We are taking this action to ensure that the commercial property market continues to have the support of this government. What the opposition, Independent Senator Xenophon and Senator Fielding are doing is ensuring that this bill will not be debated. We do not know the outcome of the debate. Senator Bob Brown has taken a responsible course of action in relation to this debate. He has indicated that he is prepared to have a debate, to move amendments and to see how this matter unfolds—which is what parliament is here for. The opposition do not have a position in respect of this matter and they are using a procedural device to continue to not have a position, because they do not know what their position is. Even if they did know what their position was, I am not sure they would have the support of all their people. If this matter is not debated this week, when they go back to their electorates they will have to explain to the commercial property market, to people in the community, to plumbers and electricians why they did not allow this bill to be debated to support jobs in the community.

As for the arguments about not being ready for the debate, it was put on the record that we would be debating this and we described what the bill was. It was not unknown. The workload during this sitting period is not unusual or out of kilter with other similar periods.

When in opposition it is usual, if a matter is stated by the government to be urgent, for an exemption from the cut-off to be given. It would be unusual for the opposition not to support it, unless they were playing politics or unless there were a clear reason they could articulate as to why it could not be proceeded with. This is not the case, because we have demonstrated that there is urgency about dealing with this legislation this sitting period. I have outlined the difficulties that we face across the community, particularly in the commercial property market. By effectively withdrawing your support for the exemption from the cut-off, you are ensuring that uncertainty in the commercial property market will continue.

The ACTING DEPUTY PRESIDENT (Senator Moore)—The question is that the motion regarding exemption from the cut-off be agreed to in respect of the Australian Business Investment Partnership Bill 2009 and a related bill.

The Senate divided. [11.01 am]

(The Acting Deputy President—Senator C Moore)

Ay e s…………… 33
Noes…………… 35
Majority……… 2

AYES


NOES

The question now is that the motion be agreed to in respect of the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009.

The Senate divided. [11.05 am]

(The Acting Deputy President—Senator C Moore)

Ayes…………… 33
Noes…………… 33
Majority……… 0

AYES

Arbib, M.V.  Bilyk, C.L.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Cameron, D.N.
Collins, J.  Conroy, S.M.
Crossin, P.M.  Farrell, D.E.
Faulkner, J.P.  Fenney, D.
Forshaw, M.G.  Furner, M.L.
Hanson-Young, S.C.  Hurley, A.
Hutchins, S.P.  Ludlam, S.
Ludwig, J.W.  Lundy, K.A.
Marshall, G.  McEwen, A.
McLucas, J.E.  Milne, C.
Moore, C.  O’Brien, K.W.K. *

NOES

Polley, H.  Pratt, L.C.
Siewert, R.  Stephens, U.
Sterle, G.  Worthley, D.
Xenophon, N.

* denotes teller

Question negatived.

The ACTING DEPUTY PRESIDENT—
The question now is that the motion be agreed to in respect of the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009.

The Senate divided. [11.05 am]

(The Acting Deputy President—Senator C Moore)

Ayes…………… 33
Noes…………… 33
Majority……… 0

AYES

Arbib, M.V.  Bilyk, C.L.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Cameron, D.N.
Collins, J.  Conroy, S.M.
Crossin, P.M.  Farrell, D.E.
Faulkner, J.P.  Fenney, D.
Forshaw, M.G.  Furner, M.L.
Hanson-Young, S.C.  Hurley, A.
Hutchins, S.P.  Ludlam, S.
Ludwig, J.W.  Lundy, K.A.
Marshall, G.  McEwen, A.
McLucas, J.E.  Milne, C.
Moore, C.  O’Brien, K.W.K. *

NOES

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

* denotes teller

Question negatived.

Consideration of Legislation

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.09 am)—At the request of Senator Ludwig, I move:

That the government business orders of the day relating to the Appropriation Bill (No. 3) 2008-2009 and the Appropriation Bill (No. 4) 2008-2009, and the Appropriation Bill (No. 5) 2008-2009 and the Appropriation Bill (No. 6) 2008-2009, may be taken together for their remaining stages.

Question agreed to.
CUSTOMS TARIFF AMENDMENT (2009 MEASURES No. 1) BILL 2009

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

Consideration of House of Representatives

Message

Messages received from the House of Representatives returning the Customs Tariff Amendment (2009 Measures No. 1) Bill 2009 and the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009, and informing the Senate that the House has not made the amendments requested by the Senate.

Ordered that the message be considered in Committee of the Whole immediately.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.10 am)—I move:

That the committee does not press its requests for amendments not made by the House of Representatives.

These bills are some of the most significant in terms of the health of our nation that this Senate will deal with for a very long time. I am appealing to senators—senators on the crossbenches and senators on the other side—to be mindful of the impact a vote against this legislation might have and to be mindful of the evidence that has been heard at not only the legislative committee inquiry but also two other inquiries. One of those inquiries was instigated in response to Senator Fielding’s private member’s bill. The evidence that has been heard by senators in this chamber clearly points to a vote in favour of this legislation for the health particularly of our young people. If these bills are defeated, the result will be a decrease in the costs of ready-to-drink products as of 13 May this year. All the good work that has been done since last April—that is, the 35 per cent reduction in consumption of ready-to-drink beverages and the total overall reduction in spirit consumption—will be reversed. The good work that we have achieved through this measure to slow any growth in alcohol consumption in this country from April last year to now will be reversed. All the good work that was part of Labor’s comprehensive plan to deliver a change in the drinking culture in this country will be undermined.

For the last 10 years there has been very little focus on inappropriate use of alcohol in this country. Since early last year, that has turned around. Since early last year we have had the Preventative Health Taskforce. Early last year we allocated $33.5 million to a National Binge Drinking Strategy working on three levels. That is evidence based policy. We have allocated $872 million to a broad approach to preventative health in this country—money that has never, ever been seen before. Then yesterday we allocated another $50 million to support a range of measures that senators in this place suggested the government should pursue. When I reported to the Senate on the agreement between the Greens senators and Senator Xenophon I made it absolutely clear that that money could not progress if these bills did not pass. Those senators who are contemplating voting against this legislation are jeopardising $50 million of greater investment into the health of our nation, particularly into the health of our young people.

During this debate we have heard appalling statistics about the growth in alcohol abuse, particularly by underage drinkers. We know that alcopops are designed for and marketed to largely underage and very young drinkers. We have seen the Facebook advertisements. We have seen the way in which the advertisements are designed and placed in magazines for young children. All of that evidence would tell you that, if you vote against this measure, those sorts of advertising regimes will be pumped up. We saw what
happened with the alcohol industry, especially the distillers, in April last year when the tax increase on alcopops occurred. We saw the blitz of advertising to buy two bottles of straight spirits for an inordinately cheap price. We saw the free bottle of mixer with a bottle of spirits for an inordinately cheap price. What is going to happen on 13 May if this legislation is not passed? We will see a blitz of advertising targeting young people like you have never seen before, and all the good work that has occurred over the last 11 months will be pulled away. I fear for our young people if this legislation is not carried.

But, as I have said to Senator Fielding in particular and to Senator Siewert: there is no one silver bullet when it comes to dealing with culture change around the inappropriate use of alcohol. The equalisation of tax on alcopops is but one measure. We need a comprehensive plan, and we are working on a comprehensive plan. We have, through the Ministerial Council on Drug Strategy, been dealing with a whole range of areas, including advertising. We have started down the road of looking at the linkages between sport, particularly young people’s sport, and the alcohol industry—thanks to the work of the crossbench senators yesterday.

Change in public health policy is always incremental. Yesterday Senator Brown alluded to the change to do with tobacco that has taken place over almost the last 30 years. Changing attitudes to inappropriate use of alcohol will also take time. This is not something you can do in one fell swoop. I am now appealing to comments that Senator Fielding has made—we expect that, over time, there will be change to the way that sport and alcohol interrelate, but we cannot do it in one hit. It is simply not possible to turn around an existing economic structure with one stroke of a pen. But I acknowledge Senator Fielding’s strong desire to work in this space.

I acknowledge that he brought a private member’s bill into the Senate, and I acknowledge his strong desire to progress that. But I say to Senator Fielding and others that through a vote against this measure we will lose so much of the ground that we have already made.

So I urge not only the crossbench senators but also those senators in the Liberal Party and the National Party who stood in this place and said that they were concerned for our young children, that they could observe changed drinking habits of young people and that they were worried about the impact this was having on police time—it has grown in the last 10 years as a result of the inappropriate use of ready-to-drink beverages, particularly by very young people—to look into themselves and ask: ‘Is this the right thing for our kids?’ If they do that, they will observe that it is not. I strongly urge all senators to support this measure.

Senator Fielding was right late last year when he said that he would support this legislation. He said that, given the financial difficulties that our country was facing, the loss of $1.6 billion from the forward estimates was something that he was concerned about. He was very right then. I urge him to consider again those comments that he made, because he was right. Taking $1.6 billion and all of the fantastic public health commitments that we will be able to deliver to our community is, I think as Senator Xenophon has said, potentially throwing the baby out with the bathwater. This is important legislation not only for our children but also for the overall public health of this country. It is an important message to send to all Australians that we need to change the drinking culture in Australia. We need to make sure that very young people stop drinking, that young teenagers drink responsibly and that all Australians move to a more responsible drinking culture.
Public health experts have said to me that they have acknowledged and welcomed the changed focus of the federal government toward alcohol. This substance represents the second highest cost, after tobacco, to the health budget in this country. I think that, if the Senate does not support this measure today, that leadership and the Australian community’s changed perception of the inappropriate use of alcohol will be undermined. This is a very important vote and I urge senators to support the measure.

Senator CORMANN (Western Australia) (11.22 am)—At the outset, I note that the government did not actually explain why they rejected all of the amendments requested by the Senate yesterday. What Senator McLucas has just put to the chamber is the government’s case, which we have previously heard, as to why the government thinks the legislation should be supported. I will not hold up the Senate by going through the argument again. Clearly the Senate would well understand that the coalition is of the view that this was never anything but a tax measure dressed up as a health measure for political reasons. It is a measure that was not based on evidence when it was introduced and the government has not been able to present any evidence whatsoever that it has been effective in reducing binge drinking, risky levels of drinking or alcohol abuse related harm in the community.

Specifically on the motion before us, Liberal and National Party senators will be voting against this motion, and the reason we will is that we think it is an irresponsible motion. It is a reckless motion. Let’s remind ourselves what the Senate requested by way of amendments from the government. We requested essentially two things in a series of amendments. The first thing we requested was that the government agree to validate the revenue collected from 27 April up until royal assent—to validate the revenue collected so far. I really urge senators on the crossbenches to listen very carefully to the implications of what the government are proposing to do with this motion. The government have said to us today that they will vote against validating the revenue collected between 27 April and the date of royal assent. That is for starters. I can understand that the government would have some problems with the second part of our requested amendments, because we requested in the second series of amendments that the increased tax would essentially be made redundant, that the levels of excise as they apply to RTDs would go back down to the levels they would have been if the 70 per cent increase had not been implemented in the first place.

But let us focus on the government’s refusal to support our request for an amendment to validate the revenue collected so far. Why is the government doing this? Is the government taking the Senate’s vote for granted? Is the government assuming that the Senate will support the substantive legislation? It is possible the Senate will not support this legislation, and the government rejects the amendments that we have quite sensibly put forward to help it out of a spot of bother. Nobody in this chamber wants the $300 million collected so far to be returned to the liquor industry. There is unanimous support in this chamber for ensuring that the revenue collected so far, even though it was collected through a bad tax that was never able to be justified on health grounds, does not return to the liquor industry. We have said it is not practical to return the funds raised through the measure over the last 12 months to the liquor industry, so we have quite sensibly and quite constructively offered a way out for the government to ensure that the $300 million does not have to be returned to the liquor industry should this legislation be defeated. The government have
said: 'No, we’re not going to have any of this. We’re just going to put all our eggs in one basket. We’ve got to take the risk.’

I assume that the reason the government has done that is to put the Senate under maximum pressure—in fact, to put Senator Fielding under maximum pressure. Here we are, not at the eleventh hour but at two minutes to midnight and the government is dealing with legislation we have been debating since Monday lunchtime, legislation that seeks to validate a tax increase that was implemented on 27 April last year. So why is the government not supporting our very sensible, very constructive proposition to validate the revenue collected so far? If this legislation is to be defeated, it is going to be on the government’s head. It will be the Prime Minister, Kevin Rudd, and the Minister for Health and Ageing, Nicola Roxon, who will have to justify to the Australian people why the $300 million which will have been collected without legal foundation—

Senator McLucas—$1.6 billion.

Senator CORMANN—has not been validated and why the government have put themselves into the untenable position of having to return those funds to the liquor industry. It seems as if that is what the government is intending to do. Does the government want that $300 million to go back to the liquor industry? What is the reason that the government is not supporting the Senate’s very sensible request to validate at least the revenue collected since this measure was first implemented?

I want to flag this, because I assume that this is all about the government’s tactic. This is all about putting maximum pressure on Senator Fielding: ‘Let’s try and run it as close as possible to the deadline. Let’s tell him there is $1.6 billion at play and put on the additional pressure that, if he doesn’t support this legislation, we’ll have to return $300 million to the liquor industry.’ Nobody wants that—Senator Fielding and Family First do not want that, the Greens do not want that and Senator Xenophon does not want that. I would like to think that that is not what the government wants, but by moving the motion that the government has moved today that is what could quite possibly happen, depending on what the decision of the Senate is today.

I want to flag that, as we are very constructive on this side of the chamber, we offer the government another solution should this legislation not be successful on the floor of the Senate today. We also put it to Senator Fielding and Family First, to Senator Xenophon and to the Greens that, if this legislation is not successful today, we still should make sure as a parliament and as a Senate that the $300 million of revenue raised so far does not have to be returned to the liquor industry.

I call on the government to, if this legislation is defeated, introduce legislation forthwith to validate the revenue collected from 27 April until the day of royal assent. If the government were to introduce legislation to validate the revenues collected so far, we would support it. There is no doubt that it would get up with the support of every senator in this chamber. But the government is running this very close to the wind. I am in no doubt that this is part of a strategy: ‘Let’s make sure that we have as little time as possible so that the stuff-ups we make can’t be fixed up.’ There is a very simple way that this could be addressed, and that is by the government changing its mind and agreeing to our request for an amendment on the revenue collected during the initial 12 months.

Can somebody from the government side please explain to me why they would not do that? Can somebody explain to me why the
government would not want to validate the revenue collected so far? Can somebody tell me whether there is a reason other than to put maximum pressure on the Senate and maximum pressure on Senator Fielding? Senator Fielding has stuck to his guns all the way through. He has stood up for his principles. AMA President Rosanna Capolingua described his stance as ‘courageous’ on ABC radio this morning. It is a stance that does not suit the government, so, ‘Let’s just try and run the strategy on this legislation such that Senator Fielding feels under maximum pressure.’ It is absolutely reckless for the government not to support a request for an amendment which essentially validates the $300 million worth of revenue collected so far.

Senator McLucas, across the chamber—no doubt sending a message to the crossbenchers—was saying, ‘If this legislation doesn’t get up, the $50 million we put on the table yesterday is off the table.’ You know what? This Senate actually called on the government to spend all of the revenue collected so far—$300 million—on some genuine measures to address binge drinking. The Senate called on the government to invest the $300 million that has been collected so far in some genuine and effective measures against alcohol abuse and binge drinking. If the government were serious about binge drinking, if this were not just a tax grab, if the government actually wanted to do something effective about this, they would follow the lead of the Senate and they would invest all the money collected so far in some effective measures against binge drinking.

But what have we got? We have deals in the back rooms somewhere, we have bullying and we have had, essentially, the Senate being stuffed around for a week—putting it on, taking it off, putting it on and taking it off; ‘We might; we might not.’ This is not the way to run the government’s business. I make the substantive point again: the government is absolutely reckless in not agreeing to the request for amendments put forward by the Senate to validate the revenue collected so far. It is absolutely reckless. If the government is of a mind to take the Senate for granted—to take the view that, because of the pressure you are putting on the Senate, it is all going to sail through—then you are essentially putting yourself into a position where you take the risk that the $300 million that has been collected so far has not been validly collected by the government. It is an irresponsible course of action. I urge all senators in this chamber to vote against the motion put by the government.

Senator SIEWERT (Western Australia) (11.33 am)—The Greens agree with the government: this is very important legislation. One of the reasons why this legislation has been going backwards and forwards is that the Senate wanted to be satisfied that we did have a comprehensive approach to tackling binge drinking and alcohol related harm. Another reason it has been going backwards and forwards is that some members of the Senate have been unwilling to look at the evidence that is available. I agree that the evidence is not complete. One of the reasons for that is that we have not got the data available, because we have a very poor data collection process. Due to the current way of reporting binge drinking and alcohol related harm, particularly through our emergency departments in hospitals, it is not possible to get the data to use to effectively measure any alcohol related harm. To get technical, the codes they list admissions with do not properly reflect whether an accident involves alcohol. As was explained to the Senate inquiry just last week, if someone comes in with a broken arm, their injury gets listed as a broken arm; it does not get listed whether that broken arm is alcohol related.
The evidence that the industry tried to put forward that this measure has had no measurable effect on alcohol related harm in terms of admissions to emergency departments was a misuse of the Access Economics report. That report said that you could not use the data to draw conclusions. The industry used that report to say: ‘There has been no impact on the number of admissions related to alcohol. Therefore, this measure isn’t working.’ However, there was plenty of evidence brought to the committee that showed that sales of RTDs had gone down. I understand that the coalition do not dispute that. What they say is that there has been an increase in substitution. The Greens’ concern has always been that, while we accept the argument that price plays a role, substitution would occur at a much greater rate—in fact, unless we had the complementary measures in place, substitution would take over and make up for the reduction in sales of RTDs.

That is why we were so clear about needing to make sure that we address the other elements of a strategy that all the health experts say that we need to deal with alcohol related harm. And that is why we are so strong on the issue of advertising. I have made no secret and nobody in the Greens has made a secret of the fact that our policy says that we should be banning alcohol advertising. That has been in our policy for a significant period of time, but we also believe that we need to take a long-term view of how we deal with it, as we did with tobacco. However, we believe that we should learn from what happened with tobacco and be quicker about this, because it took a long time to get the tobacco issue on the agenda. So we are saying: ‘Yes, we realise that it’s difficult to bring it in overnight. We need a strategy, and the strategy should be a carefully timed, well thought out approach.’

The Greens believe, based on the evidence that we have been presented with, that there has been a reduction in alcohol consumption through this measure. We listened closely to the brewers who presented evidence to the committee inquiry. They challenged the evidence of the distillers and said that, in fact, it would be heroic to draw conclusions from the evidence that the distillers presented that there had been a statistically significant increase in the sales of beer during this period. The distillers were trying to claim that there has been substitution of RTDs with beer. The brewers challenged that. So did the wine makers. They also challenged the claims that there had been a significant increase in wine sales as a substitute for RTDs.

The other point that was made, and the evidence shows this, is that there has been an increase in the sales of straight spirits. Unfortunately, it is very hard to tell whether this tax is increasing the sales of straight spirits, as I highlighted both during the inquiry and in the second reading debate. Senator McLuccas referred to this issue in her comments earlier. The industry has been funding a strong campaign undermining this measure—I will reiterate the fact that they refused to say in committee how much they had spent undermining this particular measure; you would have to take it that they have spent a very significant amount of money—as well as spending a lot of money promoting straight spirits and promoting beating the alcopops meanies by promoting cheap sales of straight spirits and throwing in bottles of soft drink to enable the mixing of those drinks.

That is very irresponsible. Here they are claiming that they are taking a responsible approach to the sale of alcohol, yet they are the ones who have been actively undermining this initiative that is designed to address people’s health and abuse of alcohol. Here they are promoting substitutions and encouraging people to buy two bottles of alcohol plus a bottle of mixer. So it is not fair at all
for the industry to claim that this has been unsuccessful or that there has been substitution. It would have been nice to see this work without the industry trying to undermine the initiative, but, even with their very, very strong and focused campaign, we have still seen a reduction in the sales of RTDs.

The Greens have also been at pains to point out that we do accept price as a mechanism but we need to ensure that the other measures that we have articulated are also put in place, particularly breaking this link between sport sponsorship and alcohol sales. Research is increasingly showing the link between increased drinking by young people as a result of sponsorship and alcohol branded merchandise. The latest research in America, where they studied 6,000 young people, clearly showed that link and other research has too.

We believe that this measure is having an impact. We have said to government: ‘Show us the colour of your money. Show us how you’re investing this money in addressing the issue that you say this is about.’ It is about tackling binge drinking and reducing alcohol related harm. We wanted to see the other measures because we needed to be assured that they were taking this seriously, that this was not just about revenue raising but also about delivering outcomes for alcohol abuse. We have had a lot of contact with the health community—health professionals and public health advocates—and they have supported this measure, but they have also supported calls from the community, from the Greens and from many others saying we need a comprehensive approach. We believe their evidence to the committee—that price is a very important mechanism, a tool to use to address alcohol abuse—and we also believe their calls, backed up by evidence, that it needs to be part of a comprehensive approach. They are the experts; they have experience in dealing with alcohol abuse. But also, importantly, they have strong involvement and experience in working with phasing out tobacco and dealing with smoking. They are taking the experience gained in that area and translating it into experience with alcohol. And there is evidence there. Tobacco and alcohol are slightly different, we acknowledge that, in that no smoking is good for you. None of us are saying that no alcohol is good for you—although I note the guidelines released last week by the NHMRC, which has reduced the number of drinks recommended for safe drinking. However, they are not saying no alcohol is good for you. In fact, many people would argue the reverse, in moderation. But the point is that there are many lessons to be learned from how we dealt with tobacco and, quite frankly, it is going to be a tragedy if we have to spend a number of years similar to the number that the health activists spent in getting people to pay attention and address issues about smoking. It will be a tragedy if we have to spend the same amount of time doing that with alcohol and getting widespread acknowledgement of the fact that we need to tackle alcohol and, in particular, measures besides price.

Advertising is one of these measures and sponsorship is another, which is why we are so pleased that the government has agreed to a sponsorship fund to enable community organisations and sporting groups to apply for substitute funding to replace alcohol funding and sponsorship of sporting activities. We believe this is the first time that we have seen an acknowledgement that there is a link there. We think that is particularly important. We will be strongly encouraging sporting organisations and community groups to apply for funding so that they can break that link with alcohol advertising.

I have had contact from a number of organisations saying that they would appreciate
such an opportunity because, in fact, they do not want to take funding from big alcohol companies or from taverns and pubs whereby they have to use logos and advertise the particular sponsorship. They do not believe it is appropriate that bodies that are about sport and about trying to promote health, activities and exercise among our young people should then water down the message by taking money from alcohol companies, taverns and pubs. Not only does it undermine that message but it has a direct impact in encouraging young people to take up drinking.

We strongly encourage support for this measure now that the government has agreed to the additional measures that are addressing sports sponsorship and the fund and now that the government has agreed to establishing a hotline. All this is, in fact, building on measures that they have already had in place, but this will enable better coordination and more easily accessible help and advice. The funding for the community initiatives is a very significant step forward. The extension of funding for social marketing is a very important step forward. Again, it is about a comprehensive approach. What all of the health experts talk about shows that properly targeted social marketing campaigns are particularly important. They have to be properly marketed and properly targeted and done carefully, but they play a very important role. On top of that the government has also agreed to mandated warnings on all advertising, which is another very significant step forward.

We think the initiatives around phasing out self-regulation of advertising by the industry is another particularly important step, because the evidence that we have seen, presented to the three community affairs committee inquiries that we have now had in the last 12 months, has indicated that there are problems. Certainly I have been very alarmed by evidence presented to the committee around the industry’s self-regulation. They claim it is very effective. But if you look at the ads that the self-regulation body has allowed through, you would be very concerned. They have allowed through ads that I think break the guidelines. Not only has that occurred but, in fact, where ads—the few of them—have been rejected they have mysteriously ended up on the internet, advertising alcohol on the internet. That is why we are also supportive of the fact that the government is changing the approach to self-regulation and also extending the purview into new media, which we think is particularly important because obviously the internet carries a lot of advertising and is a particularly accessible forum and medium for young people. So we are pleased that we are seeing those sorts of steps being taken by the government. (Time expired)

Senator McLUCAS (Queensland— Parliamentary Secretary to the Minister for Health and Ageing) (11.49 am)—I thank those senators who made a contribution to the debate up to this point. I think there is a potential for other senators, who may want to make a contribution, to do so but I cannot predict that, I suppose. I remind the chamber and those who are listening of the very sensible comments that Senator Fielding made on Monday, 13 October last year. I quote from the ABC News website:

"There’s still about $3 billion worth of Budget that is exposed to the Parliament, and Family First is making it quite clear today that we’ll support the Government’s remaining tax Budget bills to bring about that stability,” Senator Fielding said.
“It’s important that Parliament do all it possibly can to bring that stability.”

As I said earlier, Senator Fielding was absolutely right when he made that statement. It is about having the available funds to provide the preventative health services and strategies wanted by Senator Fielding and those who I think have the interests of the health of this country at heart.

Senator Cormann—So it is about money. So it is about funds. But you’ve just changed your argument.

Senator McLucas—Can I say, Senator Cormann, that the disappointment that those in the public health field feel over the behaviour of the Liberal and National parties on this matter is bottleable. They are furious that the opposition in this place, the alternative government in this place, would take such an appalling approach to what could have been the most significant action—

Senator Cormann—Do you actually believe what you are saying—‘most significant action’?

Senator McLucas—I absolutely believe this, because I have read the evidence, which you refuse to countenance. The evidence says that we have reduced consumption of alcopops in this country by $124 million in the last nine months. That is the reduction in the consumption of alcopops. Add to that the fact that we know that alcopops are designed to be marketed to young people and under-age people. That is why they advertise on Facebook. That is why they put things into magazines that children buy.

If we do not pass this measure today, all that is gone. If we do not pass this measure today, all the work that we have done in the last 12 to 15 months will be undermined. Our government retains its commitment to turning around the culture of inappropriate drinking in this country, but if this legislation is not passed today that will be, in the minds of the community and particularly of the young people of Australia, seriously questioned. On the one hand, we are saying that we have to spend money to change the culture around binge drinking but, on the other hand, we make these things cheaper when we know the biggest lever we can pull to stop kids drinking is price because they have not got an expanding pocket and they do not have an expanding wallet. They are price limited. If we make them more expensive, the likelihood that fewer will be drunk is extremely high. That was the evidence that was provided to the Senate committee. I urge senators to do the right thing for the young people of Australia to keep them off alcohol, as the NHMRC says we should, for as long as we possibly can. This is a good measure, it is working, we know it is working, and I urge the Senate to support it.

Senator Fielding (Victoria—Leader of the Family First Party) (11.53 am)—We are still here at the eleventh hour and Family First are throwing a lifeline to the Rudd government to break the impasse. We have recommended to the government a three-year set date for closing the crazy loophole that allows alcohol ads to appear during sporting programs. Three years is more than enough. We are trying to be reasonable and act in good faith. This link between alcohol advertising and sport needs to be broken. The industry knows that this is a serious issue. In actual fact, it appears some of the industry is prepared to move further than the Rudd government on advertising restrictions, from what I heard yesterday in the chamber. I heard yesterday in the chamber that someone in the industry was looking to restrict their advertising. I do not know whether that is true, but if that is true then it seems a shame that the Rudd government will not move on setting a deadline or a date for stopping this crazy link between alcohol and sport.
Clearly, we have a problem; no-one is deny-ning that. I have never heard the govern-ment deny it, but for some reason it refuses to actually set a date, to stand up to the alco-hol industry and say that sports programs should not be given a special exemption from the regulation that allows them to put ads on any time of the day for alcohol. No-one can justify it. The government has not had a day, a week or a year but over a year and a half to do this. Family First introduced a bill into parliament, the Alcohol Toll Re-duction Bill 2007 [2008], which had three measures in it: firstly, advertising restric-tions; secondly, health warning labels on alcohol products; and, thirdly, making sure that the ads for alcohol are taken out of in-dustry hands and into a regulatory body not in the hands of the industry. These three measures are pretty simple. These three measures do not cost the government a cent. The government has conceded on a couple of those points, but all three are not justifiable not to move. The government is willing to move on labels on alcohol products and it is willing to make sure that alcohol ads are out of the industry hands into a regulatory body, but on the big one, alcohol advertising and sport, this government cannot unhook itself even from that addiction. It has not got the courage to stand up to the alcohol industry and say that enough is enough. I am not even asking for it to be done today; I am asking for the government to set a date so we can all work towards when we will break that link between alcohol and sport.

You cannot justify why you would not do it. The Australian public want it. They are sick and tired of the link. As I stated yester-day, the cost of excessive alcohol consump-tion in Australia is $15.3 billion. That is what it costs the economy. That is a physical drag on the economy. One in five road deaths are alcohol related and 40 per cent of police work is alcohol related. These are your taxes and my taxes. Our streets are not safe be-cause of the alcohol fuelled violence. We must act on this. We have thrown a lifeline to the government, and I am hoping that they do not just say to the Australian people that even a three-year start date is not acceptable. That is ridiculous. There is no use spending money unhooking sponsorship from sport if you are going to put your foot on the accel-erator down to the floor and allow advertising and sport still to be so closely tied. You are actually reinforcing the message. You need to actually front up to the Australian people and stop hiding behind a blatant tax grab. That is where you started, and you have ended up with a few other bits and pieces and a bit of money to buy a few more votes, but you have got to address the biggest issue, which is that of alcohol advertising. Every-body knows it. It is like the elephant in your party room. This is a biggie and you will not stand up to it. It is a nonsense that you will not move on this issue.

So here is a lifeline—a three-year date: in three years you will definitely stop the crazy exemption given to sports programming that allows alcohol ads to appear any time of the day. It is a simple thing to do, and it is the right thing to do. All Australians want to see this addressed. As I said, Family First spoke about this issue with the Prime Minister be-fore he was Prime Minister. This is a serious issue. We have brought this issue to a head because we have stood up to the govern-ment’s fraudulent position of saying that the alcopops tax is good enough. You have a major problem—a $15.3 billion problem; that is the alcohol toll—and the best that you folks can do is pull the lever on tax revenue and say this is going to fix it.

You have turned binge drinking into a tax problem. Binge drinking is not a tax prob-lem; binge drinking is a cultural problem. We need to create a culture of responsible drink-ing in Australia. I drink; most Australians
drink. We need to create a culture of responsible drinking where it is no longer acceptable to drink until you are blind drunk. We need to look at this as an alcohol toll. I use the term very specifically because people can relate to it. They can relate to it because of the road toll. Governments got fair dinkum with the road toll. It took a long time to get there. And what was the first response to some of the measures? It was: ‘Oh, don’t be a wowser!’ Remember the days when seat belts had to be worn? People would say, ‘Oh, I’m not wearing a seat belt; you’re not a man if you wear a seatbelt.’ Today a five-year-old kid will say, ‘Hey! You haven’t got your seatbelt on!’ That is the culture. It is not a tax problem. You do not turn binge drinking into a tax problem. You have hijacked genuine debate about addressing a very huge issue—a huge elephant that you will not tackle.

The tobacco toll is another toll. There is the road toll, the tobacco toll—and now the alcohol toll. Occasionally, the Rudd government say, ‘Look, with the tobacco toll we pulled the tax lever.’ Hold on! From memory you did not take the most popular brand of cigarettes and up the tax on that. Why? Because you knew there would be substitution. So all of a sudden you come to the alcohol toll and the best you mob can do is pull a tax on one particular product. Do you know how much the price, not the tax, has gone up? Do you think that is going to stop people from binge drinking? You have turned this debate into a tax problem and done all of Australia a very great disservice. This issue deserved better from a government that knew the issues. You knew that this deserved better than just pulling a tax on one product. It is a cultural issue; it is not a tax problem. We need to address that issue.

Three simple measures were not too much to ask: advertising restrictions, warning labels on alcohol products and getting alcohol advertising out of industry self-regulation. But no, you did not go there. You just pulled the tax lever. And then you masquerade around saying, ‘That’s going to do it all!’ And then at the eleventh hour you start giving a bit more money and you say, ‘Only if you vote for the bill will you get these other little bits and pieces.’ But what about the real issue of the advertising restrictions? I have given you a lifeline here—three years. Seriously think about it. Do not just steadfastly say, ‘Nothing we can do about that!’ I am sure in your party room that there is quite a bit of support for advertising restrictions. Listen to your conscience on this issue. You cannot justify to the Australian people why you will not tackle the advertising restrictions. Unhook alcohol addiction from sport. Show some real leadership. Show the courage that the Australian people voted you in on at the last election. Show them that same steely determination to stand up to the big players. Do not roll over at the eleventh hour—show some courage.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.06 pm)—It appears that Senator Fielding has decided that gaining two of his three wishes is not enough. We have to remember that last year he supported this legislation. Now, having not got everything he has asked for, he is going to vote it down, with the opposition being his co-negators of the legislation. Senator Fielding is the boy on the burning deck saying, ‘I’m going to throw you a lifeline,’ having set the ship aflame. You cannot see anything here other than this lifeline from Senator Fielding scuttling everybody’s hopes and aspirations while he wants to say, ‘But I offered you a lifeline at the end.’ Senator Fielding is scuttling legislation which has huge advantages for the Australian people, and he will be judged for it. But the problem is: does he have the shoulders to bear the responsibility for what is really happening here today? The senator wanted an
end to the self-regulation of alcohol advertising and the government has moved on that. He wanted warning labels on alcohol containers and the government has moved on that. He wants restrictions on the so-called loophole which allows the advertising of alcohol with sporting events on television. The government has not moved on that. Senator Fielding has made that a make or break matter, and break is the decision.

I happen to agree that it would be a good thing. It is Greens policy that that nexus should be broken. But here is where wisdom and sensibility, instead of silliness, in politics come into play. What we will get with the passage of the legislation and the attendant agreements made with the government is an end to damaging alcohol advertising without warnings. There will be warnings on alcohol advertising and on labels. Senator Fielding is throwing that out. There will be a $50 million plan—and Senator Siewert has spoken about this at length—which includes a hotline for people who are having trouble with alcohol. It will start to replace alcohol advertising for sporting groups. They will be given a choice because there will be public funding available. It also includes other measures which are going to help people who have trouble with alcohol. That is a big breakthrough indeed.

There will be an end to the self-regulation of advertising by alcohol producers because there will now be government representation involved—and that means people who have health in mind instead of just selling alcohol—in the regulation of advertisements to do with alcohol. And of course there is the tax itself, which we know from the real statistics has reduced the amount of alcohol being consumed. The flow-on to that is that it has curbed—not sufficiently—binge drinking. That is logical, because if you raise the price of a good then the good will sell less.

I, like everybody else, appeal to Senator Fielding to reconsider the situation here. It is not just saying, ‘I won’t let the legislation through.’ It is dumping a series of real measures, probably unprecedented in the life of this parliament, to curb the problem of drinking. It is a multibillion dollar problem, as well as a lifestyle problem and a problem that damages families. What Senator Fielding is saying is: ‘I won’t go along with this package to help protect families who are being damaged by alcohol abuse in this country. I would rather, to make a political point, dump that multimillion dollar regulatory package, which includes warning signs on advertising, that has been negotiated through the work of a lot of senators in this place.’ That is his right and privilege, but I say it is the wrong thing to do. It is not a sensible, considered, mature and responsible outcome. So be it.

I might say to the government that I would have yielded more on this but we recognise the dynamics of politics. I could have attached to this piece of legislation some very, very big asks and made it impossible for the government to negotiate with the Greens. Senator Siewert, who was doing our negotiation, did not do that, but she got major advances. Senator Xenophon has done the same. But with Senator Fielding the attitude now is: ‘Give me what I want or no deal and I’ll dump all the gains made by the other senators which are going to help really tackle the problem of alcohol abuse in this nation of ours.’ That is what people want us to be doing. I can say that fair-minded Australians out there are going to look at this because it is not a net sum game. They are going to look at the losses incurred here today because of the opposition and its intransigence and because of Senator Fielding, if he does not change his mind on this.

It is not just poor politics. This is a terrible, improperly thought out and irresponsible
outcome for the Australian people in the circumstances. That is where it stops: is this responsible or is it not? No, losing the gains that have been made here would not be a responsible move. I appeal to the opposition to think about that again. The opposition has tried very hard to say that the government should not be imposing this tax. But we have all worked very hard and the government has given ground on this. Minister Roxon has given ground on this. We have here in our hands a reasonable outcome and a commitment to tackle the problem of alcohol and, in particular, alcohol advertising in the future. This is not the end of it. We should be voting for it.

Senator CORMANN (Western Australia) (12.13 pm)—I will just take advantage of Senator Fielding being in the chamber to explain in a few words why Liberal and National Party senators will be voting against the motion moved by the Parliamentary Secretary to the Minister for Health and Ageing. It seems that I am actually the only senator speaking to the motion, as everybody else has talked about the substantive tariff bills.

The motion before us is essentially that the Senate not insist on the requested amendments that we in this chamber passed yesterday. There were two series of amendments that we agreed to in the Senate yesterday. The first series related to validating the revenue collected so far to the tune of $300 million. There is absolutely no reason why the government should not agree to the validation of the revenue collected so far, just in case its substantive legislation does not have the support of the Senate. The only reason the government is not supporting the requested amendments that would validate the tax that has been collected so far is to, at three minutes to midnight—we are no longer in the eleventh hour—put maximum pressure on the Senate and more particularly on Senator Fielding. Senator Fielding has stuck by his guns and has been consistent on the issues he feels strongly about. As I mentioned earlier, the President of the AMA, Rosanna Capolingua, this morning reflected that Senator Fielding’s stance was very courageous indeed.

I am not going to go through all of the arguments again as to why the opposition thinks that this is an ineffective measure. It is a tax grab that does not have any health benefits attached to it. As such, we will not be supporting the substantive legislation. I want to point out the seriousness of the government’s actions in not accepting the requested amendments that would validate the revenue collected so far. Should this legislation be unsuccessful, I think it is very important for Senator Fielding to understand that the coalition would support legislation, which the government should introduce immediately, that validates the revenue collected so far. I am confident that with our support—and no doubt with the support of senators across the chamber—such legislation would pass. Finally, on behalf of the opposition I call on the government again to invest all of the $300 million that has been collected so far into effective and genuine measures to address the issue of alcohol abuse, as was called for by the Senate two days ago.

Senator XENOPHON (South Australia) (12.16 pm)—My position remains that I believe a number of the measures that have been agreed to by the government, as a result of discussions between the government and my crossbench colleagues, the Greens, are a quantum leap forward in dealing with alcohol abuse in this country. We will have for the first time mandatory warning labels on all alcoholic beverages. That is significant. There will be an end to the self-regulation—some would say the self-delusion—of the alcohol industry so that there will be pre-vetting of ads for the first time. There will be
$50 million spent on a variety of very important measures. The sponsorship issues that the Greens have been advocating for are dealt with. That is an important step forward. There will be $20 million for community education campaigns—those grassroots campaigns that research shows make a very real difference in getting the message across to young people particularly when dealing with alcohol abuse. There is $5 million being spent on social marketing, which Senator Siewert referred to. That will target those groups in new and innovative ways to make a difference. And, of course, there will be the alcohol abuse hotline.

This all leads us to the outstanding issue that Senator Fielding is concerned about. I want to make it clear that I commend the advocacy and work that Senator Fielding has done on this for many months. He has been consistent in his concern about tackling alcohol abuse in this country. My concern is that all of those good measures will be lost. Rather than looking at the whys and wherefores of who is right and who is wrong we need to put this in context. There is an opportunity now to move forward in a very significant way to tackle alcohol abuse in this country with the programs and the mandatory warning labels on bottles, casks and cans. Senator Fielding has been a long-term advocate of these things, and he deserves to be commended for that. This is a quantum leap forward in terms of what we have seen previously with tackling alcohol abuse in this country.

If the government is prepared to agree to a process of winding back alcohol advertising with sport and if it is prepared to put in a not insignificant sum of money to have advertisements dealing with alcohol abuse in the context of sports broadcasts, that would go a long way in dealing with the concerns of Senator Fielding. Advertising during sports programs could well have an effect on reducing consumption. That is what the research from the University of Connecticut that I referred to the other day has found. If there are funds set aside not only for the social marketing that Senator Siewert referred to to specifically target groups but also for advertising to get the message across about alcohol abuse, I believe that would remedy in a significant way the concerns that Senator Fielding has set out.

My fear is that we will throw the baby out with the bathwater. My fear is that we will lose this quantum shift in terms of the way we look at alcohol abuse in this country. I do not want to be critical of the opposition or indeed of previous Labor governments, but they have done very little in terms of dealing with this. This is a breakthrough. It is fundamentally important that we grasp this opportunity. There is a real opportunity here for Senator Fielding to hold his head high, even though he has just left the chamber—and I am not sure whether that is a good or bad sign. There is a real opportunity for Senator Fielding, along with my crossbench colleagues, the Greens, to take credit for some significant reforms in this area.

I do not want us to go back to the bad old days of self-regulation and no pre-vetting of advertising; to retain the status quo of no warning labels on alcoholic beverages; to not have funds in place, significant programs in place, to tackle alcohol abuse, and the social marketing that will actually break through and cut through to young people in particular; to have no hotline; and of course to not substitute current alcohol sponsorship through a $25 million fund. These are all things that will shift and change the culture of drinking in this country, and the damage caused by advertising and sponsorship. Let us not abandon those very good measures because we cannot get everything, because the ideal world cannot be achieved right here and now. So my plea to my colleague Sena-
Senator Fielding—and again I accept fully his sincerity, his genuineness, in tackling this problem—is not to throw the baby out with the bathwater. I urge him to support the package of measures, with some modification perhaps in terms of addressing a number of his key concerns, so that we can get on with this and have a good piece of public policy in place.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.23 pm)—I thank those who have contributed to the debate. Like Senator Xenophon, I do not know if it is a good thing or a bad thing that Senator Fielding is not here, but I do hope he takes the opportunity to listen to this contribution in which I will try to talk through the issues that he has raised.

Various senators have talked about the progress that we have made over the last 12 months in terms of changing the culture around binge drinking. We talked yesterday about the extra $50 million that will go on top of the $53.5 million committed last year, the $872 million in a broad preventative health strategy and the commitment from this government—the huge shift in government thinking that has occurred with the change of government—to curbing the inappropriate use of alcohol. What might happen today is that that culture shift that Senator Fielding so desperately wants, I think it is fair to say, will be severely undermined. The gains that we have made around alcohol advertising and alcohol labelling that the crossbench senators have negotiated will be undermined. The $50 million extra in services—through the community-level initiatives, through increased social marketing and advertising and through the telephone hotline—that everyone agrees is an improvement and a way forward will be undermined. I think that the cultural shift that Senator Fielding is so concerned about will, if he does not support this legislation, be undermined.

Senator Fielding appealed to me to listen to my conscience. I appeal to him for the same reason. If this legislation is not supported, we will revert to the days when alcopops were cheap, and alcopops designed for and marketed particularly to young people and under-age people will be back. The level of alcohol abuse happening in young children will be back to the levels that it was. I do not think this is what Senator Fielding wants but, unless he supports this legislation, that is what he will get. And, I am sorry, but the advances that we have made on the requests that Senator Fielding has legitimately put on the table are significant.

Changing the sport and alcohol relationship is not something you can do with one decision. It is a longstanding relationship that, as Senator Bob Brown has said, will take time to change. There is a reliance—something that Senator Fielding clearly finds abhorrent, and others do as well—of sports on sponsorship by alcohol companies. Senator Fielding thinks that should change and change now. I say to him that, practically, that will take a long time to turn around. That is not to say that there is no desire for something to happen in the future, but Senator Fielding’s demands of government are impossible to deliver. One might wonder why he would ask for something that I think he knows, in his heart of hearts, is impossible.

Senator Fielding talked about leadership needing to be applied. From day one, this tax has been called a controversial tax. I heard it again on the radio this morning: ‘the controversial alcopops tax’. If that is not showing leadership, Senator Fielding, then I am not sure what is. We have had leadership from the top on the question of inappropriate use of alcohol, and I really think that Senator Fielding’s dismissal of this practical measure
that is changing the way that our young people will drink is dismissive of the comprehensive approach that our government has had. It is simplistic to say, ‘If you don’t change the relationship between sport and sponsorship by alcohol companies, then you won’t get anything.’

Senator Fielding showed a misunderstanding. I think, of the differences between public health treatment and the changes to the way we deal with alcohol and tobacco. Senator Fielding does not understand—and I think Senator Siewert said it perfectly before—that, when it comes to tobacco, there is one answer: don’t do it. When it comes to alcohol, the answer is different: do it carefully.

Senator Fielding asked why we did not tax one brand of tobacco at a different level from another, as we are doing with the alcopops tax. It is because they are all equally as bad. We increased the tax on all of them progressively over time because no tobacco is acceptable. That is the difference between tobacco and alcohol. As Professor Tanya Chikritzhs said to the Senate inquiry last week as to why you treat alcoholic products differently:

… not all beverages are equal in the amount of harm that they are likely to be associated with.

So when you have a product that is designed and marketed to a group of very vulnerable people—that is, young children—we have to treat it differently. Since 2000, there has been a 254 per cent growth in the alcopops market. Alcopops are designed to be marketed to our young children and it is appropriate that we treat them in a different way.

I am disappointed that Senator Fielding did not understand the differences and made a flippant remark about why we did not tax one brand differently from another. Senator Fielding talked about the $15.3 billion impact of alcohol on our society. He talked about the one in five road deaths attributed to alcohol. He talked about the 40 per cent of police work related to alcohol. I say to Senator Fielding that, if this legislation is not passed, it will be back to those ‘good old days’. That is what we will get. To describe the way negotiations have occurred over the last few days as ‘throwing a lifeline’ I think misrepresents the good faith bargaining, the honest and open way we have tried to negotiate with Senator Fielding in the knowledge that he has a desire to achieve a change in the culture in inappropriate use of alcohol.

But let us leave it to the public health experts. One after another they have been in the media in the last 24 hours urging all of us—not just those on the crossbenches but those who sit in the large block opposite—to follow our consciences and do the right thing for our kids. One after another they have been urging us to vote for the health of our children. In fact, one public health expert said that not supporting this legislation is like flushing the vaccine down the toilet. We have an opportunity to do something, to vaccinate the nation to assist us on the way. It is not a silver bullet but it is something that will assist. One public health expert said, ‘Not voting for this is flushing it down the toilet.’

I am very disappointed. We have come a long way in the last 15 months. If this legislation is not carried, it will put us back.

Question put:

That the committee does not press its requests for amendments not made by the House of Representatives.

The committee divided. [12.37 pm]

(The Temporary Chairman—Senator TM Bishop)

Ayes............ 31
Noes............ 31
Majority........ 0
Question negatived.

The TEMPORARY CHAIRMAN (Senator Mark Bishop)—Order! There being 31 ayes and 31 noes, the votes are equal. The effect of this vote is that the disposal of the bills proceed without the request. The rationale for this outcome is that the requests required majority support to be made in the first place. The equally divided rule indicates there is no longer a majority in favour of proceeding with the request and the bills therefore proceed to the next stage in their original form.

Resolution reported.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.42 pm)—I move:

That the report of the committee be adopted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.43 pm)—Together with Senator Cormann, I intend to move an amendment to that motion. The amendment is as circulated, with two words added. I, and also on behalf of Senator Cormann, move:

At the end of the motion, add “and, should the question for the third reading of these bills be negatived, a message be sent to the House of Representatives informing the House that, if further legislation to validate the collection of the revenue so far under these measures were to be presented by noon on 19 March 2009, the Senate would be disposed to expedite the consideration of that legislation”.

The amendment speaks for itself. In anticipation of the third reading not succeeding, it is a message to the House on the revenues collected under this measure to say that the Senate would look seriously and expeditiously at considering a measure from the House if it wanted to retain those revenues.

Senator CORMANN (Western Australia) (12.44 pm)—In speaking to the motion that Senator Brown has just moved: the actions of the government today have been reckless. They have put the Senate and the parliament into a position where the $300 million collected so far might well have to be returned to the liquor industry. That is not something
that anyone in this chamber wants. The government tomorrow should introduce the legislation called for in this motion and fix up its stuff-ups, quite frankly.

The President—According to the standing orders, I have to interrupt business now.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.45 pm)—I seek leave to extend this period of the agenda for 10 minutes.

The President—Leave is being sought for an extension of time simply to allow this matter to proceed.

Leave not granted.

Matters of Public Interest

The President—Order! It being past 12.45 pm, I call on matters of public interest.

Donations to Political Parties

Senator FEENEY (Victoria) (12.47 pm)—This week the Senate has been debating the government’s bill to reform the law relating to campaign donations. The Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009 would restore the transparency provisions of the Electoral Act relating to campaign donations, which the Howard government removed. Senators opposite have been resisting tooth and nail our efforts to make the facts about who is donating, and how much, to political parties more readily available to the voters.

When we look at the current election campaign in Queensland, it is easy to see why the Liberal Party and the National Party—which in Queensland have merged to form a new party, the LNP—are so afraid of laws which make big donations to political parties more transparent. The reason is that the LNP is heavily in debt, both literally and politically, to one man. That one man is Mr Clive Palmer—reputedly now Australia’s richest man.

Mr Palmer made his first fortune in the 1980s in the Gold Coast property boom. He was part of the notorious white shoe brigade, who grew rich with suspicious ease in the climate of shonky deals and secret favours that famously flourished in the good old days of Sir Joh Bjelke-Petersen. He showed his gratitude to Sir Joh by devoting his time and a lot of his money to the disastrous 1987 ‘Joh for Canberra’ fiasco. In return for his services he was made a life member of the Queensland National Party.

In 1986 Mr Palmer moved into mining exploration. His company, Mineralogy, acquired large stakes of prime iron ore country in Western Australia. Chinese demand for iron ore has made Mr Palmer a billionaire. Along the way to becoming a billionaire, Mr Palmer did a stint as an adjunct professor of business at Deakin University’s Faculty of Business and Law. He held this untenured, non-salaried position from 2002 to 2006. On the strength of this, Mr Palmer has taken to calling himself a professor. The Mineralogy corporate website calls him Professor Clive F Palmer. The fact is that Mr Palmer is not and never has been a professor. In Australia a professor is a person who holds a chair at a university. An adjunct professorship is a temporary and honorary post only. For a former adjunct professor to go around the business community calling himself a professor is a breach of academic protocol, but it is more than that—it is a symptom of the inflated sense of importance that Mr Palmer has acquired.

Mr Palmer likes buying things, and the richer he has got the more things he has been able to buy. He bought Waratah Coal for $120 million. According to his son he gave this acquisition three minutes consideration. He bought the Gold Coast United soccer club
for $6 million. He likes soccer. And he likes parties—and he has bought one of those too. And since he has always been a National Party supporter, he decided to buy the Nationals at a unique moment in history—at a time when he could buy the Liberal Party as well. So the Liberal-National Party, the LNP, is now Mr Clive Palmer’s new hobby.

Mr Palmer is by far the biggest single donor to the Liberal and National Parties in Queensland. Mr Palmer recently denied that he has ever given any money at all to the LNP, but that is a very misleading statement. Australian Electoral Commission records show that Mr Palmer’s mining company, Mineralogy, donated $412,000 to the Nationals and $147,000 to the Liberal Party in the 2007-08 financial year, before the merger between those parties came into effect in July last year.

That is a total of $559,000, which I can tell the Senate, from my personal experience as a former party state secretary and campaign director, goes a very long way indeed to running a state election campaign. But that is not the limit of Mr Palmer’s generosity to the LNP. The LNP leader, Mr Springborg, is at this very moment campaigning around Queensland in Mr Palmer’s helicopter, saving his party a lot of money in transport costs. Who knows how much more there is by way of money, goods and services that Mr Palmer has channelled, one way or another, to his friends in the LNP? Certainly the people of Queensland do not know.

Now, just a few days before the election, we learn from the Courier-Mail that Mr Palmer has made a large donation to the LNP. He has obviously timed this donation so that under Queensland law it will not have to be disclosed before the election. We can deduce from these facts that Mr Palmer’s donation is very likely to have been a large one. We are entitled to ask Mr Springborg: how big is Mr Palmer’s donation? Why has the size of this donation not been disclosed? What is Mr Palmer expecting in return from Mr Springborg and the LNP? How will a Springborg government pay off the huge political debt it will owe to Mr Palmer and his mining and other commercial interests?

Mr Palmer’s largesse comes at a vital time for Queensland conservatives. At the time of the merger, according to an article in the Australian, the Queensland Liberals were $1.5 million in debt. Their long record of political failure, culminating in their wipe-out at the 2007 federal election, caused their traditional sources of finance, small and medium business, to put away their cheque-books when the Liberals came calling. So it is just as well that a white knight turned up in the nick of time to bail the party out. The price of Mr Palmer’s bailout was pretty steep, however. The first part of that price was the shotgun marriage that formed the LNP, bringing to an end the not very glorious 64-year history of the Queensland Liberal Party, most of it spent as Sir Joh Bjelke-Petersen’s parliamentary poodle. Mr Palmer no doubt told the Liberals he was not going to waste his hard-earned cash on such a bunch of losers. They had to surrender their identity and accept assimilation by the Borg. Resistance, he no doubt told them, was useless.

That is why the LNP is really just the old Queensland National Party under a new label. Mr Palmer is paying the bills and he is calling the tune. For example, why is the LNP opposing Labor’s plans to build an AFL stadium on the Gold Coast, which would bring new businesses and visitors to the coast? For the simple reason that Mr Palmer does not want any competition for his beloved Gold Coast soccer team, and of course Mr Springborg has had to agree to Mr Palmer’s demands. If Mr Springborg is elected Premier on Saturday, Queensland
will return to the bad old days of Sir Joh Bjelke-Petersen and his cronies. Let everyone understand clearly that LNP is a brand name that serves as nothing more than a device to get Queenslanders to once again vote the National Party into office.

Who can forget Sir Terry Lewis, the police commissioner jailed for corruption, or the Fitzgerald inquiry, which saw National Party ministers like Don Lane, Brian Austin, Geoff Muntz and Leisha Harvey prosecuted for corruption? Who can forget the cronyism, the cosy deals and the secret payments? I am sure the people of Brisbane have not forgotten. They should remember in particular the destruction of Queensland's natural environment under past National Party governments. If Mr Palmer has his way, those days will return under a Springborg government. Only last week Mr Palmer attacked the Western Australian Environmental Protection Authority for causing delays to his mining developments in WA and called for time limits to be placed on their ability to scrutinise mining operations. If Mr Springborg becomes Premier, Mr Palmer will be leaning on him to do the same in Queensland, no doubt reminding him of who signed all those campaign cheques.

Mr Palmer's next demand on the LNP was a political career for his son and heir, the 18-year-old Michael Palmer, who is today the LNP candidate for the seat of Nudgee at this election. Palmer Jr has gained great media coverage for himself by repeatedly parking his dad's gold Mercedes in the reserved car park of a Brisbane dental surgery. According to the *Courier-Mail* of 5 March, the dentist, Dr Matthew Voltz, called young Palmer 'an arrogant little sod'. Such a description should ensure he goes far in the LNP. What other demands has Mr Palmer made as the price of his bounty to Queensland conservatives? We know he expects to dictate LNP policies. As he said in a radio interview: 'Of course I've got influence. I'm a member of the party. You join a political party because you want influence.'

So what policies has Mr Palmer demanded that the LNP adopt? We now know part of the answer to that question. According to the *Australian* in June 2007, Mr Palmer is developing uranium mines in the Pilbara and scouting new uranium deposits in Queensland. So it comes as no surprise that the LNP has come out in this election as a strong supporter of developing more uranium mining in Queensland. Mr Springborg said that uranium mines would bring a jobs bonanza and royalties to Queensland. In fact, uranium mining generates very few jobs. Recent research has shown uranium mining would generate only 120 jobs over the next five years. Exporting uranium from Queensland would require building new ports away from population centres. This would mean going further into debt. In the short term, only one man would reap a bonanza from uranium mining in Queensland, and you guessed it—that would be none other than Springborg's largest financial backer, Mr Palmer.

Mr Palmer seems to be rather sensitive to suggestions that he is the financial godfather of the LNP and that he is extracting a price for his largesse in the event that the Borg comes to power. When Premier Bligh and the state Treasurer, Andrew Fraser, had the temerity to point out that Mr Palmer had bought the LNP outright, he announced that he was suing them for $1.2 million in damages. Mr Palmer has a habit of doing this kind of thing. I note with interest that in *Who's Who* he lists his hobbies as 'reading and litigation'. It is good to see that neither Ms Bligh nor Mr Fraser has backed down in the face of this kind of intimidation.

Mr Palmer seems to have become something of an embarrassment to the LNP. According to the *Courier-Mail* on 3 March, Mr
Palmer gave an interview in which he accurately but rather cruelly called Mr Springborg ‘uncharismatic’. He then called his own personal press conference on the very first day of the election campaign, but shortly afterwards this press conference was mysteriously called off without any reasons being given. As a result, the LNP state director, Michael O’Dwyer, was forced to issue an edict banning party members from ‘publicly criticising the party, its office bearers, parliamentary representatives or candidates’. So Mr Palmer has obviously landed the Queensland allies of senators opposite in a bit of a pickle, right in the middle of a state election campaign.

The conservative parties cannot do without business donors like Mr Palmer. In Queensland, the Liberals and particularly the Nationals have always been the agents of unscrupulous property developers, mining magnates and other sectional interests. They pay the bills for the Liberal and National parties, and in return the Queensland conservatives have given them various deals and protected them from public scrutiny. Who can doubt that a Springborg government would follow that time-honoured tradition? Premier Bligh and Mr Fraser were quite right to say that a Springborg government would be a wholly owned subsidiary of Mr Palmer’s corporate interests. If Queenslanders want to return to the bad old days of cronyism, shonky deals and undisclosed donations, they will vote for the LNP. Perhaps the good folk of Nudgee had better vote for Mr Palmer’s brilliant son too, so that they can have a nuclear power plant built on Nudgee Beach. I do not think Queenslanders want any of those things, and that is why I believe they will re-elect Anna Bligh’s government on Saturday.

Queensland Hospitals

Senator BOYCE (Queensland) (12.59 pm)—I would like to speak during this time on a situation that is a real scandal—not a confected scandal about an individual using his own funds to support a political party, unlike the forced contributions of unionists all over Australia, particularly those made to the failing Bligh government—namely the state of the hospital system in Queensland. There is no longer any confidence in or support for not only the hospital system but also the minister who administers it—not even from his leader, the Premier. How many times does Mr Rudd have to be told that the Queensland hospital system is in a disastrous mess? It has been since the last election, when Premier Beattie promised, hand on heart and smile on lips—as usual—to fix it and completely failed. It has gone on and on.

In October 2007, Mr Rudd said that if he won the federal election the buck for fixing Queensland’s hospital system would stop with him. I am here to tell Mr Rudd that the buck has well and truly stopped. The Queensland system is near collapse. Yesterday, Dr Chris Davis from the Australian Medical Association of Queensland described the Queensland hospital system as very bloated, very rigid and very politicised. The report that the AMAQ issued at the same time said that most of Queensland’s hospitals were under pressure, despite the record health budget that has been spent—mainly on public servants in the health sector, not on fixing the hospitals.

Yesterday’s report talked about the worst hospitals in Queensland for bed occupancy rates. The Caloundra hospital was at No. 1, with a bed occupancy rate of 119.8 per cent. The desirable rate is 85 per cent—that is considered a safe occupancy rate. No. 2 was Cairns Base Hospital, with an occupancy rate of 101.5 per cent. Mackay Base Hospital was
No. 3, with an occupancy rate of 101.3 per cent. Nambour, Logan, Caboolture and Redland hospitals all had acceptably high occupancy rates.

At the same time, this report from the AMAQ pointed out that Townsville, Cairns and Nambour hospitals had unacceptable waiting times for elective surgery. When looking at long wait lists, keep in mind that that means people who have probably waited more than 90 days for the opportunity to have surgery. That is the list from yesterday. But things move on in Queensland in the hospital system very quickly. Just today the AMA has again, in response to problems raised by its members and by poor old be-nighted health consumers in Queensland, called for an urgent upgrade to the Rockhampton hospital. Let us put that one on the list today.

Some of the issues that were raised on talkback radio in Queensland today would make your hair stand on end—if we were not already so inured to horror, mishandling, rigidity, bureaucracy, red tape and total failure to help the people that the hospital system is supposed to be there for, the patients. In Rockhampton hospital, a man with a brain tumour was told that he will have to wait a minimum of 24 months to get an MRI to find out if that tumour is benign or aggressive. This gentleman from Rockhampton—

Senator Mason—24 months?

Senator BOYCE—Twenty-four months, Senator Mason. This man, who has a brain tumour, will need to wait if he wants to use the wonderful and caring services of the Queensland hospital system at the Rockhampton hospital. This man told talkback radio in Brisbane this morning that he had sold his ute so that he could go private to find out now, not in 24 months, whether the brain tumour he has is benign or aggressive.

Perhaps one of the best stories that illustrates the problems outlined in AMAQ’s report on hospitals is from the person who rang up today to tell the Queensland public that the Princess Alexandra Hospital is very helpfully sending a specialist urologist to the Rockhampton hospital because they do not have any; they cannot do any work in the urology area in Rockhampton. So the PA Hospital in Brisbane, one of our largest and most efficient hospitals in a system that is by no means efficient, is sending a urologist up here so that Rockhampton people do not have to go to Brisbane to see a urologist. The only problem is that Rockhampton hospital and PA Hospital did not communicate on this, so there are patients from Rockhampton coming to see a urologist and a urologist who has gone from Brisbane to Rockhampton to see the patients who are in Brisbane. That mess would be humorous, funny, except that it is so much a part of the disaster that is the Queensland hospital system.

I noticed another report that came out today. It was from the Business Council of Australia. It said, ‘There is no leadership in the current health system’—they mean in Australia—‘because the state and the Commonwealth aren’t working together.’ How much more needs to be said to prove to Mr Rudd that the buck has now stopped with him? We certainly cannot trust what happens in the Queensland system.

If we look at it overall, medical errors in Australia cost $2 billion a year and one-third of the current treatments that Australians receive in their hospitals are not based on the latest research. Of course, none of this would be surprising in any way to Queensland patients, because Queensland had the worst record of all in the last Productivity Commission report on deaths caused by medical errors. The Productivity Commission report in 2009 showed that 49 people in Queensland were mistakenly killed or seriously
injured in Queensland hospitals in 2006-07, and that was the highest number of any state across the country. In case Senator Feeney and others need reminding, Queensland has the third highest population. We outdid the two most populous states in killing and maiming our citizens in our hospitals.

The problems for Queensland go on and on. This is not new. Everyone would be aware of the current court case regarding Dr Jayant Patel. One of the errors that came out there was that no-one had checked his qualifications to practise medicine—a bureaucratic bungle. His practice is linked to at least 87 deaths of people treated at the Bundaberg Hospital between 2003 and 2005. Evidence before the trial has suggested that medical records were altered to hide mistakes that were made.

Of course, this is nothing new in the Queensland hospital system. Cover-up after cover-up is the way the system works. Dr Sylvia Andrew-Starkey, who is the head of the Australasian College for Emergency Medicine, in August last year said that there had been several deaths attributable to the waiting times that patients had outside major Brisbane and regional hospitals. Some of those who made it inside were found lying on trolleys lined up along corridors. Doctors commented that some elderly people had no choice but to sit in plastic chairs overnight while waiting for a bed or waiting for treatment. The Townsville Hospital’s emergency people said that they had often had to open up conference rooms to accommodate patients. But the benighted health minister, Mr Stephen Robertson—at that stage the man who had the confidence of Queensland’s Premier—said that he did not have any evidence that people were dying, that he would like some evidence about people dying before he acted. The fact that the head of the Australasian College for Emergency Medicine told him the lengthy waiting lists and hospitals on bypass existed was apparently not enough Mr Robertson; he wanted to see the bodies before he could do something about it.

Of course, that was back when Mr Robertson had the confidence of his Premier. At long last, he does not. Of course he blames everybody but himself for that: it was the fault of the middle managers, it was the fault of everybody else, that for more than 12 months nurses in remote areas of Queensland lived in unsafe housing. Mr Robertson had tried the Peter Beattie trick of, hand on heart, saying, ‘Whoops, I’m sorry; I’ll fix it straight away.’ The only problem was that he did not do a good enough job of hiding the fact that he did nothing and that he did not fix it straight away. In the end, Premier Bligh was forced to act on his mismanagement. After the promise of the last election, Ms Bligh said about the man who was supposed to fix Queensland’s hospital system:

It is completely unacceptable that this work has taken such a long period of time to bring to this standard and I’ve made this absolutely clear to both the Minister and the director-general.

If we want to talk about scandals in Queensland, let us talk about the scandalous way the government is behaving. That is a genuine scandal, a real scandal. Right now there are 34,000 Queenslanders waiting for elective surgery, and they wait and they wait while Mr Rudd tries to work out when and if the buck will ever stop with him. There are several groups and inquiries already looking at this, but he promised in October 2007 to fix the problems in the Queensland hospital system. He said that the buck stopped with him.

**Senator Mason**—He did!

**Senator BOYCE**—He did; he said it over and over. He even suggested that he had finished the blame game. The best way to finish the blame game in Queensland is to finish
the government of Premier Bligh, the inept Labor government of Queensland. We could solve many of the problems of Queensland by getting rid of the government that has not ‘just’ discovered that it has problems in the hospital system but known for well over three years that the hospital system is in crisis. Part of the reason that it is in crisis is its inability to do anything other than throw more bureaucrats at the system and its inability to change the culture of cover-up. In fact, in many ways, it has encouraged the further development of a culture of cover-up that has gone on and on. So, Mr Rudd, pay attention: Queensland’s hospital system has failed, Ms Bligh has completely failed and, if you are serious about fixing hospitals in Queensland, you should have started yesterday so that the citizens of Cairns, Townsville, Mackay, Rockhampton—

Senator Mason—Bundaberg!

Senator BOYCE—Bundaberg—there is almost not a city without a hospital on this list. As I said, regional areas such as Mount Isa are also seriously compromised by the inefficiencies, the failings and the real scandal of the way the Bligh government in Queensland has failed to provide a decent hospital system.

Medicare Levy Surcharge

Senator HURLEY (South Australia) (1.14 pm)—In July 2008 the Senate Standing Committee on Economics undertook an inquiry into the government’s proposal to increase the Medicare levy surcharge thresholds. On completion of the inquiry the committee recommended the bill be passed, based on the premise that it was inequitable that an ever larger number of low-income Australians be forced to pay the surcharge or to purchase low-value private health fund policies. The committee found that there was unlikely to be a major impact on either private health insurance premiums or the public health system, and, whilst acknowledging that some Australians would indeed probably withdraw from private health insurance as a result of the legislation, this would not occur in such a way as to cause significant harm to a robust, competitive private industry sector.

The bill was passed by the Senate in October last year with some amendments, resulting in the thresholds being increased to $70,000 for a single person, and $140,000 for a couple, before the surcharge becomes payable—that is, single people can earn $70,000 a year before a Medicare levy surcharge is applied unless they have private health insurance. These thresholds had not been adjusted for over a decade. The bill returned the proportion of taxpayers impacted by these kinds of measures to the eight per cent originally captured when the Medicare levy surcharge was first introduced. So the bill sought to correct an anomaly that had grown up over time.

The coalition opposed this bill and were keen throughout the inquiry to emphasise the irreversible damage they believed the legislation would cause to the private health insurance sector, the public health sector and the Australian health system generally. They invoked images of droves of Australians flocking from the private system to the public, massive waiting list increases and enormous premium rises leading to an ultimate downward spiral and collapse of the private health sector. One might think I am exaggerating the coalition position, but a quote from the introduction of the coalition’s dissenting report reads:

Even on the most conservative estimates, health fund membership would plummet and premiums would rise well over the trends of recent years—driving more people out of private health and starting the downward spiral left behind in the 1990s.

Contrary to those pronunciations, the estimates given to the inquiry by Treasury indi-
cated that about 485,000 adults might leave the private health insurance system. Estimates of the impact on premiums from the evidence we received on our committee varied wildly. However, at the conservative end, the estimate of the bill’s impact was a 2½ per cent increase in premiums above the expected normal adjustment to fees. It is also interesting to note that Treasury anticipated, as did many contributors to the inquiry, including Professor Deeble, architect of Medicare, that younger members would be most likely to leave. Indeed, this is confirmed in an article in today’s Australian which reports that 10 per cent of existing policyholders with the brokerage fund BUPA did not renew their policies and that the majority of those were younger people. However, BUPA still report a likely net growth of one per cent in membership this year.

To bring the debate regarding premiums into some context it is worth noting that, in the last five years of the Howard government, premiums rose by an average of 6.63 per cent. So the premium rise this year is in line with the average over the last five years of the Howard government. Indeed, premiums rose considerably and consistently during the Howard years. In 1997 the average premium increase across all private health insurance funds was 7.4 per cent. In 1998 it was 7.3 per cent. It dipped in 1999, 2000 and 2001, as additional supports and protections for private health funds were increased. Then in 2002 it rose by 6.9 per cent; in 2003, 7.4 per cent; in 2004, 7.6 per cent; in 2005, eight per cent. So I do not think anyone could describe the current increase as excessive, and certainly nothing like the predictions that were being given by the coalition at the time.

During the inquiry we also received evidence that, regardless of the impact of the bill, premiums as a result of increasing benefits and rising health service costs were likely to be approximately five per cent. Since then we have also seen investment losses as a result of the global financial crisis which added to the pressures on private health funds. So the current six per cent plus rise is very much at the lower end of the predicted rise in premiums and at the most conservative end of what we heard during the inquiry. And if five per cent is taken as the base level, the rise due to the bill is something like 1.3 per cent. That means that the fee rises are nothing like the increases predicted by the coalition and some of the more strident witnesses to our inquiry.

I am also very pleased to note today the latest economic data available on the Medicare levy surcharge threshold increases. In the December quarter of 2008, private health insurance membership grew by 54,000 people, or 0.1 per cent. This brought the total proportion of Australians covered by private hospital insurance to 44.8 per cent, the highest proportion of people covered for hospital treatment since December 2001. While this is a modest growth, it is worth noting that this was during a time of economic contraction, decreased consumer spending and consumption and a shrinking of demand in the economy generally.

On the other hand, the change delivered tax cuts to 250,000 Australians and relieved them of the inequitable burden of being caught in a tax trap between buying cheap health insurance and having to pay the surcharge. Whilst any increase in premiums puts pressure on families, the 6.02 per cent increase would raise the cost of a combined hospital and general treatment policy for an average family by about $3 per week, allowing for the 30 per cent rebate. Considering that back in July last year a forecast of a five per cent increase without the impact of the threshold increase was being put forward, this casts doubt, to say the least, on assertions that premiums would skyrocket, forcing Australians out of private health insur-
ance. In September last year, the Hon. Joe Hockey predicted that premiums would rise by 12 per cent as a result of the government’s changes to the MLS. This clearly has not occurred and displays the hysteria shown by the coalition at the time that this bill was before the parliament.

The final thrust of the coalition report was that public hospital waiting times would be impacted upon by the introduction of the MLS changes. The committee report noted that the government’s investment of $3.2 billion for the National Health and Hospitals Reform Plan, including $600 million to reduce elective surgery waiting lists, would serve to ameliorate any changes to public hospital waiting lists. The last federal budget also provided $1 billion of immediate funding to relieve pressure on public hospitals. As of July 2008, all states and territories had received their total allocated funding and had agreed to the number of additional surgeries they would complete. At the Australian Health Ministers Conference on 5 December 2008, state and territory health ministers reported that all jurisdictions had already met or exceeded their targets for 2008. The national target of 25,278 surgeries to be completed in 2008 had already been exceeded by 10,000 patients, the total as of the end of November 2008 being 35,388 surgeries completed. Especially in light of what we heard just now about the Queensland position regarding elective surgeries, I should point out that the target for Queensland was for 4,000 additional elective surgery procedures to be completed in 2008. The actual number of additional procedures completed was 6,857—that is, 2,857 more Queenslanders got their elective surgery done, thanks to the Rudd Labor government and its cooperation with the states. I think that that message will not be lost on Queenslanders in the forthcoming election.

Previously, under the Howard government, there was internal bickering between the federal government and the states and a shifting of blame. The Rudd Labor government has come in and changed that situation, whereas the Howard government was content to stand back, having taken billions of dollars out of the health system, and blame states for the state of their health systems. The Rudd Labor government has fulfilled its election promises and partnered with and talked to state governments and restored some of the funding that has been lost. The result has been, even in these early days, a change in the way that we have seen hospitals and the health system operate. These additional elective surgery procedures are the first of many changes that have been or are being put in place by the Rudd Labor government to restore cooperation and improve the Australian health system. I think that people around Australia have already appreciated the change in temperament and the improved health outcomes that come from having a federal Labor government which has a different emphasis from that of the former Howard government and which is prepared to work with state governments to implement effective changes to our health system.

The Rudd government is delivering on its commitment to reduce waiting lists for elective surgeries and to relieve pressure on public hospitals, and there is no evidence that the introduction of the MLS changes will have anything like the disastrous impact in this area forecast by the coalition. I think it is an illustration that the coalition, rather than being obstructive in this place, and, in a knee-jerk reaction, opposing changes to anything that belongs to the Howard government, should work more constructively with the government for the benefit of Australians, for the benefit of state governments and, more importantly, for the benefit of people who
need to rely on the health system for any kind of treatment.

The politics that the coalition is consistently playing is to the detriment of the Australian people. The Rudd government will continue to try to implement meaningful, lasting, appropriate and well-directed assistance in the health sector for not only Queensladers but all Australians.

Emissions Trading Scheme

Senator BOSWELL (Queensland) (1.28 pm)—I want to raise some serious issues on the emissions trading front that have not been exposed. The government is determined to go ahead with an emissions trading scheme, and no modelling has been done on the white paper, which is the paper that the legislation was based on. There is no modelling about going it alone. There is no modelling on carbon leakage. There was no modelling done as a result of the green paper on where the economy is at the moment. The green paper was written when the economy was at full bore, yet there is no modelling on the downturn of the economy.

On Wednesday, 25 February I asked Ms Quinn from Treasury if she had modelled the government’s CPRS. The answer was that the treasury department had not modelled the white paper. That is the paper that the legislation was taken off. That is a very serious situation. We are in the worst financial crisis that we have faced for some 60 years. The government is still determined to go ahead with an emissions trading scheme about which the largest companies in Australia—the big end of town; the largest employers in the steel industry, the cement industry, the mining industry and the oil and natural gas industries—had warned the government that there would be thousands of jobs lost. Companies will not go ahead with projects; some will simply become distribution centres, with the products sourced from overseas.

It is the most serious situation for Australian jobs that has been faced since the Depression of the 1930s. Treasury has admitted that the white paper on which the legislation was written has not been modelled. At a previous estimates session I asked when the green paper was modelled and if the world economic situation and the downturn in Australia’s economy were taken into consideration. The answer was no. I asked at the same estimates hearing if any modelling had been done where Australia went on an ETS alone. The answer was no. There has been no modelling done, despite the fact that China, India and America have said that they are not going into an emissions trading scheme. Other countries have given vague commitments, saying that they might start in 2050 or 2027, and of course developing countries have said they will be exempt from any such restrictions.

The American President’s envoy on climate change, Senator John Kerry, stated, ‘The only way you’ll get a treaty that’s passable in the United States Senate is going to be if there is global participation.’ Then there is the statement of President Obama:

To protect our climate and our collective security, we must call together a truly global coalition. I’ve made it clear that we will act, but so too must the world.

He then goes on to say:

… that’s how we will ensure that nations like China and India are doing their part …

I hate to tell the President, but India and China have said they are not going to be part of any world emissions scheme. President Obama then made the statement that he was keen on this emissions scheme and flicked it to congress. If President Obama were keen to get this up and running, he would get behind the scheme, using the might of his office and his immense power as the most powerful person in the world to push this through con-
gress—but he has not. He has ducked it. The Labor Party knows he has ducked it.

But we are bravely going alone with an emissions trading scheme. We are unmodelled. In answer to a question by Senator Milne, we find that even carbon leakage was never modelled. Dr Parkinson admitted that to the estimates committee:

... it took no account of the costs that were avoided. We would have to go back and see whether Treasury has specific details on the extent to which there was any leakage.

There was no modelling. In real terms this means that in many cases Australian industry would import products that are higher in CO2 than what we would produce ourselves—in other words, we would add to, not subtract from, the global problem.

The emissions-intensive trade-exposed sectors have not been modelled. The mining industry, despite what the Prime Minister told parliament this week, is not even considered to be an emissions-intensive trade-exposed industry, so not one permit was allocated to the probably the greatest Australian exporter and employer. There are thousands of people in the coalfields of Queensland today who are worried about their jobs. The CPRS legislation has not been modelled. The white paper has never been modelled. The green paper was modelled assuming international participation would be part of it, with the cost of carbon from the world’s largest emitters, the US and China. We find that neither of them, not to mention India, has such a cost. There was no consideration of the economic impact on this country and no consideration for the jobs and the families dependent on the manufacturing and mining sectors.

I have listened intently to questions answered by Senator Wong and I have asked many in the chamber and in estimates. These permits she is handing around with great largesse are said to be worth 60 to 90 per cent of emissions exposure, but when you drill down you find that this is completely untruthful. The permits only cover part of the process of manufacturing, not all the process, so you do not get 60 to 90 per cent at all. In some cases you just get 10 to 20 per cent less. The steel industry, the aluminium industry, the plastic and chemical industries, the pulp and paper industries, cement, oil and LNG are severely exposed to international markets and will not be competitive with them under Senator Wong’s scheme. The industries have little to no chance of maintaining their current operations, let alone investing in future expansions.

Senator Wong and the Rudd government are misleading not only industry but also the blue-collar workers who work in these factories. The fact that we are going alone was not modelled. Ms Quinn made that admission to the Senate estimates committee. Ms Quinn said, ‘We were asked to look at scenarios that achieved certain environmental outcomes.’ The important word here is ‘environmental’. These are environmental scenarios. They are not about jobs, the economy, growth or prosperity; they are solely environmental. In the estimates hearing I asked who in the government gave Treasury the instructions and directed the assumptions that they were to use relating to actions that would be taken by overseas countries. I was told the treasury department and the Department of Climate Change gave the instructions. I then asked further questions and was told Senator Wong and Wayne Swan were involved. If you want a predictable answer that fits in with your policy, get the ministers to ask the questions they want to get their policy firing.

This climate change policy is developing into high farce, and people are starting to realise that. When you get the mayors of Labor towns and cities coming out and calling
for a halt to this emissions trading scheme, you guys should realise that you are in deep trouble. The mayors of Gladstone, Mount Isa and Newcastle have pleaded with you. The union movement is pleading with you. But it is full steam ahead.

This is the largest piece of economic reform this country has proposed to undertake for decades, and we find there is no modelling. We are flying by the seat of our pants. What is the government doing? What are you trying to do? Are you trying to out-green the Greens? You are sacrificing the blue-collar workers that have paid their union fees and have been the backbone of the Labor Party movement for years. This is a repeat of the Tasmanian timber workers, when Latham sold them out for Greens preferences. The workers refused to have their jobs exchanged for Greens preferences. Latham made that mistake and lost an election. Rudd is going down the same path, putting Australia’s blue-collar workers’ jobs at risk. We have already seen 2,700 jobs lost in the mining industry in Queensland alone due to the downturn. There are going to be thousands more jobs lost when a carbon tax of $2.4 billion is placed on the Queensland coal industry.

But what is the reason for this? Our emissions are about 1.4 per cent of the world’s total emissions. What are we going to achieve if no-one else gets on the boat with us? I suppose Rudd can strut around the world stage saying, ‘I’m leading the world on climate change.’ He has visions of grandeur. Someone has to sit him down and tell him this is just a no-go area. Why don’t you do it in the party room? Through you, Madam Chair, I ask: do any of you have the courage to get up in the party room and say, ‘In my electorate this is on the nose’? If Mr Rudd has not realised yet, Australia is facing an unemployment problem the likes of which it has not faced since 1930. It is virtually going up by the day. We borrowed $200 billion for various stimulus packages; the last one was $42 billion. That was to sustain the economy. On the other hand, if this legislation goes through it will strip out $49 billion in additional charges for permits. That does not take into account a carbon charge on every electric motor, on every factory, on every conveyer belt, on every dragline in every mine, on every processing chain and on every hide puller in every abattoir—anything that moves with electricity will have an additional carbon charge.

This is a question that the Treasurer, Wayne Swan, should be asking: how will Golden Circle compete in his electorate of Lilley? Golden Circle had to tell their pine-apple growers last year that they would have to reduce their growing quotas by a third because imports from low-cost countries were eroding their sales. They were also losing sales from processed fruit and vegetables. I challenge Wayne Swan to have the guts to stand up outside Golden Circle at lunch hour and tell the 1,000 to 1,200 workers that they are being called upon to sacrifice their jobs for a CO2 world where Australia’s contribution to the carbon output is 1.4 per cent, and no other countries are going to follow.

I don’t like the policies of the Greens. They are unrealistic. They take no account of jobs, the needs of families, Australia’s defence position, foreign affairs or economics. And they do not even want people cluttering up the environment. The environment is front and centre of everything. But at least you have to say they are consistent, even if they are consistently wrong. But the Labor Party have a bet each way. It depends on the day and on who their audience is as to which position they take. They have to decide whether they are the representatives of the workers and whether they will stand for them through thick and thin, or whether they support the Greens for the sake of urban Greens
preferences in seats like Lindsay Tanner’s. It is time for Labor to make a decision and tell the voters of Queensland, three days before an election; tell the people at Golden Circle; tell the people in the mining industry, the paper industry, the cement industry and the oil industry; tell the unionists who have held them together with blood, sweat and tears and paid their fees whether you support them or you support the green movement.

This ETS policy started out in high farce when Professor Garnaut advocated that Australia reduce its cattle herd and sheep flock and farm 240 million kangaroos and turn Australia’s arable farming land into tree plantations. It was a farce then; it was laughable—it was a joke. But it is certainly no joke now. This is getting very serious.

Nuclear Energy

Senator LUDLAM (Western Australia) (1.42 pm)—I am almost speechless. That is such a difficult act to follow—the Nationals in spirited defence of jobs on the Titanic! I would like to briefly change the subject and talk about a matter of great public interest to Australians: the nuclear issue. It has been greatly in the media of late. I acknowledge at the outset that nuclear issues are one of the quickest ways to polarise debate. It is a debate that has been polarised since the dawn of the nuclear age 63 years ago—64 years this year—with the atomic bombings of Hiroshima and Nagasaki. It is a polarised debate, and that is why I would like to put a few things on the record today.

There are three reasons why nuclear issues are back in the media and why this issue bubbles along below the collective consciousness of the nation and occasionally breaks the surface. I am marking today, I suppose, in memorial, because this sitting week we were meant to see some very important legislation relating to the repeal of Prime Minister John Howard’s aggressive, regressive nuclear waste legislation. That was meant to be repealed, according to Labor Party policy and according to the very strong and clear recommendations of a Senate committee, by this week at the latest. As yet, we have no sign of that.

Australia is the world’s second-largest miner and exporter of uranium. There are people on either side of this chamber who would like us to take first place off the Canadians.

Senator Boswell—Put me down on the list!

Senator LUDLAM—We will mark you down, Senator Boswell. I will take that interjection.

Senator Boswell—I’m at the top of the queue.

Senator LUDLAM—I am marking your name to that. Okay, that is on the record. We export uranium to all of the declared nuclear weapons states, apart from Russia, which I will return to in a moment. We are a close ally of a nuclear weapons state. We allow visits of warships armed with nuclear weapons; we host a network of foreign military bases in support of potential nuclear weapons strikes by our ally the United States.

The third reason is that we have a very significant nuclear waste problem in this country. Australia reaps more income from the export of cheese than from the export of uranium. Can we mark you down for that, Senator Boswell?

Senator Boswell interjecting—

Senator LUDLAM—I wonder why we do not hear more about cheese—about inquiries into cheese, about advocacy of cheese. Instead, it is uranium mining. We are told that it is going to deliver us from the evil of the global economy crisis, but of course it will not. It will cost this country a lot of water, a lot of energy, a lot of carbon pollution.
and a lot of permanent environmental damage—eternal radioactive hotspots. It is just not going to be worth it. I think perhaps we should stick to the cheese.

The industry itself is starting to wake up to this fact. There was quite a high profile conference in Adelaide earlier this week during which an industry analyst, who I believe profited relatively handsomely from the rapid increase in exploration and investment in exploration companies across Australia, was talking about the walking dead: the decline of the uranium industry companies, that are basically all hype and hot air, that got in during the so-called nuclear renaissance which has since evaporated. The uranium spot price, on which about 15 per cent of world uranium is traded, crashed 70 per cent from its highs in 2007 to $43 a pound this month. Uranium mining companies have been decimated, quite literally. This particular analyst talked about dozens of walking dead companies, many of which will soon cease to exist. The uranium industry is not in a great deal of health.

On May Day, 1 May, the public is going to be given eight weeks—less time than they are given to comment on car parks and shopping centre developments—to comment on the largest document ever printed in the state of South Australia for the largest excavation on the surface of the planet. The Olympic Dam mine at Roxby Downs, when expanded, will become the largest mine of any kind in the world and, in the unlikely event that it is successful, it will make Australia the largest exporter of uranium in the world. BHP Billiton is proposing a five-fold expansion of the mine, which, according to early forecasts, would require the company to move a million tonnes of rock a day every day for four years just to remove the overburden to create this colossal excavation in the earth’s surface to get to this very low-grade but undeniably massive ore body of uranium, gold, silver and copper. The diesel bill for that, according to one estimate in the Financial Review, will be around $6 billion—so much for clean, green and cheap energy. That is what it would cost to open up the Roxby excavation. It will be fascinating to see whether that estimate is borne out in EIS documents when they are finally tabled. That mine will increase South Australia’s power bill by about 40 per cent. So much for a greenhouse-free source of energy!

The company is basically exempt from Australian law. They exist under the Roxby Downs (Indenture Ratification) Act, which exempts them from Aboriginal land rights legislation, environmental protection and freedom of information—an extraordinary degree of legal protection cocooning this mine from public scrutiny, environmental protection and Aboriginal sovereignty. No other facility that I am aware of in this country exists under that degree of legal protection. It is one of the reasons that BHP Billiton is able to pay nothing for the 33 million litres of water that they are licensed to extract from the Great Artesian Basin every day.

Behind the expansion of Roxby Downs is the proposed expansion of the Ranger mine. We know that the company is buying time until it can get its hands on the Jabiluka deposit in Kakadu National Park. Then there is the continuing record of pollution and spills at the toxic Beverley uranium mine, otherwise known as the ‘groundwater sacrifice zone’, in South Australia. There are also a host of proposed uranium mining projects across Western Australia, including Lake Maitland, most recently.

It all depends, of course, on the health of the global nuclear power industry—or so they say, because Australian uranium is only going into clean and green nuclear power stations. There was another conference ear-
lier this week calling for a debate on nuclear power in Australia. We have had this debate over a period of 30 or 40 years. The advocates of nuclear power continue losing that debate. I am honestly at a loss to understand why it keeps rearing its head, because, as we have already seen, the mining, milling and enrichment processes of uranium are incredibly carbon intensive. It is simply not a solution. It is very slow, it is very expensive and it is a very dangerous way to boil water, which is all that nuclear power stations do. At the same time, it is robbing the renewable energy sector of the investment that it desperately needs to get on its feet.

And of course the PR campaign continues. The head of a statutory authority, Ziggy Switkowski, continually promotes these activities, which are illegal under Australian law. It is not at all clear who is paying for the PR company, Field Public Relations, so that Mr Switkowski can continue to spread the gospel of nuclear power, in direct contravention of government policy. That is something I would be interested in hearing a response about.

The global nuclear industry has been at a standstill since the 1970s before the Three Mile Island near-meltdown in the United States. The global nuclear power industry has actually been in a great deal of trouble and is quite certainly in decline. The number of nuclear power plants operating in the world, according to one authoritative study, will most likely decline over the next two decades with a rather sharper decline to be expected after 2020. This is an industry in a great deal of trouble, but the mining industry just keeps rolling on as if everything was rosy.

This morning we learnt that Russian President Medvedev, in his first address to a defence ministry meeting in his capacity as Supreme Commander, has announced that Russia will be increasing the combat readiness of Russia’s forces and, first of all, the strategic nuclear forces. This is a customer who is very interested in purchasing uranium from Australia. When a delegation visited Australia and, indeed, Parliament House earlier this week, it was widely reported that the Russian government is proposing to devote US$140 billion—A$200 billion—on certain priorities, the first of which is strategic nuclear weapons. For the benefit of senators, these are not the sanitised, small-scale so-called battlefield nuclear weapons; they are about destroying human civilisation. These are the weapons of Armageddon that have been ticking and on high alert since the beginning of the Cold War. That is what the Russian government is proposing to upgrade at a time when the entire planet is calling out for global nuclear disarmament so that these Cold War relics can be abolished once and for all. Instead, the Russians are talking up the rhetoric of taking their country in the opposite direction at the same time as China, the United Kingdom, France and the United States, for that matter, are contemplating or actively pursuing the upgrading of their own nuclear weapons arsenals. This reminds us of the importance of the common sense expressed in Report No. 94 of the Joint Standing Committee on Treaties, advising that Australia should not sell uranium to Russia unless a number of quite stringent conditions are met. At this time the Russian government would clearly be unable to provide any confidence that Australian uranium would not find its way into nuclear weapons.

The other reason that I wanted to speak on this issue this afternoon is that in December 2008 the Senate Standing Committee on the Environment, Communications and the Arts handed down its report into the Commonwealth Radioactive Waste Management Act 2005, the other end of the nuclear fuel chain. In Australia we already have an enormous
radioactive waste legacy of approximately 70 million tonnes sitting in vast tailings dams located at the Roxby Downs uranium mine. And the other is the 60-year spent fuel legacy from the Lucas Heights reactor. Since it first contemplated this issue, starting in about the 1970s, government has been looking for some way of getting that waste out of its hair and dumping it somewhere as far as possible from centres of population so that the reactor can continue to operate in Sydney—on the days when it is actually functioning.

The ECA committee inquiry received an overwhelming consensus regarding the deficiencies and the consequences of the 2005 legislation that I have sought to repeal. It was very clear in statements of ALP policy and statements from ALP spokespeople during the federal election campaign, speaking essentially to the bleeding obvious, that this legislation demands urgent repeal and replacement with a process that is deliberative, democratic and scientifically defensible. The legislation we are seeking to repeal, and which I thought the government was keen to repeal, overrides laws passed by the Northern Territory government, preventing the Aboriginal and Torres Strait Islander Heritage Protection Act from having effect during the investigation of the dumping of Australia’s most toxic and dangerous waste inventory. It excludes the Native Title Act from operating, it overrides the Northern Territory Land Title Act and it wipes out procedural fairness through the suspension of the Administrative Decisions (Judicial Review) Act. It is an appalling piece of legislation that should have been repealed in the first sittings of the new parliament under the Rudd government. We are well over a year into that government and still there is no sign of the repeal of this legislation.

The inquiry report acknowledged the degree to which a centralised, remote facility is questioned as being necessarily an appropriate option. In other words, the industry both in Australia and overseas has never made the case that remote dumping of radioactive waste is the most appropriate way of dealing with this legacy. The argument about centralised storage is still very much an open question. In fact we heard a good deal of quite compelling evidence that we are not yet ready to embark on a remote radioactive waste dump. Initiatives recently by President Obama have essentially put an end to the strategy of the United States of dumping its radioactive waste inventory on the people of Nevada. So there are some aspects of this industry which are very familiar around the world.

The committee inquiry exposed just how contested the proposed radioactive waste dump sites in the Northern Territory are. The government had been dealing with a small handful of people from one group of traditional owners. We heard from a very wide range of traditional owners, particularly from around the Tennant Creek site in the area known as Muckaty. They gave very compelling evidence about the flawed nature of the consultation process, questioning the accuracy of a secret anthropological report that designates a handful of individuals, traditional owners, who speak exclusively for ‘country’. That process was completely inadequate and flawed. The committee called for replacement legislation to be introduced into the parliament in the autumn 2009 sittings.

Well, here we are: the committee called very clearly for a process based on principles of rigorous consultation, voluntary consent, environmental credibility and looking at world best-practice models for dealing with this radioactive waste migraine left to us from 60 years of unrestrained development of the nuclear industry. So where is it? Where is the repeal of the legislation? When does the government intend to repeal the
Commonwealth Radioactive Waste Management Act 2005, a commitment made very clearly in chapter 5 of the ALP’s National Platform and Constitution 2007? Where is the government on its promise of nearly two years ago that there would be a scientific, transparent, accountable and fair process that would allow access to appeal mechanisms? It is still sitting on the desk of the Minister for Resources and Energy, Martin Ferguson. That is not a very good place for it to be. Minister, you and your staff, who are presumably monitoring the Senate or reading the transcript, have failed us today. We needed repeal legislation in the parliament at the earliest possible time, and it is not here. We are really letting down people in the Northern Territory who are under an extraordinary degree of stress. I would like to take this opportunity to thank the chair of the ECA committee, the other committee members and the hardworking staff, who did a great job in producing this report.

QUESTIONS WITHOUT NOTICE

Health

Senator BOYCE (2.00 pm)—My question is to Minister Ludwig, the Minister representing the Minister for Health and Ageing. Can the minister confirm that Rudd Labor is contributing $242 million of the $250 million healthcare policy announced by Queensland Labor during the election campaign? Does this bailout confirm that the Rudd Labor government has no confidence in the Queensland state Labor government’s ability to fix its own hospitals?

Senator LUDWIG—It is good to get this question on health because what it reminds me is that when the opposition were in government they ripped out $1 billion from hospitals. For far too long hospitals had been starved of money. The previous government cut $1 billion from public hospitals, and of course that $1 billion cut from public hospitals was not only from New South Wales and Victoria; it was also from Queensland. That is what the opposition did.

Of course, what this government has done is step up to the plate to ensure that hospitals receive funding from the federal government. The Rudd government immediately acted on health. On coming to office the Rudd government grasped the nettle to ensure that there was reform of health funding, with an immediate injection of $1 billion last year, as a down payment. Now there is a massive $64.4 billion health deal with the states including Queensland—up to $22.4 billion more on the old agreement. Under stage 1, the $600 million elective surgery plan we funded, we negotiated for public hospitals to perform an extra 25,000 operations, including in Queensland, and 41,500 extra procedures have been carried out, including in Queensland. It is important to note that what this government has done, in relation to health, is take the initiative and ensure that funding flows to states through a range of mechanisms. We have allocated, in addition to simply hospital funding, an additional $275 million for 31 GP superclinics, for which nine contracts have been signed. That will include matters right across Australia. (Time expired)

Senator BOYCE—Mr President, I ask a supplementary question. Given the record and catastrophic mismanagement of the Queensland state health system by the state Labor government—including the Patel horror story, fewer hospital beds now than there were 10 years ago, overloaded emergency departments, substantial withdrawal of maternity services in rural and regional areas, and unaccredited doctors operating in Bundaberg and Rockhampton, and the list goes on—why should the people of Queensland have any faith in the ability of the Queensland Labor government to fix that system?
Senator Chris Evans—Mr President, I rise on a point of order. I am not at all precious about these things, but it seemed to me there was no question of relevance to the minister’s portfolio in that. She asked him a question about the Queensland government, which has got nothing to do with his responsibilities.

Senator Abetz—Mr President, very briefly in response to Senator Evans’s point of order: the simple fact is that the Prime Minister did say the buck stopped with him during the election campaign. Also, another simple fact—and this has not been denied by Senator Ludwig—is that, of the $250 million to be spent in the Queensland state Labor health system, the federal government is contributing $242 million. Therefore the minister for health has a clear stake in the Queensland state health system.

The PRESIDENT—Senator Ludwig, you have to answer that part of the supplementary question that pertains to your portfolio. If there are things that do not pertain, you are not expected to answer those things.

Senator Ludwig—It is a serious issue—public health—and, unfortunately, what the opposition have now done is use it to try to—(Time expired)

Senator Chris Evans—Mr President, I rise on a point of order. I do not think the clock was reset after I raised a point of order after Senator Boyce finished her question because five seconds later Senator Ludwig—

The PRESIDENT—Having just consulted, the advice that I have is that the clock did appear to be properly set. I can only go on the advice that was given to me. It may well not have been.

Honourable senators interjecting—

The PRESIDENT—Order! I can only go on the advice that I have been given. But it might be wrong advice. You might wish to contest the advice, but I will always act on the advice that I am given from the table. The advice that I was given from the table was that the clock was properly set. I will ask the clerk if that was the correct advice. I have just been told it appears to have been, but he is not sure, and I am not sure myself, in which case I will go down the path of leaving the question sit and the answer sit and I will go to the next supplementary question.

Senator Boyce—Thank you, Mr President. My further supplementary question is also directed to Senator Ludwig. Given that Dr Chris Davis, of the Australian Medical Association in Queensland, has said that the Queensland system is too inflexible to allow efficient management of any more money thrown into it and too inflexible to handle the sheer number of patients, isn’t this just further proof that the Queensland state Labor government has failed in its duty of care to Queensland hospital patients? When will the federal Labor government act to ensure that the buck does stop with them?

Senator Ludwig—It does seem, quite frankly, that the opposition are trying to progress their state election credentials here, but it is an important issue. What we have said in relation to the historic COAG meeting—and this is about what the opposition could not do—is they failed, when they were in government, to work through how you then reach agreement through a COAG process to ensure that you do fund hospitals and that you do address waiting lists and that you do make sure that the government can provide $64.4 billion over five years to the states and territories to improve health and hospitals. That package includes several national partnerships to strengthen our hospitals, including Queensland’s, and the health workforce because the workforce is critical to ensuring preventative health and Indigenous health...
outcomes. The health agreement reached at COAG—(Time expired)

Economy

Senator McEWEN (2.08 pm)—My question is to Senator Conroy, the Minister representing the Treasurer. Can the minister outline to the Senate the importance of the Australian Business Investment Partnership for promoting economic stability in the Australian economy?

Senator CONROY—I thank Senator McEwen for her ongoing interest in this issue. Australia does not face the same problem of toxic assets which is affecting the banking systems of the US and Europe. However, we are indirectly affected by that problem. In light of the global recession, there is a risk that foreign lenders in the Australian economy will withdraw funding to certain projects, not because of the viability of those projects in Australia but because of problems in their home markets.

That is why, to promote economic stability and protect Australian jobs, the government is introducing legislation to establish the Australian Business Investment Partnership (ABIP). ABIP will provide liquidity to support viable major commercial projects in Australia, projects which will otherwise be forced to retrench thousands of employees if this financing were not available. ABIP will involve an investment on behalf of the taxpayer of $2 billion matched by an equivalent amount from the four major banks. A number of measures will be put in place to ensure an appropriate return to and safeguards for the Australian taxpayer. This includes that ABIP will only provide financing where the underlying assets and income streams from those assets are financially viable and ABIP will have prudent and conservative lending criteria. All loans must be unanimously agreed by the board, including the government chair. ABIP is being temporarily put in place given current global conditions—(Time expired)

Senator McEWEN—Mr President, I ask a supplementary question. Can the minister please outline how the partnership will support economic activity and jobs in Australia, and what are the risks to the economy if the partnership is not introduced?

Senator CONROY—The Rudd government is not willing to wait for foreign lenders to withdraw their money and have commercial property values plummet, resulting in Australian job losses. The commercial property sector employs around 150,000 people including plumbers, electricians and carpenters. According to Treasury figures, without action, up to 50,000 people in this sector lose their jobs with flow-on effects to jobs in other parts of the economy. The opposition needs to explain to workers at projects like Vision tower in central Brisbane, which has had to delay full construction and lay off or redeploy 600 workers, why they, including their opportunistic leader, would rather see the commercial property sector fail than ensure the protection of Australian families and jobs. (Time expired)

Senator McEWEN—Mr President, I ask a further supplementary question. Could the minister also inform the Senate of the reaction by industry and other third parties to the government’s plan to introduce the Australian Business Investment Partnership?

Senator Ian Macdonald—Hand-in-hand with the big end of town—big business and big unions.

Senator CONROY—Yes, plumbers, electricians and carpenters are the big end of town, Senator Macdonald! There has been widespread support for the government’s initiative including from the Master Builders Association, the Urban Taskforce, Westfield and Access Economics. The exception, of course, once again, is those opposite, who
remain focused and determined to play short-term politics at the expense of Australian working families and all of those who depend on them. This is, quite frankly, a disgraceful piece of conduct. There are going to be Australian families who have people who become unemployed because of the voting, in this chamber and the other place, of those opposite. It is wilful economic vandalism and they deserve to be condemned across Australia. There are Australian families and Australian children whose parents will come home unemployed because of those opposite and their opportunistic— (Time expired)

Murray-Darling River System

Senator JOYCE (2.13 pm)—My question is to the Minister for Climate Change and Water, Minister Wong. Why has the second tender process for water entitlement purchases in the northern Murray-Darling Basin been opened prior to the finalisation of the first water entitlement purchase tenders?

Senator WONG—It is the case that the government is pursuing a range of tenders both in the northern and southern basin and the timing of those is determined in terms of administrative efficiency. The fact is—and I understand Senator Joyce’s position on this; he has a concern about water purchase—we were elected with a very clear position in relation to this and, I have to say—

Senator Abetz—I think the water was a bit muddy.

Senator WONG—a very clear position on water purchase. I will take Senator Abetz’s interjection because what he is actually criticising is Mr Turnbull’s policy, which, of course, is not unusual for Senator Abetz. He is actually criticising the concept of water purchase. It was Mr Turnbull who put forward a plan—and I acknowledge this—that included $3.1 billion for water purchase. We are implementing that plan because, of course, Mr Turnbull was unable to deliver on it. We will continue to purchase water. The reason for that is that unlike those—

Honourable senators interjecting—

The PRESIDENT—Order! The time for debate across the chamber is at the end of question time, not during question time. I cannot hear the answer that Senator Wong is giving; I am entitled to hear it as much as anyone else in the chamber. Senator Wong, you have 37 seconds left.

Senator WONG—The reason the government is going to continue to invest in irrigation efficiencies and in infrastructure on and off farm and to purchase water is that, unlike those opposite, we recognise—

Senator Joyce—Mr President, I raise a point of order going to relevance. It was a specific question. Why have you opened the second tender before finalising the first tender? That is the question that we want answered.

The PRESIDENT—You have 17 seconds in which to answer the question, Senator Wong. I draw your attention to the question.

Senator WONG—As I was saying, it is because we recognise that we have to address the issues of drought, overallocation and climate change, which is the problem we face particularly in the southern part of the basin. In relation to the issue, I assume from Senator Joyce’s question— (Time expired)

Senator Joyce—Mr President, I ask a supplementary question. During that entire answer we never got an answer. How much water was tendered from the Lower Balonne and how much of that does the government intend to purchase, if any?

Senator WONG—I was saying that we have closed one tender and reopened another. I assume from the question about finalisation that the good senator refers to the actual finalisation of contracts and transfer arrange-
ments. He asked these questions in estimates and I think he will recall that that can often take some time. My view was that we needed to progress the purchases in both the northern and the southern basin. It is not necessary to await all of the contracts being finalised and all of the trades being registered. As the good senator knows, that can take some time. In fact, our experience of the initial purchase round held last year—the $50 million—was that it did—

Senator Nash—Thirty-seven million.

Senator WONG—That is precisely the point—$50 million was allocated. We pursued in excess of that, from memory—(Time expired)

Senator JOYCE—Mr President, I ask a further supplementary question. I admit the minister started answering the first question during the second answer. Now maybe we will get an answer to the first supplementary during the further supplementary. I still want to know how much water they intend to buy from the Lower Balonne. My further supplementary question is this: given the government's position on the Lower Balonne, what is the target amount of water to be purchased?

Senator WONG—We have not identified a target for that catchment or any other. There are some environmental groups who have suggested that. There are some communities who have suggested that. That is a matter the government will consider. In relation to the finalisation of purchases, we will release that information, Senator Joyce, when that information is available. As yet the purchases from that tender round, as I understand it—I will check—have not been finalised.

Employment

Senator SIEWERT (2.18 pm)—My question is to the Minister representing the Minister for Employment Participation, Senator Ludwig. Minister, how many Australian not-for-profit organisations have recently applied for tenders for new employment service contracts and have failed to be awarded contracts for services they are currently delivering? What is the estimated value of employment service contracts that have now been awarded to profit driven overseas providers?

Senator LUDWIG—I thank Senator Siewert for her question. If we are talking about the new employment services, the employment services procurement is a robust and thorough process oversite by an external probity adviser. The department manages the process entirely and it is difficult to be able to comment on specific outcomes before they are finalised by the department itself. I am advised that the tender process for employment services in 2009 to 2012 is still underway and DEEWR has not yet made any final decisions. Of course, in accordance with the RFT, preliminary and without prejudice advice to preferred tenderers was provided on Monday last. This allows the department to undertake negotiations where required with preferred tenderers before final decisions are made.

Of course, the tender process is, by design, competitive and I am confident it will deliver quality providers to meet the needs of job seekers and employers. The new employment services are a result of extensive consultation with industry and stakeholders and support of the new approach has been high, demonstrating the confidence the market has in the new employment services. I will take the specific question on notice and see if I can provide greater detail from Minister O’Connor, although it will depend very much on, I suspect, what information can be provided before a final decision is made with respect to that matter.
Senator SIEWERT—Mr President, I ask a supplementary question. Is it true that most of the preferred tenderers are in fact major overseas providers? If this is in fact true, how many jobs in church and community service organisations will be lost as a result of this decision? For example, I have heard of one service alone allegedly losing over 400 jobs. What surplus money will be lost to the community sector in Australia as a result of these decisions and therefore what other cross-subsidised social services will be lost in this time of economic crisis?

Senator LUDWIG—I thank Senator Siewert. It does build on the first question. It falls into the same category, which I outlined. The employment services procurement is a robust and thorough process. It has been oversighted and I am advised that the tender process is still underway. Whilst it is underway DEEWR has not made any final decisions. To provide a cogent answer to the specific question I will need to take it on notice to ensure that I can provide an accurate picture. I will also say, though, that I may not be able to provide that information until such time as the tender closes, depending on the terms of the contract, but I will seek clarification on that point. But I think it is worthwhile just highlighting that, of course, until the matter is finalised and the decision has been made—(Time expired)

Senator SIEWERT—Mr President, I ask a supplementary question. I thank the minister for taking those matters on notice. Could he also please take this on notice. Could he assure the Senate that WorkDirections UK has not been awarded or will not be awarded one of the contracts that undermines non-government providers and not-for-profit providers in Australia?

Senator LUDWIG—I thank Senator Siewert. I do not have any specific knowledge in relation to the matter. I can take it on notice and see if I can provide an answer. I think it falls into the position that I earlier outlined, which is that the tender process is underway and no final decision has been made in respect of that. But I can say that by design it is a competitive tender process. I am confident that it will deliver quality providers to meet the needs of job seekers and employers. The new employment services have eventuated as a result of extensive consultation. But I will take this specific matter on notice and endeavour to get a response from Minister O’Connor. As I indicated earlier, in answer to your first supplementary question, it will depend on what information can be released prior to the finalisation of the tender process, but I will make an effort to find out. (Time expired)

Broadband

Senator IAN MACDONALD (2.24 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I ask the minister: is it true that more than 12 months ago Labor cancelled the coalition’s national rural and regional broadband project, OPEL? Is it also true, Minister, that this network could have delivered new and affordable high-speed broadband services to more than 460,000 underserviced households and businesses across my state of Queensland in 2009? I ask the minister: how many more years will Queenslanders have to wait before Labor delivers new broadband services to them?

Senator CONROY—I thank you for that question, Senator Macdonald. Senator Macdonald appears to be calling for the restoration of OPEL. The claim from those opposite seems to be that it would have delivered high-speed broadband to Queenslanders. By calling for OPEL to be reinstated, Senator
Macdonald is stating that he would spend taxpayers’ money on a project even though the terms of the contract were not met. Furthermore, Senator Macdonald is repeatedly misleading the Australian public. His statement is categorically untrue and demonstrates that those opposite are grossly irresponsible.

The Rudd government committed to honouring the OPEL funding agreement according to its terms. The conditions precedent written in by Senator Helen Coonan, my predecessor, required OPEL to provide coverage reasonably equivalent to 90 per cent of the 527,747 underserved premises identified by the then Department of Communications, Information Technology and the Arts. In other words, OPEL was required to cover approximately five per cent of Australian premises identified as underserved. As I have said before, OPEL’s coverage would have been far less than the figure claimed by people such as Senator Minchin, who talks about 99 per cent. In any event, the assessments showed that OPEL failed to demonstrate that it was able to meet its required coverage. It failed to meet the contractual terms set out by Senator Helen Coonan. So let us be clear: the Department of Broadband, Communications and the Digital Economy—(Time expired)

Senator IAN MACDONALD—Mr President, I ask a supplementary question. Can I further ask the minister: is it true that as a result of Labor cancelling the OPEL project, my state of Queensland has missed out on gaining 340 new wireless broadband base stations, the upgrade of some 80 telephone exchanges and the rollout of thousands of kilometres of new fibre optic backhaul this year? What is Labor’s time frame for delivering new services for Queenslanders?

Senator CONROY—Senator Macdonald has shown throughout his public career that he is utterly without shame. Once again, he is demonstrating that today by continually—

Senator Parry—Mr President, I rise on a point of order. That is reflecting on the integrity of the senator. I suggest that you invite the minister to withdraw that remark.

The PRESIDENT—There is no point of order. Senator Conroy, you have 46 seconds left to answer the question.

Senator Abetz—Mr President, I rise on a point of order. I do not seek to delay question time any further, but I would invite you to reconsider your ruling. To assert that somebody’s total public life has been run in the manner described is nothing other than a complete reflection on that senator and surely must be withdrawn if we are going to maintain standards in this place.

The PRESIDENT—Senator Abetz, I have ruled on the point of order, on what I heard take place in the chamber. I am prepared to go and look at the Hansard and come back, if necessary, to the chamber. But I ruled that there was no point of order, based on what I had heard.

Senator CONROY—The Department of Broadband, Communications and the Digital Economy performed an analysis of the detailed testing and mapping undertaken by OPEL. It determined that the OPEL network would cover only 72 per cent of identified underserved premises within its agreed coverage area.

Those opposite have no broadband policy. Instead, they have the legacy of 18 failed policies in 11½ wasted years. They are too lazy to engage in any policy development. They hanker after a policy. They have failed their own criteria. They have failed miserably. To continue to mislead the Australian public does them no credit. (Time expired)
Senator IAN MACDONALD—Mr President, I ask a further supplementary question. Despite the minister’s repeated pledges to deliver fibre-to-the-node services to 98 per cent of premises across the nation, and I assume that also includes 98 per cent of Queensland, does he now accept that this is simply not viable and that wireless technologies must play a key part in the delivery of new broadband services across rural and regional Australia, particularly across rural and regional Queensland?

Senator CONROY—I guess maths is not his strong point either. Let me be clear: we have put forward a policy proposal which we are in the last few weeks of determining, so I am not going to speculate on the outcome. I will say that we are committed to delivering our election promise. Our election promise includes 100 per cent of Australians getting improved broadband by the latest wireless and the latest satellite technologies.

Opposition senators interjecting—

The PRESIDENT—Senator Conroy, resume your seat. I will ask you to resume your answer when there is quiet in the chamber.

Senator Fisher—Show us your nodes.

Honourable senators interjecting—

The PRESIDENT—When there is quiet, we will resume question time. Senator Conroy, you have 23 seconds left.

Senator CONROY—I will keep my nodes to myself, Mr President. Let me be clear: Labor’s plan to deliver faster broadband to 100 per cent of Australians includes the latest satellite technologies and the latest wireless technologies. They are for the two per cent outside the reach of the fibre-to-the-node technology. Let me reiterate: we will deliver. After 11½ years—(Time expired)

Executive Remuneration

Senator FARRELL (2.32 pm)—My question is to the Minister for Superannuation and Corporate Law, Senator Sherry. Can the minister update the Senate on actions that the Rudd Labor government is taking to address the incredible level of executive pay packages, particularly concerning the growth in the size of termination payments, which are also known as golden handshakes?

Senator SHERRY—Today the Treasurer and I announced a package of major reforms that will curb the level of what are known as golden handshakes. The community has been rightly offended by the level of the termination payments that have been made over the past decade in particular. These are commonly known as golden handshakes. This is unacceptable when we see workers losing their jobs. We see rewards for failure via these massive golden handshakes that have developed over the past decade. They are often made as a reward for failure. Today’s reforms that have been announced will empower shareholders. There will be a binding vote. Earlier today I described this new culture and said that the retirement gold watch has been replaced with a truckload of gold bullion in the executive payouts cases we are seeing on termination.

I will go to the key reforms that we have announced today. Under the current law that was left to us by the former Liberal government, who did nothing, only where the pay for company directors is seven times their total pay package do they need to seek shareholder approval. We are reducing that to be only one times that amount. We are also reducing the base pay from the salary package to the basic pay. There will be two major changes to the way in which these payments are calculated. Secondly, the Liberals’ law only applies to company directors. We will be expanding the coverage of these new re-
requirements to include all those executives in the company remuneration package. Thirdly, we have identified a loophole that was left to us by the Liberal Party. *(Time expired)*

**Senator FARRELL**—Mr President, I ask a supplementary question. Can the minister also inform the Senate of any other steps the Rudd government is taking on the issue of executive pay?

**Senator SHERRY**—As I was about to say, we have identified a loophole that was left to us by the former Liberal government after 12 years of inaction. The loophole we have identified relates to Pacific Brands, which have been in the press recently. Pacific Brands gave their previous CEO a golden handshake of $3.4 million. I am advised that Pacific Brands called this termination payment a ‘retirement payment’. Consequently, this loophole that was left to us by those opposite is going to be shut down. The Rudd Labor government today announced decisive reform measures—

*Opposition senators interjecting—*

**Senator SHERRY**—What did those opposite who are interjecting do over 12 years? Nothing; they did nothing to reform this area. This government is determined to reduce these golden handshake determinations.

*Opposition senators interjecting—*

**Senator FARRELL**—Mr President, I ask a further supplementary question. Can the minister update the Senate on what the attitude of the former, Liberal government was to the regulation of executive pay and, in particular, golden handshakes?

**Honourable senators interjecting—**

**The PRESIDENT**—Order! Senator Macdonald, you will get the call when there is order on both sides.

**Senator Ian Macdonald**—Mr President, I raise a point of order. We would all love to hear the answer, of course: but, as a matter of the standing orders of this Senate, how is this in Senator Sherry’s portfolio responsibilities?

**Senator Sherry**—On the point of order: corporate law.

*Opposition senators interjecting—*

**The PRESIDENT**—Order! The time for debating this is later. There is no point of order. Senator Sherry, please answer that part of the question which is relevant to your portfolio.

**Senator Brandis**—Mr President—

*Government senators interjecting—*

**The PRESIDENT**—Order! Senator Brandis is entitled to be heard in silence.

**Senator Brandis**—Mr President, on a point of order: the question, as I heard it, was that the minister was being asked to advise the Senate about the attitude of the previous government to a particular matter. That was it. That was the only topic of the question. Now, it is not conceivable that the minister’s view of the view of a previous government on a particular matter could be a matter arising within that minister’s portfolio, since the previous government has expired. Senator Sherry has no jurisdiction in relation to matters dealt with by the previous government.

**Senator Chris Evans**—Mr President, on the point of order: I have never heard the Howard government described as having ‘expired’ before, but I am happy to take up the suggestion! Like Senator Brandis, I am not able to repeat exactly the words of the
question asked by Senator Farrell, but clearly he referred to alternative policies. The question was directed at alternative policies impacting in Senator Sherry’s portfolio, and I would argue therefore that the question is in order.

The PRESIDENT—I have already indicated that Senator Sherry need only answer that part of the question that refers to his portfolio, and those parts that are not relevant he should not address.

Senator SHERRY—It is a pity such legally incisive minds as Senator Brandis’s were not brought to bear on solving this problem for the almost 12 long years his party were in government and did nothing. You did nothing in government—lots of talk about cracking down on executive pay and golden parachutes, but you did nothing. In this very Senate I remember Senator Conroy, four years ago, presenting this package to the Senate in respect of a corporate law bill, and Mr Costello saying, ‘No, we are not going to hold executives accountable for these sorts of golden handshakes.’ Senator Coonan opposed this package of reforms four years ago when she described it as throwing the baby out with the bathwater. You said we could not crack down on senior executives’ termination payments because that ‘throws the baby out with the bathwater’. That is a direct quote, Senator Coonan—how you described this measure four years ago. (Time expired)

Economy

Senator COONAN (2.41 pm)—Mr President—

Government senators interjecting—

The PRESIDENT—Order on my right! Senator Coonan is entitled to be heard in silence.

Senator COONAN—Do I have the call for a question?

The PRESIDENT—Yes, you have got the call. Reset the clocks so Senator Coonan has the full time to ask the question.

Senator COONAN—Thank you, Mr President. My question is to Senator Conroy, the Minister representing the Treasurer. Can the minister advise the Senate which foreign banks he understands will be withdrawing their existing Australian commercial property loans?

Senator CONROY—I thank Senator Coonan for that question. As is evidenced by simply picking up the newspapers today, you can make yourself aware of which projects are in danger because those opposite have decided to irresponsibly behave like economic vandals. There are actual businesses who have identified themselves as needing refinancing in the morning papers, Senator Coonan—through you, Mr President. So let us be clear: the Rudd government have said from day one that we are not going to wait till after the train wreck; we are going to put in place a safety net. We are not prepared to gamble with the lives and futures of Australian families and workers while we sit on our hands and do nothing. Those opposite advocate the ‘sit on our hands’ policy approach. It is consistent with their entire approach since this irresponsible and politically expedient Leader of the Opposition took over, and that is reflected right across the front bench opposite: cynical, short-term politics at the expense of Australian families. You can get up tomorrow and explain to those families why their breadwinner is coming home without a job—because those opposite are only interested in their own jobs. The Leader of the Opposition particularly is only interested in one job. He is being stalked by the member for Higgins and 28 other members of the front—

Senator Abetz—Mr President—
The PRESIDENT—Senator Conroy will resume his seat. Senator Abetz—

Senator CONROY—Eric is one of the 28!

The PRESIDENT—Order! I am waiting till Senator Abetz can be heard in silence.

Senator Abetz—Mr President, with great respect, surely it does not require a point of order from the opposition to call this minister to order when he is clearly not being directly relevant to the question that was asked. How Mr Costello stalking somebody in any way, shape or form—

Government senators interjecting—

The PRESIDENT—Just hold on, Senator Abetz. Order!

Senator Faulkner interjecting—

The PRESIDENT—Senator Faulkner! Senator Abetz is entitled to be heard in silence.

Senator Abetz—The answer that was being provided in no way, shape or form dealt with the very specific question asking the minister to advise which foreign banks he understands will be withdrawing their existing Australian commercial property loans. Mr President, I ask you to direct the minister’s attention to the question.

Senator Ludwig—On the point of order, Mr President, the question which was asked started with ‘advise the Senate which foreign banks will be withdrawing’—

Honourable senators interjecting—

The PRESIDENT—The cross-chamber conversation does not allow me to hear what is being said. It is not fair to the person speaking and it is not fair to those waiting to hear the answer.

Senator Ludwig—It is clear that Senator Conroy has been answering the question, advising the Senate about foreign banks which may be forced to withdraw from Australia. It is an important issue. You should listen to him because the actions of the Liberal Party in this area are disgraceful. In answering the question, it is appropriate to hold the Liberals to account in respect of what their position is on the matter while remaining directly relevant to the question.

The PRESIDENT—Senator Conroy, you have five seconds in which to answer and I draw your attention to the question asked by Senator Coonan.

Senator CONROY—As the Rudd government have made abundantly clear, we will not—(Time expired)

Senator COONAN—Mr President, I ask a supplementary question. Given that the minister has been unable to name one foreign bank threatening to exit Australian commercial property loans and the total lack of transparency surrounding the need for a big, fat, taxpayer-funded fund to prop up commercial loans, what possible justification can there be for exposing hapless taxpayers to the risk of yet another $28 billion of debt to guarantee the operations of the Australian Business Investment Partnership?

Senator CONROY—The only hapless persons are those on the opposite side of this chamber because a disorderly deleveraging process could force many commercial property projects to sell their assets immediately at whatever price can be obtained—in other words, a fire sale. Such a fire sale could destabilise the entire commercial property sector and create a vicious cycle where falling prices trigger further fire sales. That is what those opposite are advocating. ‘What justification?’ Senator Coonan asks. I could draw on the Goldman Sachs analyst report which pointed out that banks are at their limit of exposure. Goldman Sachs is a very appropriate one to point to. I have a question for Goldman Sachs: how much did Goldman
Sachs pay to settle Malcolm Turnbull’s deceitful behaviour around HIH?

The PRESIDENT—Order! Withdraw that.

Senator CONROY—What was the amount of money that Goldman Sachs paid to keep the liquidator of HIH—

The PRESIDENT—Order, Senator Conroy! You will withdraw that imputation on a person in the other place.

Senator CONROY—I withdraw, Mr President. (Time expired)

Senator COONAN—Mr President, I ask a further supplementary question. Senator Conroy earlier mentioned jobs. As the government has now spent $80 billion of taxpayers’ money claiming to create or protect jobs when in fact Australians are losing jobs and unemployment has jumped to 5.2 per cent on the Labor government’s watch, why should Australians then be asked to believe that risking yet another $28 billion for Rudd-bank will miraculously shore up 150,000 jobs, as claimed by Treasurer Swan?

Senator CONROY—I thank Senator Coonan for that question. As I was saying, the Goldman Sachs report points quite clearly to the ramifications of the appalling behaviour of those opposite. It is not the first time Goldman Sachs have had their cover—

Senator Coonan—Mr President, I rise on a point of order that goes to relevance. The further supplementary question goes to jobs, not to a Goldman Sachs report that is not about jobs. Would you ask the minister to be relevant.

Honourable senators interjecting—

The PRESIDENT—I am waiting to hear Senator Coonan’s point of order. It is totally improper for you to be interjecting when I am trying to listen.

Senator Coonan—The question I am asking the minister to be relevant to, and for you to rule that he should be relevant to, is why throwing another $28 billion at jobs is going to work when $80 billion has already failed.

Senator CONROY—This particular point of order demonstrates how out of touch those opposite are. If Senator Coonan had actually read the Goldman Sachs report, she would have seen that it specifically deals with the issue of the impact of jobs by not having ABIP.

The PRESIDENT—Senator Conroy, are you debating this issue?

Senator CONROY—I am arguing the point of order.

The PRESIDENT—Continue. I will listen to you.

Senator CONROY—the Goldman Sachs report is absolutely relevant to the question. It specifically addresses the issue of jobs. This answer is entirely relevant to the question that was asked.

The PRESIDENT—On the question raised by Senator Coonan, Senator Conroy, I draw your attention to the fact that you have 43 seconds left to address the question raised by Senator Coonan.

Senator CONROY—As I was saying, Mr President, the Goldman Sachs report goes specifically to the policy failure being demonstrated by those opposite. It specifically outlines the impact on the Australian economy of the actions by those opposite in blocking ABIP. It is very relevant. It highlights exactly why the economic vandals on the other side of the chamber should be condemned. They are to be condemned by Australian families, by the business community and by the property sector. They are to be condemned for their irresponsible behaviour. Goldman Sachs have just paid a settlement to the HIH liquidator to cover up the member for Wentworth’s behaviour over a simple question: how much?
Ms Britt Lapthorne

Senator FIELDING (2.52 pm)—My question is to the Minister representing the Minister for Foreign Affairs, Senator Faulkner. Given that at Senate estimates in October last year the Department of Foreign Affairs and Trade gave assurances that an internal review of the Britt Lapthorne case would be held and given it has now been five months since a commitment was made to better coordinate consular relations, what changes have been made to ensure that no other Australian family has to go through what the Lapthornes did?

Senator FAULKNER—I have just checked to see if I have any detail on follow-on activity by the department in relation to the Britt Lapthorne case. I am afraid I have to indicate that I believe I do not have information specifically on that matter. I can say that I took up directly with the Minister for Foreign Affairs the issues Senator Fielding and others raised at the Senate estimates. I drew those to his attention. I will undertake to find out for you what specific actions on this matter the department has taken in its internal arrangements and I will come back to you at the earliest opportunity. Specifically in relation to the Britt Lapthorne matter, I do not want to provide any information to the Senate that is not accurate. This is a case that has had very significant ramifications. Ms Lapthorne’s family, as Senator Fielding is aware, have had an extraordinarily difficult time. It is something that I know the foreign minister has taken a very close interest in. (Time expired)

Senator FIELDING—Mr President, I ask a supplementary question. Given that more than 1,100 Australians have signed a petition started by me and endorsed by Dale Lapthorne calling for changes to allow the families of Australians missing overseas to be informed immediately of their disappearance, isn’t it time the government acted and listened to Australians who want this bureaucratic red tape around privacy stopped so families can be told when their loved ones are missing?

Senator FAULKNER—Again, I think it is really important, on an issue as sensitive as this, to make sure that the issues that are raised in such questions are related. I can say to Senator Fielding that, as he may be aware, the Prime Minister did commit in his national security statement to build over time ‘diplomatic resources that are more in-depth and more diversified than currently exist’. That certainly is a clear objective of the government. The report earlier referred to by the head of the panel, Allan Gyngell, that staff shortages, underfunding and lack of skilled diplomats have often resulted in a failure by the department to assist desperate Australians in trouble overseas?

Senator FIELDING—Mr President, I ask a further supplementary question. Given that the Age newspaper today reports that an examination of the operations of the Department of Foreign Affairs and Trade by an expert review panel found that the department is badly underfunded, do you support comments by the
Senator Fielding supports the Prime Minister’s statement about the increasing challenges that Australia faces. In relation to Ms Lapthorne’s case I will take on notice that issue specifically for you, Senator Fielding. I want to provide a serious response to a serious matter.

**Army Slouch Hats**

Senator **KROGER** (2.58 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Will the minister guarantee that Australian manufacturers will continue to provide our diggers with their slouch hats?

Senator **CARR**—I thank Senator Kroger for her question. The government is committed to value-for-money procurement and wishes to see maximum Australian industry participation in government purchasing. The Australian government has a number of programs to assist Australian companies become more competitive. Firms of the TCF industries benefit from industry specific programs supporting innovation and investment such as the TCF Strategic Investment Program and generally available programs such as Enterprise Connect. These programs boost competitiveness and therefore assist companies to win government contracts as well as private contracts.

The Commonwealth promotes Australian industry participation and supports the Industry Capability Network to help ensure Australian industry gets full, fair and reasonable opportunities to bid for Australian private sector business. I understand that the Department of Defence also has an Australian industry capability requirement that facilitates access to opportunities for local manufacturers. The defence department’s policy requires tenders for large contracts to demonstrate that local industry has been provided with supply chain opportunities. However, the eventual procurement decisions are made on the basis of the individual tender arrangements.

We have a situation where the senator is asking me to propose that there be a resolution of a tender arrangement before that tender process has been concluded. I remind the senator that these are decisions for the defence department, not the department of innovation, and that we will not be pre-empting proper tender arrangements. *(Time expired)*

Senator **KROGER**—Given the minister had some difficulty in responding to that one, I do have a supplementary question. Given the minister’s recent refusal to act to save jobs and production at Melba Industries, an Australian company that manufactures the uniforms of our SAS soldiers, is it a fact that our SAS troops will soon be wearing fully imported combat uniforms?

Senator **CARR**—I remind the senator that, under your government, over 40 per cent of defence contracts actually went to overseas firms. I will remind the senator of what actions were taken by your government in regard to the protection of Australian manufacturing industries. I will remind the senator of your woeful record on these issues. We have a situation where the current tender arrangements for the procurement of Australian slouch hats are based on company arrangements which have been in place for a number of years, and those arrangements were actually put in place by your government. I know that there are very limited opportunities in this chamber to actually deal with the level of hypocrisy and absolute— *(Time expired)*

Senator **KROGER**—Mr President, I ask a further supplementary question. Talk about hypocrisy—given that Australian soldiers will soon be wearing overseas made slouch hats and overseas made uniforms, driving overseas made vehicles and even wearing, I
hate to say, overseas made jocks and socks, why did the government fail to provide any funding to support Australia’s manufacturing sector in their failed $52 billion cash splash?

Senator CARR—The two Australian companies Mountcastle and Akubra currently supply slouch hats to the Australian Defence Force. These companies have supplied slouch hats since 2003 through contracts won from the previous competitive tendering process. The current contracts are expected to meet Australian Defence Force requirements to supply slouch hats until 2011. I am advised that Mountcastle have assured Defence that they have no plans to source a supply of slouch hats from overseas. The Department of Defence has undertaken to reopen the tender arrangements; that is the process that is underway at the moment. And attempts to sink to the very depths of hypocrisy on this issue should be condemned for the nonsense that they are.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Ms Britt Lapthorne

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (3.05 pm)—I can now provide some additional information to Senator Fielding in relation to the question he asked of me. I am advised that the Australian government has made extensive representations to the Croatian government on the importance we place on the Croatian police pursuing a comprehensive and effective investigation into the Britt Lapthorne matter. The Australian Ambassador to Croatia continues to liaise with the Croatian authorities as required. The Australian government retains a strong interest in this case.

I also indicate to Senator Fielding that the Croatian police have confirmed that their investigations continue as a criminal case. In addition, consular staff from the Department of Foreign Affairs and Trade continue to provide extensive consular assistance to the Lapthorne family and have negotiated with the Croatian police to provide regular reports to the Lapthorne family on the status of their investigations. DFAT provides these reports immediately to the Lapthorne family when received from the Croatian police. DFAT also provided assistance to the Lapthorne family during their return visit to Croatia in December of last year, including making arrangements for the family to meet with the Croatian authorities and providing a Croatian-speaking staff member to assist the family while in Dubrovnik.

I was asked more generally about the government’s handling of the case, and I suppose I can say to Senator Fielding—through you, Mr Deputy President—that the government is satisfied that from the time consular officers were advised Ms Lapthorne was missing they did everything they possibly could to assist Croatian authorities to locate her. I think I should probably conclude my additional comments by indicating that it is important to underline that the Australian government does not have extraterritorial authority to conduct independent investigations in foreign countries. We must rely on the cooperation of local law enforcement agencies in these areas.

There may be some elements of Senator Fielding’s question that require further briefing, and I will undertake to provide that level of detail to Senator Fielding, but I did also undertake to provide some information as soon as I could and I wanted to do that at the conclusion of this question time.
Employment Services

Senator LUDWIG (Queensland—Minister for Human Services) (3.08 pm)—During question time I sought a response from Minister O’Connor’s office in respect of Senator Siewert’s question. I am advised that in respect of the UES, the universal employment service, it is a live tender process and it is completely inappropriate for the government to discuss or speculate on who may or may not be a tenderer for that. I suspected that was the case in my primary answer and I am advised that is in fact the case.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Answers to Questions

Senator BOYCE (Queensland) (3.09 pm)—I move:

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

I would particularly like to address my remarks to the answers, or perhaps the non-answers, given by Senator Ludwig to questions related to the Queensland health system and the Queensland hospital system. I suppose in one way we should be pleased that at least Senator Ludwig did not attempt to justify the scandalous mess that passes for a hospital system in Queensland at the present time. We had a comment yesterday from the Australian Medical Association Queensland president that the Queensland health system is a bureaucracy that has become very bloated, very rigid and very politicised—in fact, next to useless and harmful to the citizens of Queensland. But I was interested to note that Minister Ludwig tried to tell us that this was all going to be fixed by COAG, that there was no need to wait for the buck to stop with Prime Minister Rudd, because COAG would talk their way out of this problem.

The unfortunate position, though, is that the Business Council of Australia has come out today with a comment saying:

We need a new independent health body that can break the current impasse and seamlessly provide for patient needs, boost efficiency and drive the reforms required to meet the needs of the future.

They are, of course, talking about our health services and they point out they do not function effectively as one system. That is a quote:

…they do not function effectively as one system.

‘Australia’s health care is not fit for the job,’ Ms Katie Lahey, director of the Business Council of Australia, told us today. So much for Minister Ludwig’s suggestion that it is COAG that can fix the woes of Queensland.

The Business Council paper goes on to say:

…a key reason for the lack of reform progress is the fragmentation and blurring of accountabilities for financing and service provision across the levels of governments and between policy portfolios within governments.

This is a further quote from the report:

There is a lack of capacity for any one area to exercise leadership and no national integrated database on which to base planning decisions, or monitor the performance and effectiveness of the system.

Of course, Queenslanders did not need the Business Council of Australia to tell them how inefficient and how leaderless this system was. They only had to look as far as the waiting lists at every regional hospital in Queensland to understand the problem.

Then there is the wonderful funding question that Minister Ludwig did not quite manage to answer either. Of the $250 million in ‘new funding’ for health building that Premier Bligh announced recently during her election campaign, we now discover that $242 million is in fact federal money. It comes out of Rudd government campaign
promises. There is an amusing comment—well, it would be amusing if it were not so serious—from Premier Bligh, who points out that they will be contributing $8 million towards the $250 million policy that she announced. This $8 million contribution, according to Ms Bligh, is ‘significant’. She said that she ‘deserved credit for securing federal cash with her forceful negotiations’.

Senator Ian Macdonald interjecting—

Senator BOYCE—Thank you, Senator Macdonald. When we talk about forceful negotiations with Ms Bligh, I think the place she needs to start looking for forceful negotiations is within her own party. We at least agreed with her wholeheartedly when she countermanded and pushed to the side her hopeless and useless state health minister, Stephen Robertson. We agreed that he certainly was ‘denecessary’.

If you look at the stories in today’s paper about Ms Bligh’s attempt to suggest that she is in charge in Queensland, you find the minister and member for Cairns, Desley Boyle, telling the Premier, ‘Not so fast.’ I think it is Ms Bligh who may find herself ‘denecessary’. Certainly the people of Queensland feel that way about their health system.

Senator FURNER (Queensland) (3.14 pm)—I rise to take note of answers. It is no surprise that we are heading for a state election in Queensland this Saturday. Those on the other side have been raising the subject since last week. But I really find the comments made by Senator Boyce describing the health industry as ‘harmful and useless’ disparaging. As the husband of someone in this industry, I find it despicable that that sort of description is given to people who are committed and care for people in the health industry. The LNP, using those descriptions, has no compassion for people in that industry.

The statistics are particularly pertinent to understanding where jobs and where the health industry are heading in the state of Queensland. The LNP leader, Mr Springborg, on 2 March announced budget projections of about $3 billion for his election promises. To compensate there would be $3 billion funding over three years to pay for those election commitments. But here is the sting in the tail: where is that funding going to come from? Naturally, it will have to come out of those public service jobs. In particular, I am advised that just short of $760 million is going to be cut from health. This is the objective of Mr Springborg, or ‘Cyborg’—whatever they call him these days. He is about cutting jobs.

The DEPUTY PRESIDENT—Order! Senator Furner, you must refer to a person by their proper name or title.

Senator FURNER—I will take that point, Mr Deputy President. Thank you for that. This is the objective behind this opposition that want to be in government in Queensland. Their objective is to cut jobs in Queensland—in their terms, and Senator Boyce reflected on them—making them ‘denecessary’. Try to find that definition in the dictionary, please, Senator Boyce. You will not find it; there is no such terminology. This is the type of LNP leader they expect to be elected in Queensland. All it is is the old Queensland Liberal Party and National Party recycled. It is the recycling of the old brand. It is nothing new.

Talking about jobs, I will take you back in time to 1997. The views of the industrial relations and training minister at the time—I think it was Santo Santoro, from memory—on jobs mirrored the Peter Reith legislation, the Workplace Relations Act 1996. He was that lazy in the way that he handled that legislation that the only thing he did was change the title to make it the Queensland Work-
place Relations Act 1997. He made the right of entry notice 48 hours. Isn’t that a surprise—the Queensland coalition government, similar to the members on the crossbench, wanting to change right of entry notice to 48 hours! The only other thing they did in that legislation, other than mirroring it, was to apply Queensland workplace agreements. It is quite an easy task to pick up a piece of legislation from the federal arena and put your logo on it and rebadge it.

As Queensland has a population growing by approximately 1,800 per week, with people coming across the border, we need services in Queensland. We cannot afford to have jobs made ‘denecessary’. We need to support our public service. It is the greatest employer in the state. If we do away with jobs in that arena, what is going to happen to the private sector? Naturally there will be a downturn in resources and jobs growth. Queensland Labor is focusing on jobs. It is about growing jobs in Queensland and keeping Queensland strong. On the other hand, the LNP is about making them ‘denecessary’ or ‘front-ending’ them—the other terminology they have come up with. For the life of me I do not know what those two things are, and I am sure they do not either.

This is where we are heading with this upcoming state election. That is the agenda of the opposition. They have no credentials; they have no ability to be elected. All they are going to do to fund their $3 billion election promises is to make ‘denecessary’ jobs in the public service. That is why on Saturday, as Queenslanders, we need to make sure we keep Queensland strong with a Labor government. (Time expired)

Senator BRANDIS (Queensland) (3.19 pm)—I too would like to take note of Senator Ludwig’s answer to Senator Boyce’s question. Before Senator Furner leaves the chamber can I say that nobody would criticise Senator Furner for coming to the defence of his partner, who is, apparently, an employee of Queensland Health. Without in any way casting any disrespect on Senator Furner’s motives, it did rather seem to me to be emblematic of the Labor Party attitude to health policy in Queensland—that it is all about looking after the interests of the staff and it is never about looking after the interests of the patient. That is why, when Dr Christopher Davis, the president of the Queensland branch of the Australian Medical Association, launched yesterday the Queensland AMA’s report card on the state public hospital system, which bears the rather discouraging title Poor state of health, he was moved to describe the Queensland health system as:

… a bureaucracy that’s come very bloated, very rigid and very politicised

As somebody who lives in Queensland, I can assure you, Mr Deputy President, that that is, if anything, a generous description of the Queensland public health system.

I know the Australian Labor Party are very good at blaming other people for what happens on their watch. We have yet to hear the Rudd government put up its hand and say, ‘We, the Australian government, are responsible for the loss of Australian jobs.’ They would rather blame it on phenomena occurring overseas. But I think it is very, very difficult for the Labor government in Queensland, which has been in power for 11 years—and Labor has been in power in Queensland for all but 2½ of the last 20 years—to blame anyone other than themselves for the state of the Queensland health system. The report of the AMA identified these shortcomings with the Queensland health system:

- Severe shortages of acute, emergency and overnight public hospital beds
• Staffing, in particular difficulties in attracting and retaining staff to rural and regional areas
• Lack of support for staff is contributing to low rates of staff morale and excessive workloads
• High bed occupancy rates, placing patients at risk and contributing to waiting lists

And the criticisms go on and on.

One thing Mr Beattie, the former Premier of Queensland, that master of political deception, was very eager to commit to was the reduction of hospital waiting lists in Queensland. And what has happened on the Labor Party’s watch? They have grown. They have grown exponentially to—what was it, Senator Boyce?

Senator Boyce—Thirty-one thousand.

Senator BRANDIS—Thirty-one thousand people on the waiting list. This is an $8.9 billion health system servicing a population of 4.2 million people, and yet the waiting lists have blown out under the stewardship of the state Labor government. And the mindset of Labor in Queensland when it comes to health policy, just as in so many other areas of service delivery, is that their first and last priority is to look after the bureaucrats who run the system. Their very lowest priority is to look after the interests of the patients.

It is very like that episode many years ago of the famous television comedy show Yes, Minister. I am sure you will remember it, Mr Deputy President. The minister for health had discovered the perfect hospital in the system—no patients! There were plenty of bureaucrats, plenty of paramedics, a few doctors here and there, but no patients to trouble the bureaucrats. That is the Bligh vision; a system in which patients are so low a priority that they might as well not even be there. Everybody in Brisbane, in regional Queensland and throughout my state is perfectly well aware that the state hospital system is a shambles, that the standards of the state hospitals are appalling. Forty per cent of state hospitals have inadequate accreditation measures. This is the responsibility of the Australian Labor Party, the party that has been running the system for 11 long years.

(Time expired)

Senator WORTLEY (South Australia) (3.24 pm)—It is an interesting time we have here in this chamber; we obviously have an election looming in Queensland.

Opposition senators interjecting—

Senator WORTLEY—Yes, I can see those Queensland senators sitting opposite. I rise today to take note of answers provided by the ministers. I would like to touch on the issue of hospitals, which Senator Brandis has just raised, and also the answers provided by Senator Conroy.

On the issue of Queensland hospitals, I did a little bit of research. I understand from comments made by Premier Bligh that Queensland’s elective surgery waiting lists are now the shortest in the country and that she will continue to do more. An extra $90 million is being invested into the Surgery Connect program during the next three years, with the first of up to 20,000 extra operations starting in June. Premier Bligh says that at least $15 million of the funding will be dedicated to providing surgery to children on the waiting list and that this investment will deliver up to 1,100 additional procedures for children every year. That means children who need operations, such as having their tonsils removed, will get their treatment more quickly.

The Premier says the government’s $10 billion health action plan delivered record numbers of doctors, nurses and allied health workers to Queensland public hospitals. There has been an increase of 6,267 nurses—from 21,911 to 27,689—and allied health workers have gone up from 6,934 to 9,068. I
also understand that the Premier last month announced a new children’s emergency department on Brisbane’s north side to support the $1.1 billion Queensland Children’s Hospital that is being built in Brisbane’s south. The Premier launched a major new $250 million health building program and also a plan to train a team of 30 nurse practitioners to work in what she says are the state’s busiest emergency departments. So the Premier says that she has listened to senior doctors and nurses in public hospitals about how they can address the issues. I understand the package of measures included in the emergency department upgrade totals of $144.5 million in Brisbane, Logan, Redlands, Ipswich, Caboolture, Bundaberg and Toowoomba. New designated areas for children and their parents to wait for treatment away from adults under the influence are also to be added to the emergency department projects. If people are interested in looking at what the Queensland Labor government intends to do, they can get onto the Labor Party’s website and will find the relevant information there.

I would now like to move to the response provided by Senator Conroy with regard to broadband. We have this issue raised time and time again in this chamber—the issue of broadband to rural and regional Australia. Here we sit, again and again, having this topic raised. We know that the opposition left a legacy of 18 failed broadband plans attempts in their 11 years. They did not deliver to regional Australia; they did not deliver to rural Australia. Before the last federal election, the opposition were prepared to deliver high-speed broadband only to those people living in the five capital cities. And, what is more, they provided no safety net for Australia. As a result of the opposition’s inaction, their failed plans, Australia’s broadband performance is behind that of countries we consider our international peers. We know that Telstra admitted in July last year that two-thirds of the metropolitan areas and more than 50 per cent of people in regional areas could not get 12 megabits per second. (Time expired)

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (3.29 pm)—That was a marvellous rendition concerning Queensland Health from Senator Dana Wortley of South Australia!

Senator Ian Macdonald—What? Where are the Queenslanders?

Senator JOYCE—The senator is from South Australia! It is good to see that the Labor Party believe Queensland Health is in such strong form that they send in a senator from South Australia to go into bat for them. And I tell you what: a senator from South Australia would probably have a better chance than the current health minister of fixing up the problems in Queensland Health. I was expecting Senator McLucas or Senator Moore or Senator Ludwig or Senator Hogg, but the Labor Party’s belief in Queensland Health is so strong and so vital that they send in Senator Dana Wortley—and a lovely person she is—when we were expecting a little bit more firepower, probably from a Queensland senator.

Senator Ian Macdonald—None of the Queenslanders want to be associated with it.

Senator JOYCE—Yes, I take the interjection. It does seem that there is a sense of the Labor Party ducking for cover on health—and well may they duck for cover with 31,000 people on the waiting list. The greatest litmus test of how a government is working is its capacity to provide basic services. We can see in Queensland that it is all lost; there is no capacity to provide basic services.

Today I heard Senator Ludwig talking about the best national partnership for health and referring, I suppose, to the federal gov-
ernment picking up the tab for Queensland Health because they are so completely incompetent—but I do not know whether one lot of competence is going to be fixed by another lot of incompetence. I will tell you what the best national partnership is for health: it is the Liberal-National partnership. That is the best partnership for health. That is the best partnership that will actually deliver an outcome.

All we have got in Queensland at the moment is a mountain of debt—$74 billion worth of debt. How on earth can they provide anything or do anything except service their interest bill? This is the sort of fiasco that we have got. Queensland Health has been the epitome of a fiasco. Dr Patel and Bundaberg Hospital—all these things light up in infamy—and there is a litany of other issues. There is the lady who had a child between Emerald and Rockhampton. Unfortunately, the child passed away. Why? Because they could not get access to a hospital. There are these sorts of issues. There is the fact that our ambulances are bouncing around between out-services because they cannot get access. They are being denied access because there is not the capacity to look after the basic delivery of services to the people of Queensland.

We can see that hospitals are the absolute core of security. People want that sense that if they have got a pain in their chest they have a better than a 50-50 chance of seeing a doctor. But what do we have in Queensland? What do the Queensland government do when it comes to fixing up hospitals? They build a football stadium. That is what you do when health services are falling to pieces: you go to the Gold Coast and announce you are going to build a football stadium! This is the sort of priority that these people have. They all go for the glitzy projects and they shy away from the delivery of basic services. But the people of Queensland are waking up to them. The people of Queensland are waiting for this weekend.

Senator Wortley, you are right: there is an election this week. But, Senator Wortley, the swing is on and there is a sense of change. Why? Because they are frustrated, having had two decades—with the exception of a couple of years with Borbidge and Joan Sheldon—of Labor incompetence. They are sick to death of excuses. They are sick to death of this: ‘If you re-elect us it will somehow miraculously get better next time.’ No, it will not get better. In fact, it is getting worse. Every day we used to be in a centre of opulence, with royalties flowing into the treasury, but then it was the Labor Party in government in Queensland that had in excess of $60 billion in debt. Of course, as they have squandered the money they have lost the capacity to deliver basic outcomes in health. So it is about health. And if it is not about health, it is about education. And if it is not about education, it is about transport. On the basic delivery of these items they are completely and utterly incompetent. The Liberal and National parties will bring back hospital boards, to try to bring back a sense of community ownership. We in the Liberal and National parties believe there is a capacity for a person at the local level to know more about their area than some bureaucrat in George Street who has been feathering his own nest for the past two decades. The conservative side of politics has to be handed back the reins to deliver outcomes.

Senator SIEWERT (Western Australia) (3.34 pm)—I rise to take note of the answer about employment services that I received from Senator Ludwig, the Minister representing the Minister for Employment Participation, today. The Greens received on our website an anonymous tip-off about this particular issue. The minister reaffirmed at the end of question time that he could not tell me anything more about the process because no
final decisions had been made, although he did confirm, when answering my question earlier, that preferred tenderers had been notified. As we understand it, the unsuccessful tenderers have also been notified. At this stage, as far as we can tell, there is a range of not-for-profit community and church providers among them. As I alluded to in my question, we know of one large provider that will have to lay off between 400 and 500 people; that is one provider alone.

We do not know yet who has been given those contracts, because the minister cannot tell us because the process has not been finalised. But we have had suggestions and we have had that tip-off that large for-profit organisations are the successful tenderers and some of those may be from overseas. So here we have overseas for-profit service providers coming in and taking away the contracts of not-for-profit community and church organisations. Consequently, those organisations are having to lay off hundreds, if not thousands, of workers. We have seen—rightly of course—the Prime Minister jumping up and down over the laying off of 1,800 workers by Pacific Brands, and I agree that is a tragedy as well. But here is our own government undermining the service provision of not-for-profit providers in Australia at a time when we are in a global economic crisis and have thousands of unemployed Australians who desperately need joined-up services, who desperately need quality services and who also need the services that these community organisations provide. We need to bear in mind that these not-for-profit organisations use the resources earned through this process and plough them back into service delivery.

They look after our vulnerable people and they provide counselling support for those people who urgently need that sort of support. These people are at their most vulnerable when they have lost their jobs and have families to support. When they are desperately seeking services, here is our government actively undermining not-for-profit organisations.

From the economic stimulus package, we managed to get the government to plough some further funding into supporting counselling services, emergency relief services and the provision of services from the community sector. They are giving with one hand and taking away with the other. These community organisations provide an invaluable service to our community and, in one fell swoop, this government takes away their contracts for the provision of these services. This not only undermines the quality of services that are provided for employment services but also undermines the other services that these organisations can provide.

I also asked during question time about whether WorkDirections UK has been given a contract, and the minister quite rightly said that he cannot give me the information because the final decision has not been made. I appreciate that but we want to be clear what the position is in order to clear the air and debate this issue because, believe me, it is going to be a very hot issue. And the government should note that the undermining of church and community organisations by this decision is absolutely critical to the way our community survives the global economic crisis. Here are the government, with bleeding hearts, saying, ‘We’re into social inclusion, and we’re going to deliver a compact with these community service organisations.’ And what do they do? They take away contracts worth millions of dollars that will lead to the sacking of hundreds, if not thousands, of people who work in the community sector.

I cannot understand the decision making and I will be pursuing this. I want to see how they have been making robust decisions and how they can possibly think that this is serv-
ing the community of Australia when overseas providers are coming in and undermining the services. We will want to know whether predatory practices are involved in the approaches that these overseas not-for-profit contractors are taking.

Question agreed to.

NOTICES

Presentation

Senator Ferguson to move on the next day of sitting:

That the Senate—

(a) celebrates and commends the achievements of the Turkish community here in the Commonwealth of Australia that has been created as a result of this agreement in the 40 years since its implementation;
(b) notes that once enemies on the battlefields of Gallipoli, the Commonwealth of Australia and the Republic of Turkey have established a unique relationship and bond forged in the blood of young men from both nations and that this uniqueness at the core of deep rooted relations between the two countries gained even more momentum by the unforgettable reconciliatory remarks of the Founder of the Modern Turkish Republic, Mustafa Kemal Ataturk, to the mothers of fallen Anzacs ‘...You, the mothers, who sent their sons from far away countries wipe away your tears; your sons are now lying in our bosom and are in peace. After having lost their lives on this land they have become our sons as well’;
(c) notes the Turkish nation is now a friendly power and members of the Turkish community have now integrated into Australian society;
(d) acknowledges the unique relationship that exists between Australia and Turkey; a bond highlighted by both nations commitment to the rights and liberties of our citizens and the pursuit of a just world, highlighted by the statement of Ataturk ‘Peace at Home, Peace in the World’;
(e) commends the Republic of Turkey’s commitment to democracy, the rule of law and secularism; and
(f) on this, the 40th anniversary of the Formal Agreement between the Government of the Commonwealth of Australia and the Government of The Republic of Turkey concerning the Residence and Employment of Turkish Citizens in Australia, pledges Australia’s friendship, commitment and enduring support to the people of Turkey as we celebrate this important occasion together.

Senator Bushby to move on the next day of sitting:

That the Senate—

(a) notes that:
   (i) it has been 268 days since the House of Representatives received the Senate’s message regarding amendments to the Reserve Bank Amendment (Enhanced Independence) Bill 2008;
   (ii) the Treasurer (Mr Swan) in his second reading speech to the bill said, ‘These reforms that the Governor and I agreed to last year herald in a new era of independence and transparency in monetary policy in Australia. The introduction of this bill into the parliament today is a key step to delivering this’, and
   (iii) as a result of this inaction, the Government is failing to deliver on its ‘new era of independence and transparency’ for the Reserve Bank; and
(b) sends a message to the House of Representatives requesting that the House immediately consider the Senate amendments to the Reserve Bank Amendment (Enhanced Independence) Bill 2008.

Senator Crossin to move on the next day of sitting:

That the reference to the Legal and Constitutional Affairs Committee relating to Australia’s judicial system be withdrawn.

Senator Crossin to move on the next day of sitting:
That the following matter be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 17 August 2009:

Access to justice, with particular reference to:
(a) the ability of people to access legal representation;
(b) the adequacy of legal aid;
(c) the cost of delivering justice;
(d) measures to reduce the length and complexity of litigation and improve efficiency;
(e) alternative means of delivering justice;
(f) the adequacy of funding and resource arrangements for community legal centres; and
(g) the ability of Indigenous people to access justice.

Senator Crossin to move on the next day of sitting:
That the following matter be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 17 August 2009:

Australia’s judicial system and the role of judges, with particular reference to:
(a) procedures for appointment and method of termination of judges;
(b) term of appointment of judges, including the desirability of a compulsory retirement age, and the merit of full-time, part-time or other arrangements;
(c) jurisdictional issues, for example, the interface between the federal and state judicial system; and
(d) the judicial complaints handling system.

Senator Sterle to move on the next day of sitting:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on the import risk analysis for the importation of Cavendish bananas from the Philippines be extended to 14 May 2009.

Senators Hanson-Young and Bob Brown to move on the next day of sitting:
That the Senate—
(a) notes the appreciation of the gay and lesbian community of the recent passing of the same-sex law reforms;
(b) recognises:
(i) concerns raised by the gay and lesbian community that isolated and vulnerable members of the community may only become aware of these reforms after 30 March 2009 when Centrelink’s education campaign commences, and
(ii) that the arbitrary time frame will not allow for same-sex couples to adequately adjust to the removal of discrimination before incurring debt and penalties; and
(c) calls on the Government to revisit the implementation of a 12-month transitional period to ensure individuals currently on a social security payment have sufficient time to readjust to the changes.

The President to move on the next day of sitting:
That the Senate—
(1) Recognises the Association of Former Members of the Parliament of Australia, formed in 1988, as a forum in which former Members and Senators can meet, discuss and promote parliamentary democracy.
(2) Acknowledges the contribution made by the Association and its members to debate on public policy in Australia and the furthering of parliamentary democracy in general.
(3) Welcomes the role of the Association in encouraging former Members and Senators to maintain their contacts, associations and friendships established during their tenure as Australia parliamentarians.
(4) Endorses the Association’s role in establishing fraternal relations with kindred organisations within Australia and internationally.

Senator Cormann to move on the next day of sitting:
That the order of the Senate of 24 June 2008 for the production of documents relating to departmental and agency appointments be amended as follows:

At the end of paragraph (1)(a), add “and the place of permanent residence by state or territory of the appointee”.

Senator McLucas to move on the next day of sitting:

That on Thursday, 19 March 2009:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;
(b) consideration of general business, and consideration of committee reports, government responses and Auditor-General reports under standing order 62(1) and (2) shall not be proceeded with;
(c) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 3.45 pm shall be government business only;
(d) divisions may take place after 4.30 pm;
(e) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the bills listed below and any messages from the House of Representatives:
   Fair Work Bill 2008
   Customs Tariff Amendment (2009 Measures No. 1) Bill 2009
   Excise Tariff Amendment (2009 Measures No. 1) Bill 2009—consideration of messages
   Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008
   Social Security and Veterans’ Entitlements Amendment (Commonwealth Seniors Health Card) Bill 2009
   Therapeutic Goods Amendment (Medical Devices and Other Measures) Bill 2008 [2009]
   Appropriation Bill (No. 3) 2008-2009
   Appropriation Bill (No. 4) 2008-2009
   Appropriation Bill (No. 5) 2008-2009
   Appropriation Bill (No. 6) 2008-2009
   Tax Laws Amendment (2009 Measures No. 1) Bill 2009
   Social Security Amendment (Liquid Assets Waiting Period) Bill 2009; and
   (f) if the Senate is sitting at midnight, the sitting of the Senate be suspended till 9.30 am on Friday, 20 March 2009.

Senator Ludwig to move on the next day of sitting:

That the following matter be referred to the Community Affairs Committee for inquiry and report by 15 May 2009:

Any Government proposal to implement the Government’s announced 2008-09 Budget measure to increase compliance audits on Medicare benefits by increasing the audit powers to Medicare Australia to access the patient records supporting Medicare billing and to apply sanctions on providers.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) expresses its concern over the treatment of Junichi Sato and Toru Suzuki, two Japanese Greenpeace activists who were held without charge for 26 days and are currently on strict bail restrictions, pending a court case into their role in exposing the embezzlement of whale meat from the Japanese Government sponsored whaling program;
(b) notes that:
   (i) on Thursday, 19 March 2009, Greenpeace Australia is coordinating concerned Australian citizens to hold peaceful protests outside the Japanese Embassy in Canberra, to voice their concerns over the Japanese Government’s handling of this trial, and
   (ii) no charges have been laid relating to the embezzlement of whale meat by the crew of the Nisshin Maru whaling vessel, and that the Japanese Public Prosecutor has subsequently dropped the investigation into the involvement of the
crew and whaling officials in this illegal trade; and

(c) calls on the Australian Government:

(i) to press the Japanese Government to take action on the alleged embezzlement of whale meat and to ensure that international human rights treaties, of which Australia and Japan are signatories, are upheld, and

(ii) to request the International Whaling Commission to launch its own investigation into the embezzlement of whale meat by crew members of the Japanese whaling fleet.

Senator Humphries to move on the next day of sitting:

That the following matter be referred to the Community Affairs Committee for inquiry and report by 12 May 2009:

The design of the Federal Government’s national registration and accreditation scheme for doctors and other health workers, including:

(a) the impact of the scheme on state and territory health services;
(b) the impact of the scheme on patient care and safety;
(c) the effect of the scheme on standards of training and qualification of relevant health professionals;
(d) how the scheme will affect complaints management and disciplinary processes within particular professional streams;
(e) the appropriate role, if any, in the scheme for state and territory registration boards; and
(f) alternative models for implementation of the scheme.

Senator Ludlam to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) more than 40 terrorism laws have been enacted in relation to terrorism since 2001, some of which included significant departures from established principles of Australian law,

(ii) due to the exceptional nature of these complex laws, and to ensure scrutiny, accountability and transparency, an independent reviewer has been recommended by:

(A) the Security Legislation Review Committee chaired by the Honourable Simon Sheller AO, QC, in June 2006,

(B) the Parliamentary Joint Committee on Intelligence and Security in December 2006, and again in 2007,

(c) the Legal and Constitutional Affairs Committee in October 2008, and

(d) the Senate through the passage of a private senator’s bill in November 2008,

(iii) independent review mechanisms are a feature of best practice in like-minded democracies, and

(iv) the Government promised in November 2008 a comprehensive response to the proposal for an independent review of counter terrorism laws and other review recommendations; and

(b) calls on the Australian Government to:

(i) introduce legislation that would establish an Independent Reviewer of Terrorism Laws, and

(ii) update the Senate as to the Government’s intended timetable for the introduction of the promised comprehensive response.

Senator Bob Brown—On that basis, the NLP in Queensland, I expect, will be directing preferences to the Greens.

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT—Order! We are doing notices of motion. I presume you are moving a notice of motion, Senator Brown.

Senator Bob Brown—I note that Senator Macdonald is pleased with my comment.
Senator Bob Brown to move on the next day of sitting:

That the Senate noting the words of the Government (Minister for Human Services, Senator Ludwig) in the Senate on 17 March 2009 that, ‘Under the EPBC Act the Minister for the Environment, Heritage and the Arts can do much more than prevent any deliberate actions which would increase the prospect of the swift parrot going to extinction’:

(a) calls on the Minister for the Environment, Heritage and the Arts (Mr Garrett) to act, well within these powers, to prevent any deliberate action which would increase the prospect of Australia’s swift parrot becoming extinct; and

(b) calls on the Government to inform the Senate by 12 May 2009 whether the swift parrot recovery plans meet International Union for the Conservation of Nature requirements.

Senator Ludlam to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) an Environment, Communication and the Arts Committee inquiry found numerous and fundamental flaws in the Commonwealth Radioactive Waste Management Act 2005 and recommended in December 2008 that it be repealed, and

(ii) the committee called for replacement legislation to be introduced into the parliament in the autumn 2009 sittings that would be based on principles of rigorous consultation, voluntary consent, environmental credibility, and which utilises best practice models tested internationally; and

(b) calls on the Australian Government to:

(i) repeal the Commonwealth Radioactive Waste Management Act 2005 and introduce replacement legislation as outlined in Australian Labor Party (ALP) policy and subsequently recommended by the committee,

(ii) deliver a process on radioactive waste that is scientific, transparent accountable, fair and allows access to appeal mechanisms, which is both an election promise and a stated policy position of the ALP, and

(iii) update the Senate as to the Government’s intended timetable for the introduction of the repeal and replacement legislation.

Senator Ian Macdonald to move on the next day of sitting:

That the Senate notes:

(a) that the Greens political party in Queensland has allocated preferences to the Bligh Labor Government in 12 marginal seats thus heightening the chances of the Labor Government being returned to office in Queensland at the election on Saturday, 21 March 2009;

(b) the Greens political party both in Queensland and federally claim to oppose the construction of the Traveston Crossing Dam on the Mary River in Queensland;

(c) that the Liberal National Party in Queensland has consistently and firmly opposed the construction of the Traveston Crossing Dam;

(d) that the Bligh Labor Government has refused to rule out construction of the Traveston Crossing Dam and has indicated it would make an application to the Federal Government for Environment Protection and Biodiversity Conservation Act approval to construct the Traveston Crossing Dam after Saturday’s election in Queensland; and

(e) the contradictory approaches of the Greens political party to construction of the Traveston Crossing Dam.

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

Notice of amendment:

That, logically, the Queensland National Liberal Party, in concern for the Mary River, ought to
prefer the Greens over the Australian Labor Party in assessing preference directions.

**Senator Ian Macdonald** to move on the next day of sitting:

*Notice of amendment to the proposed notice of amendment of the Leader of the Australian Greens (Senator Bob Brown):*

That the Senate also notes that the Liberal National Party in Queensland is not recommending preferences.

**Withdrawal**

**Senator McLucas** (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (3.45 pm)—Mr Deputy President, I withdraw government business notice of motion no. 4 to vary the appointment of a select committee.

**COMMITTEES**

**Selection of Bills Committee**

**Report**

**Senator O’Brien** (Tasmania) (3.46 pm)—I present the third report of 2009 of the Senate Standing Committee on the Selection of Bills. In moving that the report be adopted, I advise the Senate that although there was circulated to at least some of us a proposed amendment, to be moved by Senator Xenophon, to the Selection of Bills Committee report, I have had discussions with Senator Xenophon and notwithstanding the report today I have undertaken that we will facilitate the reconsideration of the Australian Business Investment Partnership Bill 2009 and the Australian Business Investment Partnership (Consequential Amendment) Bill 2009 at the meeting of the Selection of Bills Committee which has been scheduled for 1 pm tomorrow.

Ordered that the report be adopted.

**Senator O’Brien**—I seek leave to have the report incorporated in *Hansard*.

Leave granted.

*The report read as follows—*

**SELECTION OF BILLS COMMITTEE**

**REPORT NO. 3 OF 2009**

(1) The committee met in private session on Tuesday, 17 March 2009 at 4.28 pm.

(2) The committee resolved to recommend—

That the following bills *not* be referred to committees:

- AusCheck Amendment Bill 2009
- Australian Business Investment Partnership Bill 2009
- Australian Business Investment Partnership (Consequential Amendment) Bill 2009
- Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009
- Customs Legislation Amendment (Name Change) Bill 2009
- Resale Royalty Right for Visual Artists Bill 2008
- Social Security Amendment (Liquid Assets Waiting Period) Bill 2009.

The committee recommends accordingly.

(3) The committee deferred consideration of the Food Safety (Trans Fats) Bill 2009 to its next meeting.

(Kerry O’Brien)
Chair
18 March 2009

**Economics Committee**

**Reference**

**Senator Joyce** (Queensland—Leader of the Nationals in the Senate) (3.47 pm)—I ask that business of the Senate notice of motion No. 1 standing in my name pertaining to an Economics Committee inquiry into Foreign Investment Review Board guidelines be taken as a formal motion.

**Senator Hurley** (South Australia) (3.47 pm)—by leave—I advise the Senate that the motion was standing in my name also, but I am withdrawing my association with it. I would have preferred to defer con-
sideration of this motion to get agreement across parties on the important and substantive issues of this motion. It has not been possible to get agreement with Senator Joyce on postponing the motion to have discussions on the terms of reference and I prefer that the motion does not proceed under these circumstances.

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

Senator Bob Brown—Yes. I want to inform the Senate, if I may—

The DEPUTY PRESIDENT—There is an objection. You will need to seek leave.

Senator Bob Brown—I seek leave—if you insist, Mr Deputy President.

Senator Ian Macdonald—Mr Deputy President, I raise a point of order. Did Senator Brown indicate that he was refusing formality?

The DEPUTY PRESIDENT—Senator Brown, were you refusing formality?

Senator Bob Brown—Yes.

Senator Ian Macdonald—And you want leave to speak!

The DEPUTY PRESIDENT—Order! And you are seeking leave to speak? Is leave granted?

Leave not granted.

AUSTRALIAN HUMAN RIGHTS COMMISSION: SEX AND GENDER DIVERSITY PROJECT

Senator Hanson-Young (South Australia) (3.49 pm)—I move:

That the Senate—

(a) notes:

(i) the release of the Australian Human Rights Commission concluding paper of the sex and gender diversity project, and

(ii) this ‘sex files’ project focuses on the legal recognition of sex and gender diverse individuals as a fundamental human right, in all documents and government records;

(b) recognises the great work of the Australian Human Rights Commission in highlighting ways the Australian Government could better assist in promoting and protecting the human rights of people who are transgender, transsexual or intersex; and

(c) encourages the Australian Government to take steps to harmonise federal, state and territory policies, procedures and legislation relevant to the legal recognition of sex and gender diverse individuals in federal documents and records.

Question agreed to.

QUEENSLAND OIL SPILL

Senator Ian Macdonald (Queensland) (3.49 pm)—I move:

That the Senate calls on the Government to establish a Royal Commission to investigate all aspects of the oil spill and loss of containers containing ammonium nitrate from the vessel Pacific Adventurer on the morning of Wednesday, 11 March 2009, including:

(a) the response of the Queensland Government and its agencies;

(b) the response of the Federal Government and its agencies;

(c) the operation of the ‘National Marine Oil Spill Contingency Plan’;

(d) the apparent delay in activation of the plan;

(e) the apparent delay in other remedial action; and

(f) possible recommendations for a change in procedures to more closely involve and fund local authorities in remedial action.

Question agreed to.

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (3.50 pm)—by leave—I ask that the Green’s support for that motion be recorded.
SPECIAL BROADCASTING SERVICE CORPORATION

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.50 pm)—I, and also on behalf of Senator Ludlam, move:

That the Senate—
(a) notes:
(i) the unique national broadcasting service that the Special Broadcasting Service Corporation (SBS) provides to the Australian community,
(ii) the invaluable role that the SBS plays in promoting a multicultural Australia and the services it provides to Australians from non-English speaking backgrounds, and
(iii) that the inadequate funding provided to the SBS has resulted in the SBS having to undertake in-program advertising; and
(b) calls on the Government to ensure adequate funding and support for the SBS, free from political and commercial interference.

Question agreed to.

COMMITTEES

Economics Committee
Meeting

Senator McEWEN (South Australia) (3.51 pm)—At the request of the Chair of the Senate Standing Committee on Economics, Senator Hurley, I move:

That the Economics Committee be authorised to hold public meetings during the sittings of the Senate on Wednesday, 18 March 2009, and Thursday, 19 March 2009, from 6.30 pm, to take evidence for the committee’s inquiry into the exposure draft of the legislation to implement the Carbon Pollution Reduction Scheme.

Question agreed to.

Scrutiny of Bills Committee
Report

Senator COONAN (New South Wales) (3.52 pm)—I present the third report of 2009 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 4 of 2009, dated 18 March 2009.

Ordered that the report be printed.

Senator COONAN—I move:

That the Senate take note of the report.

In tabling the committee’s Alert Digest No. 4 of 2009, I draw the Senate’s attention to the AusCheck Amendment Bill 2009 and a provision in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009. The AusCheck bill amends the AusCheck Act 2007 to provide a framework to facilitate an extension of AusCheck’s background-checking functions for national security purposes, in addition to those already provided for in relation to aviation and maritime transport. The bill does not contain any requirement for background checks but provides the capacity for AusCheck to conduct background checks that are required under the authority of some other law.

In his second reading speech, the Attorney-General explained that if the government wishes to use the proposed national security background check in a new context it will separately develop the legislative or other regulatory provisions that establish the requirement for the background check and that the bill ‘simply paves the way for AusCheck to take on additional background-checking functions under future legislation’. While the committee has not sought the Attorney-General’s specific advice in relation to particular aspects of the AusCheck bill, it has nevertheless noted that the bill significantly expands the potential scope of the AusCheck
background-checking scheme. For that reason, it has turned up in this report.

In light of the proposed extension of the scheme and the committee’s brief to report on whether legislation trespasses unduly on personal rights and liberties, the committee has expressed its intention to closely scrutinise any future legislation establishing the requirement to conduct a background check. In particular, the committee would like to see the inclusion in such legislation of a requirement that advice be given to a person who is asked to undergo a background check.

With respect to the political donations bill, the committee has noted that item 21 of schedule 1 provides for the substitution of subdivision A, concerning entitlement to election funding, and subdivision B, concerning claims for election funding. Under subdivision B there may be interim and final claims for election funding lodged with the Australian Electoral Commission, or AEC—proposed new section 298B. If the AEC refuses a final claim—proposed new section 298F—an application may be made for reconsideration of the decision under proposed new section 298G.

Proposed new section 298G(3) provides that the application for reconsideration must be made within 28 days or, if the AEC extends the period within which the application may be made, within that extended period. The explanatory memorandum explains at paragraph 92 that, in deciding whether to grant an extension of time, the AEC would have regard to the principles outlined in the case of Hunter Valley Developments v Cohen [1984] FCA 176. Proposed new section 298G(3) therefore gives the AEC a discretion to extend the time for lodging an application for the reconsideration of a decision to refuse a final claim for election funding. This power operates in conjunction with the power of the AEC under proposed new section 301, to be inserted by item 25 of schedule 1, to vary decisions accepting claims.

The committee considers that this discretionary power of the AEC may make the rights of claimants unduly dependent upon insufficiently defined guidance as to how the power may be exercised. This would be of particular concern if the AEC were to delegate its decision on the extension of time. For example, in proposed new section 298H it is expressly stated that the AEC may not delegate its power to reconsider a claim. However, such a prohibition does not appear in proposed new section 298G in relation to the AEC’s power to extend time for an application for the reconsideration of a decision refusing a claim. Therefore, the committee has sought the minister’s advice as to whether further explanation for the breadth of the AEC’s discretionary power in proposed new section 298G might be provided, including the reasons why it is considered necessary not to limit that power in any particular way.

I also table a publication today to mark the retirement late last year of the committee’s legal adviser, Emeritus Professor Jim Davis. As I have already mentioned in this place, Professor Davis was the committee’s longest serving legal adviser, having worked for the committee for 25 years. On 24 November 2008, a dinner was held in the Senate alcove to formally acknowledge and celebrate Professor Davis’s sterling service to the committee and to the Australian parliament over the last 25 years. It is a truly outstanding contribution. The committee has therefore put together a short publication containing edited text from speeches made at the dinner, along with a selection of photographs taken on the night, to help commemorate the occasion. I want to once again congratulate Professor Davis for his efforts on behalf of the committee and more broadly.
I commend to the Senate the committee’s Alert Digest No. 4 of 2009, the third report of 2009 and the committee’s special publication to mark Professor Davis’s retirement. I appreciate that, quite apart from Professor Davis’s contribution, the scrutiny of bills can be a dry subject. Nevertheless, there are occasions when it is important that I make some remarks rather than just table the report. I thank the Senate very much for its indulgence.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (3.59 pm)—As a former Chair of the Senate Standing Committee for the Scrutiny of Bills, I wish to join Senator Coonan in her remarks as the current Chair of the Senate Standing Committee for the Scrutiny of Bills. I think this is one of the most important committees that operate in our Senate. I know that internationally we are regarded very highly because of the work of this committee. The excellent work of the committee would not have been possible without the counsel we have had for the last 25 years from Emeritus Professor Jim Davis.

Jim—if we could be so cheeky as to call him that—has made an extraordinary contribution, as Senator Coonan has said, to the operations of the parliament, particularly to the operations of the Senate. His legal knowledge is extraordinary. Those of us who have had the privilege of serving on this committee have had an amount of legal training that I do not know that you would get at university. That is something that we are very grateful for. On behalf of the government, we wish him all the best in his retirement and hope that it is a long and happy one.

Question agreed to.

BUSINESS
Rearrangement
The DEPUTY PRESIDENT—I inform the Senate that Senator Brandis has withdrawn the urgency motion that he had indicated that he intended to move today.

REPRESENTATION OF WESTERN AUSTRALIA
The DEPUTY PRESIDENT—I table the original certificate of the choice by the Parliament of Western Australia of Dr Christopher John Back to fill the vacancy caused by the resignation of Senator Ellison.

COMMITTEES
Climate Policy Committee
Membership
The DEPUTY PRESIDENT—The President has received letters from party leaders and an Independent senator seeking appointment to the Select Committee on Climate Policy. There are two nominations for one position on the committee, the position to be nominated by the Independent senators. In accordance with standing orders, a ballot will be held to determine which one of the two senators who have nominated is to be appointed. I will first call the minister to seek leave to move a motion for the uncontested vacancies and then I understand that it is the wish of the Senate that the ballot for the position be held immediately.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.02 pm)—by leave—I move:

That senators be appointed to the Select Committee on Climate Policy as follows:

Senators Cameron, Feeney, Furner and Pratt
Participating members: Bishop, Carol Brown, Collins, Crossin, Farrell, Forshaw, Hurley, Hutchins, Lundy, Marshall, McE-
Question agreed to.

The DEPUTY PRESIDENT—The Senate will now proceed to a ballot to appoint a senator to the position to be nominated by the Independent senators. The candidates are Senator Fielding and Senator Xenophon. Before proceeding to a ballot, the bells will be rung for four minutes.

The bells having been rung—

The PRESIDENT—Order! The Senate will now proceed to a ballot. Ballot papers will be distributed to all honourable senators, who are requested to write upon the ballot paper the name of the candidate for whom they wish to vote. The candidates are Senator Fielding and Senator Xenophon.

Senator FIELDING (Victoria—Leader of the Family First Party) (4.08 pm)—by leave—I thank the Senate. No-one is going to grandstand on this issue. There was a proposal, at some stage, that pistols be used—

Honourable senators interjecting—

The PRESIDENT—Order! Senator Fielding is entitled to be heard in silence. I need to hear what Senator Fielding is saying.

Senator FIELDING—I know that the Senate is familiar with people carrying guns, at some stage in the past.

Senator Chris Evans—Bowie knives.

Senator FIELDING—No, pocket knives. I was really hoping that common sense would prevail and that it would not come down to a vote on the chamber floor. If you read the notice of motion that was passed by the chamber, it was that the committee should consist of 10 senators: four nominated by the Leader of the Opposition in the Senate and four nominated by the Leader of the Government in the Senate, one nominated by the Leader of the Australian Greens and one nominated by any other minor party—that is, Family First or Independent senators. There is one Independent senator, but I will not go there. The issue here is that the emissions trading scheme, or the system that we are developing, is a big issue—I will not go there. However, there are two inquiries, which have different terms of reference. One inquiry has been referred to the Senate Standing Committee on Economics and Senator Xenophon is already on that committee. I just appeal to people that there is another inquiry with broader terms—that is, the select committee. Maybe this is a good way of doing it—I was hoping that the government would use one of their positions to nominate the senator who does not get voted for the select committee.

The PRESIDENT—I invite Senator Fielding and Senator Xenophon to act as scrutineers.

A ballot having been taken—

The PRESIDENT—There were 70 ballot papers issued. The result of the ballot is as follows: Senator Xenophon, 38 votes; Senator Fielding, 30 votes. There were two informal votes. Senator Xenophon is therefore elected as the member of the Senate Select Committee on Climate Policy nominated by Independent senators.

SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS AMENDMENT (COMMONWEALTH SENIORS HEALTH CARD) BILL 2009

SOCIAL SECURITY AMENDMENT (LIQUID ASSETS WAITING PERIOD) BILL 2009

First Reading

Bills received from the House of Representatives.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.19 pm)—I indicate to the Senate that these bills are being intro-
duced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.19 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS AMENDMENT (COMMONWEALTH SENIORS HEALTH CARD) BILL 2009

This bill introduces a further measure from the 2008 Budget, refining the adjusted taxable income test for the Commonwealth seniors health card to make it fairer and treat similar sources of income in a similar way.

The Commonwealth seniors health card is available to Australians over age pension age, (65 for men and 63 years and six months for women), who are not receiving an age pension, and who have adjusted taxable incomes of less than $50,000 a year for singles and $80,000 a year for couples combined. The card entitles the holder to discounts on prescription medicines through the Pharmaceutical Benefits Scheme, bulk-billing with participating doctors and reduced out-of-hospital medical expenses above the threshold through the Medicare Safety Net. In some cases, the Commonwealth seniors health card also gives access to local, state and territory government and private provider concessions, such as discounted transport, education and recreation.

At the Commonwealth level, cardholders are entitled to certain cash payments through the income support system. One of these is the seniors concession allowance, which was increased in March 2008 as part of the Government’s delivery on its election commitments, and is now $514 a year (paid quarterly). Telephone allowance is also payable to cardholders if they or their partner subscribe to a telephone service, including the higher rate that applies if they also subscribe to a home internet connection, now $138.50 a year.

Currently, income from superannuation that is not assessable and not exempt under the Income Tax Assessment Act 1997, and income that is being salary sacrificed into a superannuation fund, is not included in a person’s adjusted taxable income in determining qualification for the card.

Under this bill, the definition of a cardholder’s adjusted taxable income will be changed to include income from a superannuation income stream with a taxed source (gross superannuation) and income being salary sacrificed to superannuation.

A person in this position has already benefited from accumulating their superannuation savings in a concessional tax environment, and also benefits from the ongoing tax-free treatment of their superannuation pension payments after age 60.

This change makes sure that all income received by seniors is treated in a similar way, and contributes towards applying the income test for cardholders consistently. The change also means the seniors health card is better targeted to those in need of government assistance.

Income salary sacrificed into superannuation is already included in income definitions for age pensioners, so these changes will bring the definition of income for the Commonwealth seniors health card into line with existing rules for the age pension in this respect.

The Government understands that some cardholders may need to make a lump sum withdrawal from their superannuation fund to pay for unexpected medical expenses, or to enter an aged care facility. To facilitate these necessary expenses, cardholders who require these withdrawals will be able to request that their qualification for the Commonwealth seniors health card is assessed using an estimate of their current year income, that is, that they have their income assessed.
without that particular lump sum being regarded as income.

Legislation already exists to allow a cardholder to ask for their qualification for a Commonwealth seniors health card to be assessed using an estimate of their current year’s income. Where a cardholder can show that the increase in their income is not ongoing and is a ’once only’ event, the cardholder is able to request that their qualification for the Commonwealth seniors health card is assessed without regard to that increase in income. This legislation will, of course, remain in place to assist those people who have unexpected increases in their income.

The amendments in the bill apply to both the social security and veterans’ entitlements-based seniors health card.

SOCIAL SECURITY AMENDMENT (LIQUID ASSETS WAITING PERIOD) BILL 2009

The amendments proposed by this bill will help people who lose their job and others applying for income support who have limited assets, to access income support more readily by lifting the Liquid Assets Waiting Period thresholds. The proposed changes will affect people applying for Newstart Allowance, Youth Allowance, Austudy and Sickness Allowance.

In determining whether, and when, a person can start to receive income support payments, Centrelink consider the liquid assets that person has available to them. Liquid assets are generally sources of money available to a person at relatively short notice. They include cash on hand, shares and debentures and term deposits. It does not include superannuation, or termination payments that have been, or are going to be rolled over into superannuation.

Currently single people cannot receive income support payments until they have less than $2,500 in liquid assets. Single people must wait a week for every $500 they have over $2,500, up to a maximum of 13 weeks.

Couples, or people with dependents, are not eligible to receive income support until they have less than $5,000 in liquid assets. They must wait a week for every $1,000 they have over $5,000.

These thresholds are a consequence of a savings measure taken by the previous Government in the 1996-1997 Budget to further restrict access to income support payments. This savings measure, which took effect from September 1997, halved the Liquid Assets Waiting Period thresholds from $5,000 to $2,500 for singles and from $10,000 to $5,000 for couples and people with dependents. These thresholds have not been changed in over a decade.

At the time the previous Government made this savings measure, they were roundly criticised by welfare and Church organisations and Peak representative bodies, as well as the then Labor Opposition. The measures were seen as harsh, regressive, unnecessary and without genuine foundation in policy. The previous Government ignored the concerns raised about this issue throughout their years in office.

This bill effectively reverses the decision of the previous Government taken in the 1996-97 Budget. It will restore the pre-1997 threshold amounts so that single people with liquid assets of less than $5,000 and couples or people with children with liquid assets of less than $10,000 will not have to serve a Liquid Assets Waiting Period. These thresholds will apply for a two-year period from 1 April 2009 to 31 March 2011. A review will take place in a year to consider the effectiveness of the thresholds proposed by this bill. The review will include consultations, which is in stark contrast with the approach taken by the previous Government in 1996-1997 when it decided to reduce the thresholds.

When the previous Government made their regressive changes, we told them it was unfair. It remains particularly unfair in the current economic circumstances to make people, many unemployed for the first time, jeopardise their ability to meet their ongoing financial commitments.

The Government’s decision to reverse the position of the previous Government by doubling the Liquid Assets Waiting Period thresholds is an appropriate response to the extraordinary nature of the current economic circumstances resulting from the Global Financial Crisis.

In keeping with Government’s commitment to fairness, the bill also excludes the surrender value
of life insurance policies from the definition of liquid assets.

The surrender value of a life insurance policy is the amount an insurance company will pay an insured person if they cancel the policy voluntarily, that is, before they die. It is in effect, that person’s equity in that insurance policy.

Presently, people who hold life insurance policies that have a surrender value are expected to cash in their policy in order to support themselves before being able to access income support. Cashing in the surrender value of a life insurance policy disadvantages the policy owner, as the surrender value is generally well below the amount paid in premiums. The person’s family or other estate beneficiaries may be further disadvantaged in the future by no longer having life insurance cover in the event of the person’s death. In effect this penalises people who have taken responsibility for their family’s future.

It is unreasonable to expect a person to realise the surrender value of their life insurance policy in order to support themselves while they serve a Liquid Assets Waiting Period, or before being able to access the severe financial hardship provisions that enable access to income support.

The proposed amendments will exclude life insurance policy surrender values in calculating any applicable Liquid Assets Waiting Period or determining severe financial hardship for the purposes of eligibility for income support. This amendment will ensure that people applying for income support are not disadvantaged by having to cash out their life insurance policies before they can access income support.

Australians who apply for income support will still rely on their own resources before seeking assistance. The measures in this bill balance this with fair and reasonable access to income support for people facing the difficult circumstances of unemployment during the current global financial crisis.

Debate (on motion by Senator McLucas) adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

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**AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP BILL 2009**

**AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP (CONSEQUENTIAL AMENDMENT) BILL 2009**

**First Reading**

Bills received from the House of Representatives.

**Senator McLucas** (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.20 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) (4.21 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP BILL 2009**

Today I am introducing a Bill to facilitate the establishment and operations of the Australian Business Investment Partnership Limited (ABIP).

The Government is establishing ABIP in partnership with Australia’s four major banks, as a temporary, contingency measure to provide refinancing of loans relating to commercial property assets in Australia where finance relating to those assets is not available from commercial providers (other than ABIP), and the asset is financially viable.

This initiative - announced by the Prime Minister and the Treasurer on 24 January 2009 – is neces-
sary because of the current unprecedented global economic conditions.

It is another demonstration of the Government acting in a timely, practical and decisive way to help protect the Australian economy in the face of the global financial crisis.

ABIP is an important and sensible measure to facilitate the continued flow of credit in the private sector, and assist in ensuring that the Australian economy is as well placed as possible to face the consequences and impacts of the global recession.

The Government is aware that establishing ABIP and providing finance to the commercial property sector is not without risk. The commercial property sector can be particularly vulnerable in a downturn in the economic cycle.

That is why a range of safeguards have been put in place to limit the risk to taxpayer funds.

These safeguards include:

- ABIP’s prudent lending criteria;
- appropriate provisioning by ABIP for any bad and doubtful debts;
- the requirement for unanimity of decisions of the ABIP board to enter financing arrangements; and
- the requirement that the four major domestic banks maintain their exposures to commercial property assets that ABIP lends to.

The global financial crisis raises the possibility that some financiers, particularly foreign banks, may reduce their level of financing of viable Australian businesses.

Many foreign banks are facing difficult circumstances in their home economies, and may look to reduce their lending commitments and exposures generally, which could create a liquidity shortage, or a ‘funding gap’, in the Australian economy.

This potential ‘funding gap’ could result in financing being taken away from good Australian businesses that require this funding to invest in growth and jobs.

To maintain liquidity and continued financing, any gap in financing will need to be sourced from elsewhere, such as from Australia’s four major domestic banks.

However, it would be difficult for these banks to fill any ‘funding gap’ that may arise on their own.

Accordingly, Government action is required.

The generally highly leveraged nature of commercial property assets makes this sector particularly vulnerable to a liquidity shortage.

It is also important to note that foreign banks comprise around a quarter of the commercial property exposures in Australia.

The commercial property sector is an important part of the Australian economy, and provides employment for a large number of Australians as well as opportunities for small and large investors, including superannuation funds.

Around 150,000 people are employed in the commercial property sector in Australia, many of whom are tradespeople, such as plumbers, electricians and carpenters.

Further, other businesses—both large and small—provide goods and services to the sector.

A funding gap that arises in the commercial property sector could result in distressed asset sales and an exaggerated decline in commercial property prices, resulting in prices falling below the underlying long term value of those assets.

This could also negatively impact on the ability of businesses to continue to borrow at current levels. It could have general adverse implications for the operational expenditure and growth plans for business generally, not just those in the commercial property, and possibly spread to the rest of the economy, constraining general bank lending.

Without action, a combination of weak demand and tight credit conditions brought about by the global financial crisis could see significant job losses in the sector with consequent effects on jobs and businesses in other parts of the economy.

This Government will not sit idly by and watch jobs, investments and small and medium sized businesses wiped out by fluctuations in global credit markets.

It is against this background that the Government and Australia’s four major banks have decided to establish the $4 billion Australian Business Investment Partnership.
ABIP’s purpose is to help fill the gap left by the possible withdrawal of commercial lenders, particularly foreign banks, from Australian businesses.

ABIP will be established under the Corporations Act 2001 and will be a public company limited by shares.

The shareholders of ABIP will be the Commonwealth of Australia (Commonwealth); and Australia’s four major domestic banks – the Australia and New Zealand Banking Group Ltd, Commonwealth Bank of Australia, National Australia Bank Ltd and Westpac Banking Corporation.

The Commonwealth will have a 50 per cent shareholding in the company and the four major Banks will each take a 12 and a half per cent share.

The Government and the four major domestic banks will each provide initial loan funding to ABIP, as well as an amount for ABIP’s working capital.

The Government will provide $2 billion and each of the major banks will provide $500 million.

Accordingly, on its establishment, ABIP will have access to $4 billion in undrawn loan facilities, less an amount for working capital (expected to be $4 million).

It is important to note that the financing provided by the four major banks will not be Government guaranteed.

If ABIP requires additional financing beyond the initial $4 billion contribution, it will be able to issue up to $26 billion in debt to raise that additional funding.

However, it will only be able to issue such debt with the unanimous agreement of all shareholders.

This could provide ABIP with up to $30 billion in financing.

ABIP will only issue debt when the initial $4 billion loan funding provided by the Government and the four major banks has been exhausted.

In order to ensure that debt issued by ABIP is sufficiently attractive in the market, it will be Government guaranteed.

Accordingly, this debt will attract an appropriate fee (on a sliding scale, up to around 150 basis points) to be reflected in the pricing of the issue.

The level and timing of the fee will need to be unanimously agreed by shareholders, and will have regard to risk and liquidity factors and general market conditions at the time any such debt is issued.

Under Australia’s prudential framework, as ABIP issues debt the banks’ contributions could be increasingly treated as equity by the Australian Prudential Regulation Authority, as a result of the greater value of loans issued by ABIP.

This would have an impact on the banks’ own lending more generally, which would be counter-productive to the purpose of ABIP to facilitate credit flows.

Accordingly, to limit this impact, a small proportion of the Government guaranteed debt that ABIP may issue (up to around 5 per cent) is likely to be subordinated to the initial $4 billion of loans.

The Commonwealth will receive an appropriate return on the subordinated debt.

Applications for financing will be assessed in accordance with ABIP’s lending criteria.

These lending criteria will be appropriate, prudent, and broadly consistent with the lending criteria of the four major banks. They will be determined unanimously by all five shareholders.

ABIP will only provide funding for commercial property where the underlying assets, and the income streams from those assets, are financially viable.

To provide a broad indication, the types of commercial property assets that ABIP may consider providing financing to include, but are not limited to, retail shopping centres, commercial office buildings and industrial property.

Property located outside Australia, land banks, speculative development assets and rural property would fall outside the scope of ABIP’s lending criteria.

Further, to protect the interests of ABIP shareholders, any major domestic bank that is an existing participant in a financing arrangements before
ABIP, must maintain at least their existing level of financing in percentage terms.

It is important to note that ABIP will operate in a commercial manner with directors subject to the Corporations Act. Reflecting this, if a loan becomes impaired ABIP will undertake normal enforcement procedures to protect its investment. ABIP will also be structured to allow sufficient flexibility to provide financing arrangements in other areas of commercial lending, if circumstances necessitate and provided those arrangements are agreed unanimously by ABIP’s shareholders.

At this point, it is worth re-emphasising that ABIP is intended and designed to address a potential liquidity problem – not a creditworthiness problem.

It is not the intention of the four major banks that have put their funding into ABIP, nor is it the intention of the Government, that ABIP will support problem assets. It is simply not within ABIP’s scope.

To ensure that ABIP has a high degree of accountability and governance, the Government will apply special features to ABIP.

In relation to the structure and operations of the ABIP board:

- The board will be comprised of representatives from the Government and each of the major banks, with the board chaired by the Government’s representative.
- Board resolutions, apart from those relating to loan enforcement, must be unanimous.
- This provision protects all shareholders by ensuring that commercial property assets are only supported where all directors consider that the asset is commercially viable.
- Resolutions on loan enforcement may be passed by four of the five directors. However, the director nominated by the Commonwealth must be one of the directors supporting the resolution.

To ensure there is sufficient parliamentary scrutiny and accountability for the Government’s investment in ABIP:

- The directors of ABIP will be required to give the Minister a copy of ABIP’s financial report, directors’ report and auditor’s report for each financial year;
- The Minister will have to table the reports in each House of the Parliament; and
- ABIP will also be obliged to provide its shareholders with any other information the shareholder may reasonably require.

Additional measures the Government is imposing on ABIP are that:

- ABIP’s auditor will be the Auditor-General; and
- The directors of ABIP will be required to establish and maintain an audit committee, that must be constituted consistently with the arrangements for audit committees of wholly-owned Commonwealth companies.

The shareholders of ABIP will enter into a Shareholders’ Agreement which will outline, among other things, the operation, control, management and funding of ABIP.

To provide greater transparency for ABIP’s operational arrangements this agreement, and any amendments to it, will be made public as soon as practicable after it is entered into. I am tabling the draft Shareholders’ Agreement today.

Arrangements to deal with conflicts of interest, as well as the confidentially of sensitive information obtained by ABIP, are also set out in the Shareholders’ Agreement.

The Shareholders’ Agreement will provide for provisioning for any bad and doubtful debts within ABIP and the distribution of profits.

ABIP will adopt a cash flow provisioning policy which reflects an appropriate, but conservative, approach.

The provisioning arrangements that will apply are that:

- until an aggregate of $500 million has been borrowed from ABIP, a cash-flow provision of 50 basis points will be applied; and
- once more than $500 million has been borrowed from ABIP, a dynamic provisioning policy will be adopted to take account economic conditions and risks at the time.
Profits from the financing operations of the ABIP will be shared proportionately, commensurate with the initial loan funding.

Profits available for distribution will be paid as half year and full year dividends.

To remove any uncertainty about the operations of ABIP, the ABIP Bill specifically authorises the Shareholders Agreement and the activities undertaken by ABIP, its shareholders, Directors, officers, agents and employees in the furtherance of ABIP’s objectives, to be exempt from the competition provisions of the Trade Practices Act.

As previously noted, this is a contingency measure to address a possible temporary problem.

In that context, ABIP will only be able to enter into new refinancing arrangements of commercial property assets for two years from the date of its establishment. Furthermore, if credit markets improve so that ABIP is no longer required the Government will seek to wind it up as soon as possible.

The establishment of ABIP is another Government initiative to insulate the Australian economy and protect Australian jobs from the impacts of the global recession.

As I have previously highlighted, this initiative is a contingency measure that the Government is putting in place to address liquidity problems in the commercial property sector, should they arise.

It is the Government’s hope that such liquidity problems do not emerge.

This would mean that ABIP would not have to step in and provide financing, and potentially may never have to write a single loan.

However, the Government is also realistic, and is prepared to put measures in place to meet the challenges head on, and support the flow of credit to good Australian businesses and therefore support the jobs they provide.

The alternative is to do nothing and to simply carp from the sidelines while Australian businesses and jobs are sacrificed to the global recession.

I commend the bill to the Senate.

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AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP (CONSEQUENTIAL AMENDMENT) BILL 2009

This bill will provide the Australian Business Investment Partnership Limited with an exemption from a requirement for it to hold an Australian financial services licence (AFSL).

Under the Corporations Act 2001 an AFSL authorises a company or its representatives to provide financial services to clients.

Without an AFSL, a company generally cannot carry on a financial services business.

A company will provide financial services if it:

- provides financial product advice;
- deals in a financial product;
- makes a market for a financial product;
- operates a registered scheme; or
- provides a custodial or depository service.

The Australian Business Investment Partnership (ABIP) will be providing refinancing for loans relating to commercial property assets in Australia where finance relating to those assets is not available from commercial providers (other than ABIP), and the asset is financially viable.

ABIP will also provide financing arrangements in other areas of commercial lending if circumstances necessitate and those arrangements are unanimously agreed to by the members of ABIP.

Whilst the statutory concept of providing a financial service in Section 766A of the Corporations Act would not extend to the provision of credit per se, it is arguable that activities of the Australian Business Investment Partnership that may be incidental to its provision of credit, would constitute providing a financial service within the meaning of Section 766A of the Corporations Act.

Requiring ABIP to obtain an AFSL for its borrowing and lending activities would be disproportionate given the sophisticated nature of its possible client base and the limited scope and duration of its activities, noting that ABIP:

- will only have five shareholders;
- is only intended to lend for 2 years; and
- its functions are limited by the proposed legislation providing for its incorporation.

In that context, it is appropriate for there to be an exemption from the AFSL requirements in relation to any activity of Australian Business In-
vestment Partnership Limited which constitutes
the carrying on of a financial services business in
this jurisdiction under subsection 911A(2) of the
I commend the bill to the Senate.

Ordered that further consideration of these
bills be adjourned to the first day of the next
period of sittings, in accordance with stand-
ing order 111.

COMMITTEES
Economics Committee
Reference
Senator JOYCE (Queensland—Leader of
the Nationals in the Senate) (4.21 pm)—I
move:
That the following matter be referred to the
Economics Committee for inquiry and report by
17 June 2009:
(a) the international experience of sovereign
wealth funds and state-owned companies,
their role in acquisitions of significant
shareholdings of corporations, and the im-
 pact and outcomes of such acquisitions on
business growth and competition; and
(b) the Australian experience of foreign in-
vestment by sovereign wealth funds and
state-owned companies in the context of
Australia’s foreign investment arrange-
ments.

It is a sad day indeed when a motion for an
inquiry is denied formality for no reason
other than what I believe is petulance. This
had been discussed by the economics com-
mittee. The terms of reference were pre-
dominantly driven by the chair of that com-
mittee and the committee tried to take away
any sense of parochialism. They defined a
wider sweep of issues pertaining to the For-
eign Investment Review Board. This is an
issue that is at the front and centre of the
Australian psyche at the moment, especially
with the current acquisitions by such compa-
panies as Chinalco—fully owned by the Peo-
ple’s Republic of China. These issues defi-
nitely require immediate consideration. We
have coming up a break of approximately six
weeks. We have the time to take this issue to
a committee. We have the reason to: the For-
eign Investment Review Board is currently
considering these matters, and we should be
doing our very best to publicly hear all cur-
rent information and to give all Australians a
chance to ventilate their desires to a commit-
tee. Tomorrow I have to go to the CPA con-
ference in Sydney, so it has to happen today.
We cannot postpone it. That is the last day
before the break. After the break we will
have the budget. We need to give this issue
the best possible chance of ventilation.

It is extremely important for the Austra-
lian people to have a chance to have their say
on this issue. There is immense concern out
there about why we would have a sovereign
nation as the owner of a sovereign asset in
our country. This is not about parochialism.
It is just about clear effect—that is, the pur-
chaser of our mineral resource will step to-
wards the ownership of the mine. This has
huge ramifications for vertical integration
and for losing the capacity to determine a
fair outcome for the price. Australia relies on
the royalty revenue that comes from that
price to sustain so much of the wealth of our
nation. Even the building we sit in today is
the result of the benefaction of that mineral
wealth. Our nation will be in a very danger-
ous position if we start handing over to an-
other nation the nexus to the connection that
has been the benefactor to our nation. This
inquiry needs to go forward. People are writ-
ing to our offices asking for the chance to
put in petitions. They are writing to our offices
in the form of emails. I believe throughout
this chamber there is a sentiment of goodwill
and a wish to give people the chance to
clearly ventilate and discuss this issue. I am
disturbed that Senator Bob Brown today dis-
allowed formality. That is unusual. It sets an
unusual precedent. Putting that aside, I hope
this issue gets resolved. I hope we take it to a
vote. I hope the motion is passed. I hope we have the capacity to give this issue due and proper process.

People from all sections have raised concerns. The AFIC have come out and said they have immense concerns about a purchaser being the owner of the resource and being a sovereign nation. Even Legal and General, one of Rio’s biggest shareholders, has concerns about this deal. There is a whole range of things but the Australian people are focusing on one issue. The issue is: a sovereign nation is now starting to purchase our sovereign wealth. That is a completely new scenario for us. If it were the Republic of Ireland I would have a big problem with it. If it were the United States of America I would have a problem with it. In fact, if our own government were purchasing the mines I would have a concern.

One other concern we have with the People’s Republic of China is our opportunity for recourse if things come unhinged. This becomes not a corporate issue but a diplomatic issue. The best way to get yourself out of a problem is to not put yourself in the problem to start off with. I have heard said by some, ‘The Foreign Investment Review Board process is going ahead; therefore we should wait until the conclusion of it.’ At the conclusion it will be too late. We cannot put Humpty Dumpty back together again if they say the word ‘yes’. That will be it. Then we really will have a problem on our hands. We have heard that the Foreign Investment Review Board generally just gives one answer and that answer is ‘yes’. What Mr Costello said the other day was correct. He said that in fact it was the only recommendation he ever got. Rio in the past have put aside the conditions they gave up to Australia. Rio is now based in St James Square in London. So much for having an Australian base! The history of this company is not good. This is another step away, and it will have an effect on the major resource we export—that is, coal. Coal is our major resource and our major export earner, and one of the major owners of access to that resource is Rio Tinto.

Amongst this are other issues such as the technology associated with alumina refining. Bauxite is particular to the refinery. There is immense intellectual capital in the refinery. We have to be careful we do not lose that. We in Australia are now in a position where our wealth is at bargain-basement prices in some instances. China has been provident and has stored up its money. There is a lesson in that. It has money in the bank to basically go shopping—that is, to go shopping throughout our nation—and to pick the eyes out of our nation. This inquiry is immensely important because we are at a particular point in time and at a particular price in time. We are heading towards a recession. In some instances, maybe even the dynamics of the world and the dynamics of where power lies in the world may be shifting somewhat. We have to look at it in its full context. Maybe it is no longer the umbrella of a British empire and a British system. We might be seeing the waning of the US umbrella. We may be seeing the emergence of China as a major superpower. We have to work that into exactly how we are going to be positioned.

One of the problems that we have with China is recourse through their court system and the process that Australia would have to follow in that event. We want to make sure that we keep a good working relationship with China, and the best way to do that is to keep a bit of separation there. All these issues need to be ventilated. We know how busy this place becomes, but we have an opportunity now because we have a period of time in front of us with the recess, and we can put this committee to work then.
I put aside the discussions by some that you must allow the Foreign Investment Review Board to get to the finality of their decision. If that were the case, we would not have the Premier of Queensland, Anna Bligh, lobbying that the Rio deal go through. We would not have certain undisclosed sources from within the government saying that that deal should go through. We would not have people from China turning up and lobbying the government that that deal should go through. There is a process of lobbying and we have to be honest about it. We should be creating a mechanism so that at least we can give the Australian people the capacity to have a contrary view and also the capacity to mount their case in such a way as is heard by our nation's parliament.

I welcome Senator Brown putting his name to this motion. I want to briefly go through its history. This issue was discussed in the Senate Standing Committee on Economics. It was agreed in the economics committee that a motion should go forward. Senator Hurley, Senator Bushby, Senator Eggleston, Senator Cameron, Senator Pratt and I sit on the economics committee. There was a discussion about the economics committee putting forward this motion. We agreed to it. I want the inquiry, so I basically left the running to the Labor Party to draw up its terms of reference. It is the Labor Party’s terms of reference that I have read out as the motion. The terms of the inquiry are not the issue. My concern is that people who are extraneous to that committee system come in and basically usurp the position that was well considered by an appropriate body within this parliament, the economics committee. We foreshadowed the motion yesterday and today we have moved it, but Senator Brown has disallowed it and I do not know why. No doubt Senator Brown will tell us.

I truly believe that the issue of sovereign wealth funds is more serious than one based purely on personality or on certain differences; this issue is about the sovereignty of our nation and where that lies, the possible ramifications of these funds into the future and the capacity of the Australian people to have their say in relation to them. It is not one that declares an outcome one way or the other. Obviously, I hold a certain strong view in a certain area, and I expect to find people who will put forward a contrary view and mount their case in a very vociferous way as to why they believe that a sovereign wealth fund should have ownership of an instrument that has given our nation the wealth that it still relies on to this day. But other people have different views, and this committee will provide them with the capacity to have those views heard.

I am a keynote speaker at a CPA conference tomorrow. I would feel that I was derelict in my duty as an individual who has the honour and the privilege of being in this Senate if something were to happen while I was not here and this inquiry were not to go forward. There are times in here when you have to take up the cudgels and do your best to prosecute an issue because you believe that is right. I welcome the support of my colleagues and I thank my National Party and Liberal Party colleagues who have given the committee the benefit of the doubt and are supporting this inquiry. That is extremely important, and I personally thank them.

I see from the terms of reference that obviously the Labor Party—because they are their terms of reference—support the inquiry. What I cannot work out is why we are having this debate. Formality has been denied—why? This issue will come to a vote. I implore Senator Fielding and Senator Xenophon, because they will be crucial in this, and I also implore the Labor Party to put any differences aside and get this thing underway because there are people out there who feel that they are not being heard. There are peo-
people out there who have serious concerns about this issue. Our job in this place always is to reflect their concerns. This matter did not just appear overnight. It has been planned through a specific process, through the Senate process and the committee process, and then it has been brought to this chamber. It has been going through this process on the basis of bipartisanship. I know that other extraneous factors are pulling the bipartisan nature of this motion asunder, and I feel that is wrong. But we cannot delay until tomorrow because tomorrow is too close to the end of this sitting. When we all come back to parliament after the recess, we will be talking about the budget and this thing could be swept under the carpet. We have to start influencing the process now and not be so naive as to think that we are not effective in influencing this process.

I acknowledge that there are individuals out there who are willing to put a lot of their money—not my money—towards ads. All I am is the mouthpiece in the ads. If it were not me, it could be Senator Brown or anybody else. The process is to try and get people informed, and that is a marvellous thing. Madam Acting Deputy President, do you know why we can do that? We can do that because we live in a democracy. We can put that ad on television because this is a democratic nation. All the liberties and privileges that we have are supported by the fact that we are a strong democratic nation. Our strength lies in the manner and type of our people, their resilience and their patriotism. It also lies in the fact that we are blessed with a mineral wealth that has given us the capacity, the opportunity, to create a structure that has maintained us as a very peaceful nation and, I believe, the premier nation of this earth.

That opportunity is backed up by the fact that we are a wealthy nation. The issue of wealth is always who actually owns it—where does that wealth lie? Our legacy to those who come after us must be that the wealth lies with the Australian people first and foremost. Other people have the right to come in to buy minerals, corporations have the right to mine, but we must be completely cognisant of all possible ramifications when the wealth goes from residing with the Australian people to becoming a sovereign asset of another nation. If it resides with another nation and matters come to dispute, we must be completely cognisant of and open and transparent about our recourse. What is the propensity for that and what is the history of other disputes of a similar nature with that nation? How were they resolved, what were the terms and conditions and what access does the Australian citizen have to appeal via a judicial process? Do we believe that the point that people arrive at this time is the final point? There are other things that are coming to the fore at the moment.

Unfortunately, as Australia borrows more and more money there is someone lending us more and more. We are becoming indebted more and more to other people outside our nation. With debt comes influence. A lot of our debt is owed to China. In recent times we have seen—and maybe rightly so—a certain change in the inflection of the relationship between China and the United States. They are saying, ‘Maybe things are different now because you owe us an immense amount of money.’ This is a clear clarion call of what happens when you have influence and how, in minutiae and then in a wider sense, you can create influence in another nation.

We will have a robust discussion today because that is the essence of our democracy. It is a wonderful thing. Although I might have differences with Senator Brown, I respect absolutely his right to stand up next and completely disavow some or all of the things I say—because it is our democratic right. But do not think for a moment that
democracy extends from God or is an intrinsic right; it is not. There are so many nations in the world today where people do not have that right. To protect that right means more than just saying it; you actually have to be strong and have ownership of everything that enshrines that right. One of the things that enshrine that right is your wealth. Without wanting to belittle it, I remember a famous Scottish comedian who said, ‘I’ve been rich and miserable and poor and miserable, and I know which one I preferred.’

This proposed inquiry is far bigger than any of us. These are not my terms of reference. They are not, as one reporter said last night, a ‘Barnaby Joyce’ issue, because I did not write these terms of reference. I am absolutely aware of and support the fact that these are the Labor Party’s terms of reference. I am just moving this motion because I think it is a good thing for us to do. As you well know, you can bring into an inquiry what you deem fit—and that is the message that we will be selling to the people of Australia.

In closing, I implore Senator Brown to accept that this is not about me or anybody else; this is about getting back to the Australian people. Saying, ‘Barnaby, I’m annoyed with you; I don’t like you,’ or whatever is fair enough. I accept that—that is fine. But let us get this inquiry underway, because we cannot wait another day.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.41 pm)—I thank Senator Joyce for speaking up. I will make some explanation to Senator Joyce in response to some of the things he said. Firstly, objecting that a motion to establish a Senate committee inquiry be taken as formal is a positive way to allow a debate to take place—otherwise there is no debate. I have been here a fairly long time now and the process is that you deny formality in a positive sense to allow this very type of debate that Senator Joyce has kicked off and that I am following him in to take place. Had I not done that, there would have been no debate. That is the first point.

The second point is that it is not unusual. I think Senator Joyce said he had never seen it used before. It is used frequently—in fact, it has been used about a dozen times a year. My statisticians tell me that it has been used well over 100 times in the last decade and very often it is to promote the very type of debate we are having. So, quite contrary to objecting to the motion being taken as formal, I have used this mechanism, because I am savvy about forms of the Senate, to enable this debate to take place.

Furthermore, I agree with Senator Joyce that we do need a Senate inquiry into this important matter. That is why I moved this very motion, using these exact words, yesterday—and Senator Joyce voted it down. Today he has put forward the same motion. We are discussing that motion and I will be supporting it. Why the day’s delay I simply do not know, but that is maybe because I have a little better understanding of the process of the Senate and am better able to apply it than the Leader of the Nationals in the Senate.

It is important that the debate proceeds, and I can reassure Senator Joyce that the motion has the support of the Greens and, I trust, will be passed by the Senate. He said that it had been debated in the Standing Committee on Economics and that there was a general feeling that this matter, which is hugely important, ought to be brought before the Senate and put forward as a matter for the committee to look at. That is well and good, but a committee is not a replacement for the Senate. It is the Senate that has the say on this. That is why on Monday in the Senate I gave notice that I would move a
motion on the matter and that is why there is no difference, through you, Madam Acting Deputy President, between Senator Joyce’s position and mine—it is just that I brought it to the Senate a day earlier and it was voted down.

Having cleared the air on that, I agree with Senator Joyce on much of what he has had to say—including that this is too important for us not to get some more information on it. The point of view I have is not against investment in Australia’s mining industry or any other industry. There is a very clear difference between an investment which is a takeover, effectively, which gives a controlling say in part or all of operations—and this proposed investment by Chinalco will do that as far as some mining operations are concerned here in Australia—and an investment which is simply for the sake of making good, getting profits.

This investment has the potential to give Chinalco the deciding say in what happens in some mining operations here in Australia and elsewhere around the world, because Rio Tinto is a truly global mining corporation. It is a corporation that has, however, its biggest mining operations here in Australia. What is the difference between Rio, which has its headquarters in St James’s Place in London, and Chinalco, which has its headquarters in Beijing? A very big one. I think Senator Joyce and I have a lot of agreement on lots of points here.

I am one who says that there should be more transparency in the capitalist system in the corporate area. They are always demanding—and I agree with this—transparency in government. Commercial-in-confidence—isn’t that amazing? The corporate sector has been able to close down on matters where its interests are at stake, even in the public sector. But, when you get to the private sector, there is far too little transparency here in Australia. It is very difficult for even parliamentary committees to get information out of the corporate sector about what is going on there. We ought to be able to, freely, because it is in the interests of shareholders and Australians that we are better able to put a searchlight on the corporate sector in Australia. At least we are able to regulate. Parliament is supreme. The people put the representatives in here in a democratic system and then we work out the laws. My view is that the lobbying of the big corporations is right out of sync in a democracy with one person, one vote, one value.

But a different thing arises when you are dealing with a police state—and that is what China is. In Beijing, if Senator Joyce were to get some folk there to establish a National Party, and I know if I were to get some folk over there to try to set up a Greens Party, they would end up breaking rocks in the Gobi Desert for a long, long time. I do not say that lightly. Democrats—people who have a different point of view from the Communist Party in Beijing—are dealt with extremely harshly. They effectively lose their livelihoods and their wherewithal. They can be under house arrest or indeed worse—effectively in concentration camps—for long periods of time. One does not have to believe me on this. Go to the US State Department’s reports on human rights in China and one will see that.

When we look at Chinalco we see that it is not effectively a private enterprise that has grown in the new China; it is part of the state apparatus. For example, its officers can be appointed and can be sacked by the presidium in China. Well, they are; it is not that they can be. They are appointed and they are sacked by the Communist Party supremos in China. That is very, very different to the corporate system in the democratic countries of the world.
It is important that we understand that this particular effective takeover—in at least some areas of Rio’s activities in mining Australia—leads to the direct ability of control, despite the denials by the Chinese officials, by the Communist Party supremos in Beijing. That is a great problem. If we were seeing an opening up, a flowering of democracy, in China, this would be a much different matter, but we are not. Therefore, we have to be aware of what Australia is getting into. I can reassure Senator Joyce on one point: if the Foreign Investment Review Board does agree with this investment by Chinalco in Rio Tinto, that will not be the end of it. The Treasurer will then have to decide. Effectively that would be an executive decision by the Rudd Labor government as to whether or not the investment would proceed in the wake of the Foreign Investment Review Board’s advice.

When you look at the OECD’s foreign investment restrictive index—and it is important to look at this index because it sort of measures the freedom of Australian companies to invest in China vis-a-vis the freedom of Chinese investors in Australia—you find that, on a list of OECD nations and then all the biggest non-OECD nations, China is the most restrictive. It has an index of over four. Australia is in the midrange of the least restrictive. It is at 0.28. I can go into detail, but I will not here—the inquiry is the place for that. All I am saying is that there are far greater restrictions on Australian corporations investing in China than there are on Chinese companies investing in Australia. Is that an acceptable situation for Australian authorities? Should we not levy exactly the same restrictions on Chinese investment in Australia that the Beijing presidium places on Australian investment in China? Is that not a fair go? My understanding is that—and the inquiry will look at this—were the tables reversed and were Chinalco an Australian private company and Rio Tinto a Chinese based mining conglomerate with massive Chinese resources, there would be no way that this investment could take place.

It is a very complicated matter; it is correct that it go to a committee for inquiry. Despite my disappointment with the vote yesterday, I commend Senator Joyce on bringing forward this motion. I presume the Labor Party is also going to endorse it. It is a very important inquiry and it is one that the government can well do with. It has a very crucial decision to make here about this potential investment in Rio Tinto and it needs to be very, very aware of the ramifications of that. Maybe it can be summed up by reading from comments by Rowan Callick, the Asia-Pacific editor at the Australian. He had this to say in the Australian’s News.com:

The inquiry will look at this.

Environment, Communications and the Arts Committee Report

Senator McEWEN (South Australia) (4.53 pm)—I present the first report of the Senate Standing Committee on Environment, Communications and the Arts on the operation of the Environment, Protection and Biodiversity Conservation Act 1999, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator McEWEN—by leave—I move:

That the Senate take note of the report.

I would like to take a few minutes to make some comments on this important report. At the outset, I would like to thank all of the submitters to the inquiry that led to this re-
port, as well as the secretariat for their assistance and the other senators who participated in this inquiry. It is a substantial report, as befits a very important piece of the nation’s legislation. The Environment Protection and Biodiversity Conservation Act was passed by this parliament in June 1999 and came into effect the following year. Significant amendments were made to the act in 2006. The objectives of the act are broadly to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance, and in so doing to promote and conserve Australia’s biodiversity and heritage and to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources.

The act, which has been in operation for nearly a decade, from time to time excites a lot of interest in Australia, particularly when a decision is made under the act that is deemed to be incorrect by either the proponents or the opponents of a particular action that has been considered under the act. Of course Australia has a history of environmental activism and protest. The tensions between what are loosely called ‘development’ and ‘protection’ of the environment erupt from time to time. Those tensions are often deeply felt, and that was apparent in this inquiry and in a number of the 113 submissions made to the inquiry. It would be fair to say that any legislation that instructs decision making about environmental issues in Australia is going to attract attention, and I have to say that that is a good thing. It was a welcome reference by the Senate and has enabled us to investigate the operation of this act over the last 10 years.

The EPBC Act itself includes a provision for an independent review to be undertaken into the operation of the act and the extent to which the objectives of the act have been achieved. That independent review has been commissioned by the Minister for the Environment, Heritage and the Arts, Mr Garrett, and is currently underway. It is due to report by 31 October 2009, so many persons and organisations have made submissions to both that independent review and the Senate committee inquiry that led to this report. I do note that the committee notes in the report that the minister has requested Dr Allan Hawke, who is the head of the independent review of the EPBC Act, to take the findings in this report into account in the deliberations of the independent review. That is a very welcome initiative from the minister.

While there are a number of recommendations in this report, the committee does note that the very wide and varying terms of reference did make it difficult for the committee to focus on key issues because so many issues were raised by submitters. Some of the terms of reference probably did not receive sufficient attention from submitters for the committee to make any recommendations of note. However, there were a number of persistent themes throughout the inquiry, which I will briefly address. These include the operation of regional forest agreements. The committee felt that the amount of evidence on this issue warranted a separate report, and that will be presented on 24 April 2009.

Another persistent theme was that the act should clearly state that its purpose is to protect the environment and to protect and conserve Australia’s heritage rather than just to provide for that protection and conservation—a point made by a number of submitters. The committee has made a recommendation with regard to altering the wording of the objects of the act to delete the words ‘provide for’ so that it is quite clear that the act should actually protect the environment. Since the inception of the act, certainly in more recent years, there has been considerable debate about whether additional triggers
are needed in the act, particularly triggers in relation to climate change and also to land clearing. The committee has made recommendations in this regard, the first of them to do with climate change. It notes that the government should consider the appropriateness of a climate change trigger but in the context of the government’s overall response to climate change and, in particular, to the Carbon Pollution Reduction Scheme.

Madam Acting Deputy President, you could have the best act in the world but if the resources to implement it and to follow up its operation are insufficient then there is not much point in having the legislation. So the committee has made strong recommendations that the government give urgent consideration to increasing the amount of resources available to the department in the areas of assessment, monitoring, complaint investigation, compliance, auditing projects approved under part 3 of the act and enforcement action. Importantly, too, the committee has recommended that the department be resourced adequately to undertake regular evaluation of the long-term environmental outcomes of decisions made under the act and that the government ensure there are agency resources to undertake that new and much-needed activity. The reason for that recommendation is that the committee was aware that decisions made under the act can have a long-term impact on Australia’s environment, conservation and heritage, and we need to be mindful of that.

Also addressed in the report is the interaction between this act and the Fisheries Management Act, and there is a recommendation for a review of how the two interact. Another persistent theme was the effectiveness of bilateral agreements with the states. The committee has recommended that there should be an evaluation of those agreements. Considerable evidence was given during the committee inquiry as to whether or not people believed that that arrangement with the states is delivering what it is expected to. There are further recommendations dealing with processes of the act and accountability mechanisms, including the process of nomination and listing of threatened species or ecological communities and whether or not that could be done in a way that improves its transparency, rigour and timeliness. Another recommendation deals with the use of ‘offsets’. It makes a strong statement that government policy regarding the use of offsets for habitat conservation should clearly state that offsets must only be a last resort and must deliver a net environmental gain. The report also addresses the issue of ministerial decisions under the act and recommends that the government consider expanding the scope for merits review of particular aspects of the act.

I know other senators want to speak on the report, and there are additional comments and perhaps a dissenting report. I think the inquiry and subsequent report is a good first step in ensuring that the parliament continues to take particular account of this very important piece of legislation. I commend the report to the Senate.

Senator SIEWERT (Western Australia) (5.03 pm)—The Greens were in fact the body that suggested the reference of the Environment Protection and Biodiversity Act to the Senate Standing Committee on Environment, Communications and the Arts for inquiry because the act is a very important piece of legislation that was highly controversial at the time it was introduced and there has been a great deal of criticism about its effectiveness. We thought it was appropriate that the Senate review the legislation, and the Greens have submitted additional comments as part of this committee’s report. The Greens believe that the majority report covered a wide range of issues and we do not disagree with the comments the report made,
but we felt there were additional issues that needed to be addressed.

The Environment Protection and Biodiversity Act was originally intended to be Australia’s key piece of environmental legislation, and it should be. Part of what it does is enact our commitments under the Convention on Biological Diversity to achieve by 2010 a significant reduction in the current rate of biodiversity loss. Unfortunately, it is clear from both the submissions and the oral evidence to the inquiry and the fact that our biodiversity continues to be in serious decline in many parts of Australia, as the State of the environment report clearly states, that the act is not achieving its objective.

Native vegetation continues to be cleared at a very alarming rate. Australia has the highest rate of mammalian species extinction on the planet. We are one of the 12 megadiverse areas on the planet and the only developed megadiverse area, therefore we have a special responsibility. As we have debated in this place many times, there is very deep concern about interception and overextraction of surface water and groundwater, evidenced by the creation of an environmental, economic and social disaster in the Murray-Darling Basin. And we are still unable to effectively tackle invasive plants and species—for example, cane toads are crossing the border into my state of Western Australia and we are having very great difficulty keeping them out. So we still have many environmental problems in Australia that, quite clearly, this act has not been able to deal with.

One of the issues Senator McEwen identified was that the act falls down even in its object: it says only that it is to provide for protection, when the object should be protection. It is absolutely essential that the government addresses that when it reviews this legislation and, hopefully, brings in substantive amendments. Another key issue that came up in the inquiry is the piecemeal approach the act takes to environmental protection. It cannot take a holistic approach on a national level to matters of national environmental significance because other aspects of the act mean that it takes a part approach. It cannot look at cumulative effects. It cannot look at the overall impact of proposals. Therefore, not only is the list of matters of national environmental significance not comprehensive enough—and I will come to that in a minute—but it cannot even give protection on the issues that are there already, such as World Heritage values, our national heritage and our Ramsar wetlands, and when species finally make it onto the endangered species list it is unable to look after those issues properly either.

Funding issues came up when this act was implemented. The point was made very strongly that there had not been enough money put into the implementation of the act. It was only, in fact, very recently that the government put more funding in. I am not knocking them for putting more funding in, but it only occurred very recently and only enabled sufficient monitoring of the conditions that have been put on projects that have been assessed.

I received just today a letter that talks about the lack of funding for critical elements of the albatross and petrel recovery plans and the long-line fishing threat abatement plan. While these plans have now been revised, this letter—which is a copy of a letter that was sent to the minister—talks about the very deep concern that Humane Society International has about the lack of funding for albatross and petrel conservation in Australia. It particularly points out the absurdity of a situation in which the federal government has in fact invested in funding for pest eradication on Macquarie Island but is not funding a key part of the threat abatement
plan, which is monitoring the colonies of albatross to see if the plan is having an impact or the eradication of the pest species is having an impact. All that is needed is $60,000 to implement that component of the plan, and yet that is not being funded. That is a classic example of what has been raised with the committee in terms of the lack of appropriate funding.

One very significant issue that was raised with the committee in a submission, and which we raised in our additional comments, is the fact that climate change is not a matter of national environmental significance. The Greens support the recommendation of the majority of the committee that it be considered. The Greens, in our additional comments, recommend that it should be a national trigger. It is essential that that, along with water, is added. Other issues are land clearing and migratory fish. We colloquially call them ‘triggers’. That means that they trigger the Commonwealth assessment process. We believe that another matter of national environmental significance should be vulnerable ecological communities.

In terms of climate change, not only do we think that it should be a trigger but we think that in the longer term there is a need for a significant shift in the development of our environmental protection legislation. We think that the current framework should be improved. We have made a number of recommendations about how we think it should be improved. That will deal with the most immediate issues, but we also believe that we need to take a more holistic approach to this and have a fundamental rethink about the way we are protecting and providing for our environment in the future under a scenario of climate change. Climate change is going to have profound effects on our environment. We have to rethink our national plan and the way that we manage our national parks and our conservation estate. We need to be planning for resilience. At the moment, that is not built into our planning for the conservation estate. We think that that is absolutely essential. We will continue to pursue those issues to do with a paradigm shift. In her submission, Dr Marg Blakers calls it a paradigm shift. We agree with that; we think that that is needed.

Other areas that we have concerns about are, for example, the broad ministerial discretion that is allowed under the act and the exemptions that have been offered under the matters of national environmental significance. The issue that will come up in our second report is the issue of regional forest agreements. That is a highly controversial issue. The Greens do not believe that there should be that exemption under this act. That will be addressed in a subsequent report. I do not want anyone thinking, from reading our first report, that that issue is not going to be dealt with; it will be dealt with. That is a huge issue that needs to be considered. People will be aware that the Greens have been concerned about this issue for a significant period of time. We will address that in the subsequent report.

There is a wide range of issues identified both in the majority report and in the Greens additional report that we urge the government to take on board in the review. The review will be absolutely critical in directing the future of our Environmental Protection and Biodiversity Conservation Act and determining whether Australia gets right protecting and conserving what we have left—bearing in mind that we have done a lot of damage to our environment. It is essential that we get it right. The previous government got it wrong—it is not good English, but they got it further wrong; they made it worse—when they made those amendments in 2006. Those amendments need to be corrected. But significant improvements to the act also need
to be made in order for us to protect our very fragile natural environment.

Senator BIRMINGHAM (South Australia) (5.13 pm)—It is a pleasure to rise to join this debate to take note of the Senate Standing Committee on Environment, Communications and the Arts report into the operation of the Environment Protection and Biodiversity Conservation Act 1999. Like Senator Siewert, I acknowledge that this is the first report under this inquiry. There will be a subsequent report into the regional forest agreements and their impact on and interrelationship with the EPBC Act.

I note as well that some aspects of this report will probably duplicate some of the arguments that will occur there, particularly some of those that stem from the objects of the act—such as how those objects have been interpreted by the courts—that both Senator McEwen and Senator Siewert have spoken of. The coalition looks forward to the deliberation of the committee on that matter and to further exploring those issues and indeed the overall issue of the interrelationship between those two important acts. We do so with the caveat that we believe that in all of these areas of environmental management—be they forestry, fisheries or elsewhere—we should, as far as is possible, strive to ensure that there is a single framework in place for management, reporting and accountability. These industries should not be burdened by multiple reporting regimes under Commonwealth legislation that could impose undue costs on them.

This act was landmark legislation in its time. It is legislation that the coalition is very proud of. We know that it is not necessarily perfect; it was not perfect when it was first introduced and it is not necessarily perfect today. That is often the case with landmark legislation. I put on the record credit to one of my predecessors in this place, the great former South Australian Senator Robert Hill, who was the environment minister that shepherded this legislation through and, in doing so, heralded a new era of environmental management by the Commonwealth. Like many of these areas, it comes under intense criticism. That intense criticism should not be misinterpreted as saying that it is all wrong, because, of course, you cannot please all of the people all of the time; in fact, in many instances, you cannot please all of the people any of the time. That, of course, is because in many of the instances considered under this act there are extreme positions and often everybody is disappointed by parts of the outcome.

But, as I said, this act is worthy of continuing review and improvement, because it is a critical area. This type of environment protection in our law is now a critical area of Commonwealth responsibility. We on this side of the chamber are pleased that the former government stepped up to the plate in that regard and we look forward to working constructively with all parties in the chamber to seek further improvements going ahead. We note that the act contains a mandatory statutory review which has been initiated during the conduct of this inquiry. The Minister for the Environment, Heritage and the Arts, Peter Garrett, has initiated that, and that review will report late next year. I hope that that statutory review—the independent review—that is being undertaken into the operation of the act will be able to look much more closely at the details in terms of the scope, implementation and operation of this act than necessarily our inquiry has been able to do.

As Senator McEwen acknowledged, there was enormous interest, and I thank all of those parties who displayed interest in this inquiry. Not all issues have been able to be adequately covered in the time available. Indeed, I hope the independent review will
be able to look at the detail of the legislation far more closely than we have been able to to address some of those concerns that exist, both from, shall I say, the environment lobby on the one hand and those industry groups, business organisations and others, on the other hand, who all have differing concerns about the operation of this act. Nonetheless, the coalition provided additional comments which indicate where we support the majority report recommendations and where we have concerns. I welcome those areas that particularly touch on resourcing. There is no point in having an act that requires conditions to be adhered to in many instances if you do not have appropriate policing of it and enforcement of it. Now, making sure that there was appropriate policing and enforcement is an area that we probably erred in when in government; these were the early days of the operation of the act, and, unsurprisingly, most of the resources and effort probably went into those initial assessments and initial considerations under the act. But it is important that we continue to beef up all aspects, from that assessment process right through to compliance and enforcement. It is especially important.

We have canvassed in this committee—I have particularly done so in estimates with Senator Wong and others—issues such as the north-south pipeline in Victoria, for which Minister Garrett has provided a conditional approval. That conditional approval relates to a range of factors, including water savings. I, for one, will be going into those estimates committees time and time again to make sure those water savings have been met. I expect that the government will in this area, as with other conditional approvals, be ensuring that the appropriate enforcement is in place.

We encourage especially the independent review but also the government overall to look at the full use of powers. Something that I think has come through in this inquiry is that there are a range of areas and mechanisms that already exist under the act that probably are not being employed sufficiently or appropriately—areas such as strategic impact assessments, the listing of threatened species and the preparation of recovery plans. It is not all about simply assessing individual projects on a case-by-case basis. So we would encourage the independent review and the government to look at that full spectrum of powers that exists. We do so, really encouraging the government to try to make the act, as far as possible, work to meet its current objectives. Let us get this act working now with the broad scope it already has before we necessarily branch out and seek to include further scope.

I also welcome and encourage looking at the impact of bilateral arrangements with state governments in terms of the assessment of projects. I have concerns, again in my home state of South Australia, that we have an instance at present where numerous applications, such as the building of the Wellington Weir and the admitting of salt water into Lake Alexandrina and Lake Albert, have been applied for by the South Australian government and yet the South Australian government is also conducting the environmental impact statement on those applications by themselves. It is a poacher turned gamekeeper type situation and whether it has appropriate oversight is something that we need to look at.

There is one area of major concern that I have, and that relates to triggers. The government and the Greens have spoken about adding greenhouse gas emissions as a new trigger. Well, we have serious concerns about the impact of that. We believe that it would be very inappropriate to add greenhouse gas emissions as a trigger under this act, because it would be simply a case of asking the minister to consider in total isolation from many other things the impact of emissions in one
area from one project. That really is not the way Australia should be going about managing its greenhouse gas emissions. At that project conceptualisation stage, that stage when those putting projects on the table are looking at the approvals they need, they are considering where they are going to base their project—whether they are going to base it in South Australia, New South Wales or Western Australia or whether they are going to base it in Australia, New Zealand, China or India.

The real risk that we face by putting a greenhouse gas emissions trigger in this act is that it will drive those types of projects offshore and that will be another impediment. I support reducing greenhouse gas emissions as rapidly as we possibly can. The coalition supports that, and we have announced many policies of our own in this regard. However, we need to be careful that we do not drive a situation where we simply encourage further carbon leakage from Australia to offshore. By implementing a greenhouse gas trigger in this act we would seriously risk driving those businesses and jobs offshore before they have even had a chance to lodge an application in Australia, because they would probably be too scared of the process that lay ahead of them.

We need to consider greenhouse gas emissions on a holistic level, not on an isolated, case-by-case, project-by-project basis. That is an area in which we urge the government to proceed very cautiously. We do not believe it should occur. I hope that there will be much greater exploration of this. I believe it would be inconsistent with their plans for the CPRS. I believe it would be inconsistent with the belief that we should be managing our greenhouse gas emissions on a far broader scale. In closing, I thank the secretariat and all those who participated in this inquiry, and I look forward to further contributions in the second stage.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

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

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

Adoption of Report

Debate resumed.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—The question is that the amendment moved by Senator Bob Brown, also on behalf of Senator Cormann, to the motion that the report of the committee be adopted be agreed to.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (5.24 pm)—At a quarter to one today, we got close to completing this legislation. Then the amendment from Senators Brown and Cormann was moved. I am standing to speak with the knowledge that everyone else has spoken in the debate—I think that is reasonable—and I advise the Senate that the government cannot support the amendment proposed by Senators Brown and Cormann, for one simple reason: we remain committed to passing these bills in their original form. A tax that is good for 12 months is a tax that is good for the future. If the Customs Tariff Amendment (2009 Measures No. 1) Bill 2009 and the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 do not pass in their original form, I remind the Senate what the consequences of that will be. The very constructive measures that we have negotiated with the Greens and Senator Xenophon over the previous few days—measures on strengthening the regulation of alcohol-advertising content, mandating safe drinking content in alcohol advertising, funding for community level initiatives and social marketing to tackle binge drinking—will not proceed. There will be a $1.6
billion hole in the budget and a $1.6 billion windfall to the distillers. In just a few weeks, teenagers, particularly young girls, will be back buying alcopops at pocket money prices.

In speaking against this amendment I make one last plea to Senator Fielding, knowing that what I have just described is not his primary aim. It is, however, the inevitable consequence of a decision to vote against the government’s measure. I say this more in sorrow than in anger. If teenagers, particularly teenage girls, can again buy cheap alcopops in just a few weeks time, that is not good for families, it is not good for our hospitals and it is not good for our police. I say to Senator Fielding that, in my view, it is not putting families first. That is a view shared by many of the leaders in public health in Australia. I quote from the press release of 17 March from the Public Health Association of Australia, ‘Senator Fielding urged to support alcopops tax deal’. Professor Mike Daube, the President of the PHAA, says, ‘It would be a tragedy for the community if the tax now failed.’

In a press release of 18 March from the National Drug and Alcohol Research Centre, Associate Professor Anthony Shakeshaft, who gave evidence to the committee inquiry, says, ‘We have argued all along that the government ought to be applauded for taking a proactive stance on this issue; going part of the way to achieving an evidence based response is not the same as going the wrong way.’ I think the point the professor is making is that by not passing this measure we will be going the wrong way. Further, he says, ‘The critical point here is the difficulty of seeing the likely public health benefit of this legislation being overturned if the primary reason is to accommodate a strategy’—that is, banning advertising during sports programs—‘for which there is little research evidence.’ A press release was issued on Tuesday, 17 March, by four well-recognised organisations: the Australian Drug Foundation, the Cancer Council Victoria, the Turning Point Alcohol and Drug Centre and VicHealth. They encouraged the Senate to pass the alcopops tax and said, ‘This package puts the health interests of young Australians ahead of the profits of the spirits industry.’ Finally, Kidney Health Australia backs alcopops legislation.

As I have said in this place before, I think this is a very sad day for the overall health outcomes for our country. It has undermined the leadership that our government has shown not only to our health sector but also, most importantly, to our community. We are able to say strongly that using alcohol inappropriately damages your health, and from the Prime Minister down we have consistently put that message out to the community. That is part of it. The alcopops tax equalisation was another tranche in a range of measures about which we know there is evidence that they will be successful. This is a sad day for the overall health outcomes for our community, but I am really particularly concerned about what this will do to our teenagers and young people in the future.

Question agreed to.

Original question, as amended, agreed to.

The ACTING DEPUTY PRESIDENT—The question now is that the report, as amended, be adopted.

Question agreed to.

Third Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (5.30 pm)—I move:

That these bills be now read a third time.

Question put.

The Senate divided. [5.35 pm]
(The Acting Deputy President—Senator PM Crossin)

Ayes............ 32
Noes............ 31
Majority........ 1

AYES
Arbib, M.V. Bilyk, C.L.
Bishop, T.M. Brown, B.J.
Brown, C.L. Cameron, D.N.
Carr, K.J. Collins, J.
Crossin, P.M. Farrell, D.E. *
Feeney, D. Forshaw, M.G.
Furner, M.L. Hanson-Young, S.C.
Hurley, A. Ludwig, J.W.
Ludlam, S. Marshall, G.
Lundy, K.A. McLucas, J.E.
McEwen, A. Moore, C.
Milne, C. Polley, H.
O’Brien, K.W.K. Siewert, R.
Pratt, L.C. Stephens, U.
Wortley, D. Xenophon, N.

NOES
Abetz, E. Back, C.J.
Barnett, G. Bernardi, C.
Birmingham, S. Bernardi, C.
Boyce, S. Bushby, D.C.
Cash, M.C. Coonan, H.L.
Cormann, M.H.P. Eggleston, A.
Fielding, S. Ferravanti-Wells, C.
Fifield, M.P. Fisher, M.J.
Heffernan, W. Humphries, G.
Johnston, D. Kroger, H.
Macdonald, I. Mason, B.J.
McGauran, J.J. Minchin, N.H.
Nash, F. Parry, S. *
Payne, M.A. Ronaldson, M.
Ryan, S.M. Troeth, J.M.
Williams, J.R.

PAIRS
Conroy, S.M. Ferguson, A.B.
Evans, C.V. Joyce, B.
Faulkner, J.P. Colbeck, R.
Hogg, J.J. Brandis, G.H.
Sherry, N.J. Trood, R.B.
Wong, P. Adams, J.

* denotes teller

Question agreed to.
Bills read a third time.

FAIR WORK BILL 2008
In Committee

Consideration resumed from 17 March.

Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (5.40 pm)—by leave—I move:

That the committee report progress.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (5.40 pm)—by leave—As I understand it, Senator Parry has just sought in the committee to report progress. We have just gone into committee. There was no explanation for that, so could Senator Parry provide some explanation. We would not want to be in a position where the opposition are not proceeding with IR. I think we are all ready to proceed. Could he provide an explanation and then we will get to where we need to get to shortly. I can guess what it is, but it might be helpful if he lets us all know—and the gallery might be interested too.

Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (5.41 pm)—by leave—Senator Ludwig is correct. He can anticipate what I am going to ask. I did seek leave from the chair but was informed that I needed to report progress prior to that. I will seek leave to recommit the vote on the customs tariff and excise tariff bills. Obviously one of our senators did not attend the chamber in the four-minute time period available. I have not ascertained the reason but, as you can imagine, I will be ascertaining that reason. I understand that Senator Scullion is now here and he will make a personal explanation. He will seek leave to do that. Then we would seek leave to recommit the vote, as has been common practice in this place from both sides on many occasions.
Question agreed to.
Progress reported.

CUSTOMS TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009
EXCISE TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009
Recommittal

Consideration resumed.

Senator SCULLION (Northern Territory) (5.43 pm)—by leave—With the indulgence of the Senate, I would like to offer my apology. I was not here during the division. It was an inadvertent error. I was caught in a stairwell having an impromptu meeting and I did not hear the bells. Unfortunately, I have made a second error by not having my pager with me. I apologise particularly to my colleagues and to the Senate.

Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (5.44 pm)—by leave—As has been the tradition in this place when a senator does not turn up to vote, for whatever reason and an explanation is satisfactorily given to this chamber, to reflect the true wishes, the true dimensions and the proportionality of the chamber, the vote is always recommitted. So, on behalf of the opposition, I ask that the question on the third reading of the bills be put again.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.45 pm)—by leave—This issue has of course arisen time and time again in the parliament and sometimes inadvertently—and once many years ago I was one of them—when we do not make it to the chamber for one reason or another. However, this does show the opposition is in some disarray. It was absolutely known that this critical vote would be on this afternoon. It is a commentary on the opposition and the internal cohesion of the opposition that a senator could miss such a vital vote. It has been known since question time that this vote would be coming up at about this hour and it was an absolutely crucial vote and that it would be very close. The Senate does the right thing here, unlike many other parliaments, to make sure that the will of the elected representatives is correctly reflected. But I have to say that there have been a couple of such times since the coalition came into the Senate as the opposition. It may be a commentary on the fact that it spent too long predominant in the Senate, not having to care about procedure. My only advice to the opposition is you need to get yourself in order—

Opposition senators interjecting—

Senator BOB BROWN—That is right. This is the Senate and the votes in here are extraordinarily important.

Senator Ian Macdonald—Why are you building the Traveston Crossing dam?

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! Senator Brown has the call.

Senator BOB BROWN—It is a commentary—

Senator Boswell—Why has your candidate sent all his how-to-vote cards back?

The ACTING DEPUTY PRESIDENT—Order! Senator Brown has the call.

Senator BOB BROWN—The interjections from the coalition members from Queensland are an indication why the opposition is in such trouble, because they simply cannot take seriously the matter that is at hand.

Senator Boswell—Why did your candidate send all his how-to-vote cards back? He was so embarrassed!

The ACTING DEPUTY PRESIDENT—Order!

Senator BOB BROWN—I have a very brief speaking time here so I will just say
this. Senator Boswell’s crass and unhelpful comment just then against the interests of Queensland is an indication of why this place is in such utter disarray as far as the opposition are concerned. They should do better.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (5.48 pm)—by leave—What we have here is a very serious matter. It is something on which I think the opposition have demonstrated a pattern of behaviour in respect of this chamber. It is something that should be taken very seriously. We have known for some time that there would be a crucial vote on a significant package of something in the order of $1.6 billion. What we have now seen is an opposition senator miss a vote in the chamber, a critical vote on a very important bill, and then come back into the chamber, make an explanation and ask for the matter to be recommitted. We will grant that because it is a longstanding convention to ensure that the will of the Senate is reflected. But in this respect it is something on which I am saying clearly that, when you look at the behaviour of the opposition from this morning right through the rest of the day, you see the opposition have refused leave in a range of circumstances, which is not by convention. Over the last week they have not stuck to what I would have said was a broad agreement about how the program would run.

Senator Parry interjecting—

Senator LUDWIG—You’ll get your go in a moment. The opposition have demonstrated an inability to deal with this place in the serious way that it should. It is not the first time that this has occurred, and it does seem to demonstrate a pattern of behaviour within this place. What we will do, of course, is respect the convention of this place. But can I say that it is extremely disappointing to find that this has occurred. (Time expired)

Senator MINCHIN (South Australia—Leader of the Opposition in the Senate) (5.50 pm)—by leave—I do not wish to turn this into a slanging match between both sides. I begin by thanking the government for recognising the convention that has applied in this place and without which this place would be dysfunctional—that is, when a senator, for whatever reason, is inadvertently detained and fails to make a vote that would have made the difference to an outcome, that is recognised and the vote is recommitted. So we thank you for recognising that. But we are not prepared to put up with the insulting, gratuitous and idiotic remarks about the opposition.

We have a situation where Senator Scullion has explained why he missed this vote. He explained that he should have had his beeper with him—and no doubt it is embarrassing to Senator Scullion that he did not have it—and he did not hear the bells. That is the reason why he was not here. It has happened before on our side, it has happened on the Labor side and it will happen again; Senator Brown himself said that he has also missed a vote. It is a regrettable fact of life that there will always be senators who will occasionally miss a vote. This exaggerated and idiotic language from other senators, about the opposition being in disarray and all of that, is completely rejected by us. For Senator Ludwig then to try to play partisan politics with this inadvertent mistake by Senator Scullion is ridiculous.

The opposition has been cooperating to the full extent with the government to help them manage their program, which, frankly, has been chaotic for the last two weeks. In the last week we had an occasion when the government had no legislation to give us; we had nothing to do. Now this week they have rammed everything through in a rush. So do not give us lectures about cooperation or management of programs! We will work
with the government to make sure their program is dealt with this week—but do not give us these gratuitous lectures.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (5.52 pm)—by leave—I will be brief. I reject some of what the Leader of the Opposition in the Senate has just said. First of all, let me correct the Leader of the Opposition in the Senate in relation to the convention—

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Senator Macdonald, do you have a comment that you want to make? Leave was granted by your Manager of Opposition Business in the Senate and, as chair, I recognised that granting of leave by your Manager of Opposition Business in the Senate.

Senator Ian Macdonald—I thought it was up to every individual senator, but you have ruled.

Senator FAULKNER—There is a convention, and I think I was one of those responsible for designing and implementing it over a long period of time, to basically argue that the will of the electorate is reflected in votes of the Senate. It is true that it can affect any senator on any side of the chamber. On this occasion it has affected Senator Scullion. I would respectfully suggest to the Leader of the Opposition in the Senate that this is becoming a pattern with the opposition. Senator Scullion himself needs to show leadership as the Deputy Leader of the National Party in this parliament. But the government does respect the convention and we will recommit this vote, even though in recommitting it we will be blowing a $1.6 billion hole in our budget. We also know the serious ramifications this will have on the health of young people in our community. A principle is a principle is a principle and a convention is a convention, but please, please, Madam Acting Deputy President, do not let the opposition lecture this government on decency and process. We demonstrate again that we are the upholders of decency and process in this parliament.

Leave granted.

Third Reading

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

The Senate divided. [5.59 pm]

(The Acting Deputy President—Senator PM Crossin)

Ayes……….. 31
Noes……….. 32
Majority…….. 1

AYES
Arbib, M.V. Bilyk, C.L.
Brown, B.J. Brown, C.L.
Cameron, D.N. Collins, J.
Conroy, S.M. Crossin, P.M.
Farrell, D.E. * Feeney, D.
Forshaw, M.G. Furner, M.L.
Hanson-Young, S.C. Hurley, A.
Hutchins, S.P. Ludlam, S.
Ludwig, J.W. Lundy, K.A.
Marshall, G. McEwen, A.
McLucas, J.E. Milne, C.
Moore, C. O’Brien, K.W.K.
Polley, H. Pratt, L.C.
Siewert, R. Stephens, U.
Sterle, G. Wortley, D.
Xenophon, N.

NOES
Abetz, E. Back, C.J.
Barnett, G. Bernardi, C.
Birmingham, S. Boswell, R.L.D.
Boyce, S. Bushby, D.C.
Cash, M.C. Cooman, H.L.
Cormann, M.H.P. Eggleston, A.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Fisher, M.J.
Heffernan, W. Humphries, G.
Johnston, D. Kroger, H.
Macdonald, I. Mason, B.J.
McGauran, J.J.J. Minchin, N.H.
Nash, F. Parry, S. *
In 1956, conscientious objection for the Brethren became part of the Commonwealth Conciliation and Arbitration Act, after which it flowed to … all other states except Victoria.

I am moving quickly here, Chair. It continues:

The Brethren representations to governments, federal and state, continued throughout the 1960s and 1970s, and were almost exclusively made to discuss some aspect of industrial relations law. Ron Fawkes remembers visiting Malcolm Fraser in the 1970s—

Ron Fawkes being a member of the Exclusive Brethren. It goes on:

But in 1974 something happened that would change the Brethren’s relationship with politics forever: the election of a promising young Liberal MP, the local member in the seat of Bennelong, where many of the Brethren high-fliers lived. His name was John Howard.

It goes on to talk about that particular relationship. It says:

One of the issues on which Howard and the Brethren firmly agree is industrial relations policy. When it came to industrial relations, and other issues of ‘conscience’, the election of John Howard as prime minister in 1996 represented the best news the Brethren had ever had from the political sphere. By that time, thanks to the ascendency of the new Right in Australian politics, a strong move had been afoot for over a decade to rid employers of the union ‘closed shop’.

It goes on then to describe the evolution of the current laws whereby in Work Choices the law was changed to not only facilitate the Brethren having the ability, if employers and employees agreed, not to have unions allowed into workplaces but also, since 2002, give Brethren employers the sole right to ban unions from looking at the workplaces of employees even if the employees requested that right. That is a situation that should not be allowed in any Australian workplace.

I did explain yesterday the difficulty there is with the imposition in the workplace of the mores—and some of them are quite strange
to say the least—of the Brethren. I quote again from Mr Bachelard’s book:

But the provision does prevent employees from organising for any other reason—to advocate for a better lunchroom, or greater health and safety provisions, or to complain about ill-treatment or discrimination. In New Zealand, a Brethren-owned medical-supplies company banned their multicultural staff from speaking any language other than English, even in the lunchroom, and then used their exemption certificate to prevent a union coming in to hear the staff complaints.

‘They just hate the unions for some reason,’ said Fawkes. ‘I think it was just the mindset of the whole thing.’

We know that 33 workplaces are protected under what is an Exclusive Brethren clause, although it is not called that, in Australia. No other religious group, sect or philosophical organisation takes advantage of this so-called conscience clause. It is used primarily, indeed solely, by the Exclusive Brethren to disadvantage their workers in the workplace and, I reiterate, in particular, women. It ought not stand. We should have no restriction and no special clauses in workplace relations for a very secretive cult like the Exclusive Brethren. Hence, the Greens oppose clause 485 in the following terms:

(2) Clause 485, page 394 (line 26) to page 395 (line 24), TO BE OPPOSED.

Senator ABETZ (Tasmania) (6.09 pm)—

The amendment that is before us is unfortunately part of the ongoing jihad that Senator Bob Brown is running against the Exclusive Brethren. I invite honourable senators to have a look at what we are actually talking about and go to the legislation itself. Before I do that, let me say this: you can quote a book but the quoting of a book does not clothe the assertions in fact. Indeed, as I understand the history of conscientious objection clauses in this country, they existed before I was born—I am not sure whether they existed before Senator Brown was born—in the Queensland parliament, in the New South Wales parliament and in the New Zealand parliament. In fact, in 1956 they were introduced by the then minister for employment, Harold Holt. His move was supported by the opposition and, as I recall it, a Mr Fraser—no, not the Malcolm Fraser—who was the member for the ACT complimented the government on the move.

Indeed, if you really want to get to the history of these matters, do not read just one book but consider speeches given at the Trades Hall of Victoria in 1979 on behalf of the Industrial Relations Society of Victoria. Two people addressed that forum in 1979. One of them was none other than the then Senator Gareth Evans, talking about conscientious objection clauses and how he in fact supported them. The other speaker was a Mr Keith Marshall, who held some position in the Industrial Relations Commission. In their speeches they go back a long way further than 1974 and this silly conspiracy theory that the member for Bennelong had somehow struck an agreement with the Exclusive Brethren.

There is all this literature from before 1974 dating way back to 1956. Last night, when we started on this I thought it was about 40 to 50 years ago. In fact I have now confirmed that that was a conservative estimate. It is over 50 years ago that conscientious objection clauses were considered appropriate and they have been part of the industrial landscape or framework on a bipartisan basis for over half a century.

Let us have a look at the actual clause that Senator Brown finds so offensive. Senator Brown’s amendment would remove any reference to conscientious objection in this legislation and it would remove clause 485, which allows for a conscientious objection certificate—but in very, very limited circum-
stances. It only applies if there are no more than 20 employees—and that is on a head count—performing work on the premises. That is the first qualification. The second is that none of the employees are members of an organisation, in other words, of a trade union. The third is that all the employees are employed by a person who holds a certificate that has been endorsed. So you cannot just say, ‘Look, I have a conscientious objection to a trade union coming in.’ This, by the way, is a right of entry to hold discussions in the workplace—that is all. To get the certificate you cannot just say that you happen to have a particular belief. At the moment I understand that you will have to go to the Industrial Relations Commission. Under this legislation you would have to go to Fair Work Australia and satisfy them. For Fair Work Australia to endorse a conscientious objection certificate, they would need to be satisfied: (a) that the person is a practising member of a religious society or order and (b) that the doctrines or beliefs of that society prevent membership of an organisation or body other than that society or order.

The Exclusive Brethren have—if I may say with respect to them—this bizarre view of the world, but it is their conscientiously held belief, and it holds that they are not allowed to become a member of a worldly organisation. I understand that Jehovah’s Witnesses have a similar belief. Right or wrong, that is their view and you would have to satisfy Fair Work Australia as to that. The circumstances in which it applies are: fewer than 20 employees; not a single union member on the floor; and, the employer has gone through the process of satisfying Fair Work Australia. So if there is an employee who has a grievance against an employer all they have to do is join a union. As soon as that employee is a member of the union the conscientious objection certificate does not provide exemption under this legislation. In circumstances where none of the workers are members of the union and the employer is, in this particular circumstance, in the very limited field of having only 20 employees, why would you seek to deny conscientious objection in these very strict and very tight circumstances?

Conscientious objection is a concession that a tolerant liberal-democratic society makes to those people within its community who have a diverse set of values that do not go to the extent of breaching the law. In the Commonwealth Electoral Act we have a similar clause and it is exercised by many different people—indeed, 60,000 people at the last election—who claim religious exemption from the requirement for a compulsory vote. Chances are that everybody in this chamber says that you have a duty to vote. We are all here because we passionately believe in the democratic system and we want everybody to be engaged in it. But we make a concession fairly and properly to those who for religious purposes do not believe in voting, and that is one of the great hallmarks of the liberal-democratic society that we live in—yes, there is a law, but there will be exemptions for certain categories. I say to Senator Brown that whether you like or dislike a particular organisation is completely irrelevant to the consideration of the fundamental principle.

I believe in the freedom of speech. My good friend Senator Marshall, across the chamber, and Senator Brown, up at the end, say things that I passionately disagree with, and I think they are wrong. But the principle of freedom of speech requires me to say, ‘Senator Marshall, Senator Brown and whoever else should have the right to be able to exercise freedom of speech.’ If I were passionately opposed to an organisation and I in fact wanted some payback on them for campaigning against me in the past, that might be fair cop in a political environment, but in a
liberal-democratic society would you remove their right to conscientious objection? I say ‘no’ because the principle overrides those considerations.

I believe that conscientious objection is a fundamental and very well understood principle. That is why we find it in a number of areas such as the Commonwealth Electoral Act and, indeed, it has been in the industrial legislation for 50 years. But this particular clause is about as limited and restricted as you could get. Let me repeat: if you have one union member on the floor, the conscientious objection certificate will not be of any value or any benefit and the union will have a right of entry. This is stated in subdivision B under the title ‘Entry to hold discussions’. A union is given entry to hold discussions generally if there are persons who perform work on the premises, and the union is permitted to potentially look after their industrial interests, and they wish to participate. So, if the workers do not wish to participate, under clause 484 they do not have to, and that attacks the right of entry.

Why would a union, in general terms, want to hold discussions? It might be in relation to something at the workplace or recruitment or whatever. All they have got to do is talk to the person in private outside of working hours, or they could get just one person on the workforce to join the union and as soon as that happens the conscientious objection clause will no longer apply. So it is about as limited as you can get.

So I would say to the Labor government and other senators that, in previous times, allegations have been made against this particular organisation known as the Exclusive Brethren, and privilege report after privilege report after privilege report has come down in this chamber where those matters that Senator Bob Brown asserts are disputed. I do not even want to enter into the debate, whether Senator Brown is right or the privilege report statements are right. We are discussing a principle here: should there be such a thing as conscientious objection? And, if we come to the view that conscientious objection is a fundamental principle in our tolerant society, then the benefits of that will fall on whomever they may—in exactly the same way that the right to freedom of speech falls upon the most offensive person of the Left or the Right and those of us who see ourselves as somewhere between those two extremes.

It is the principle we are voting on this evening; it is the principle—not because we do not like a particular person and what he might say, when we consider freedom of speech, or because we do not like a particular organisation that may be the beneficiary of this particular clause. We are voting on a principle, not on an organisation. I hope that this chamber would never go down the track of saying we will jettison a fundamentally important principle and tradition that has been with us for over a half a century, that makes us one of the most tolerant societies in the world and that really does allow us to be the envy of the world, just because we have got a beef with a particular organisation that happens to be a beneficiary under this, might I add, very, very limited clause. We as an opposition will uphold the tradition.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.24 pm)—What a ramble that was, one that failed to come up with any logical or coherent reason at all for opposing this amendment. Indeed, the heart of Senator Abetz’s argument was that he would uphold people’s right to free speech, and yet by objecting to this very amendment he is also saying that he also upholds the right of bosses in Brethren workplaces to ban free speech and gathering and unions’ right of entry to hold discussions.
in those workplaces. What Senator Abetz had
to say is completely illogical.

At the heart of this lack of logic is the
abuse of the term ‘conscience’. This is not a
conscience clause that is protecting the Ex-
clusive Brethren. It is the manipulation of the
law through intense and relentless lobbying
over the last half-century in several states—
and the Exclusive Brethren lobbyists are here
with us tonight—that has been able to im-
pose this term ‘conscientious objection’ in a
way it was never meant to be applied. I do
not know about the references that Senator
Abetz made, but I can ask him this: what is it
that the Exclusive Brethren owners of work-
places, where 4,000 Australians are being
discriminated against by the proposal in this
legislation, think is an affront to conscience?
Senator Abetz said himself that they object to
the right of entry of union representatives to
hold discussions. Where is the conscience in
that matter? There is none. This is a concoc-
tion to prohibit unions from going into the 33
workplaces only in Australia that are con-
trolled by this very secretive sect and prevent
them from exposing to the light of day the
conditions of those employees. You only
have to talk to ex Exclusive Brethren folk—
and I have to say they are wonderful peo-
ple—

Senator Abetz—they are.

Senator BOB BROWN—they are in-
deed; Senator Abetz and I agree. The ex Ex-
clusive Brethren are fantastic folk. But you
only have to talk to them to realise how sub-
orned the people who remain in the clamps
of this sect are. Are they going to join a un-
ion? They would be excommunicated—and
one has to have had a religious avocation at
some time in life to know what that means.
Of course, that is not going to happen.

I ask Senator Abetz: how would it be if we
put into that conscience clause which says
that you do not have to vote that you do have
to attend a polling place? But you do not
have to vote, according to our Electoral Act.
What if it said, ‘But if you are going to exer-
cise this you have to join a union first’? What a nonsense. Or you have to join a
movement for democracy before you can
uphold your use of a conscience clause?

A conscience clause is simply that; it is on
a moral and ethical issue of a very high order
which is going to cause a person to be
greatly affronted when a law related to that
issue is imposed on them. But this is not of
that order. This is simply an excuse for Ex-
clusive Brethren businesspeople to have spe-
cial clauses to deny people in their work-
places the rights they should have. There is
nothing at all about conscience in this matter;
it is all to do with business. It is all to do
with business, potentially at the expense of
workers’ rights, and that is why I brought
forward this amendment.

Senator ABETZ (Tasmania) (6.28 pm)—
I have spoken with a number of ex Exclusive
Brethren and to me they seem very jolly,
decent people. I have also spoken to Exclu-
sive Brethren. Similarly, they seem to me to
be decent people. But the debate is not about
whether we like somebody or not; the debate
is about the principle. Before we get into the
conspiracy theories of 1974 and the member
for Bennelong being elected, how do we fit
into that theory the fact that the New South
Wales Labor Attorney-General introduced
into the New South Wales industrial legisla-
tion identical clauses which we replicated
when we came to government not with Work
Choices but as early as 1996? It was not part
of Work Choices—it predates that. At the
time it was not commented on, not con-
demned and there was no statement to say
that it was outrageous. This has come up
now because of Senator Bob Brown’s per-
sonal beef with a particular organisation.
What is very concerning is that the govern-
ment has now agreed with Senator Brown to
join in that jihad. It is not for Senator Brown or for me to ask: how can something be a conscience matter? This legislation does not want Senator Bob Brown or me to be the judge. We give it to an umpire—Fair Work Australia—to examine and determine whether or not the conscience is genuine. What could be fairer than that?

Senator Bob Brown—That is not true!

Senator ABETZ—Senator Brown interjects. I refer him to the clause he wants to delete. Clause 485(3) says:

(3) FWA may endorse a conscientious objection certificate if FWA is satisfied—
so it must satisfy itself that the person who is to get this certificate—
… is a practising member of a religious society or order; and
(b) the doctrines or beliefs of that society … prevent membership of an organisation or body other than that society or order.

That is the test which has to be satisfied. For Senator Bob Brown to make the assertion that these people do not hold conscientious beliefs genuinely, that is for him to assert, but we have an independent body in this country which makes that determination. So Senator Bob Brown is saying that part of this great conspiracy will include Fair Work Australia in the future and that the Australian Industrial Relations Commission, which has, for the past 50 or more years provided such certificates, was part of this conspiracy as well. Unfortunately, that is where Senator Bob Brown is saying that part of this conspiracy will include Fair Work Australia in the future and that the Australian Industrial Relations Commission, which has, for the past 50 or more years provided such certificates, was part of this conspiracy as well. Unfortunately, that is where Senator Bob Brown’s dislike of a particular organisation has clouded his consideration of a fundamental principle and has, in effect, besmirched the Industrial Relations Commission—by saying that they have granted these certificates in the past in circumstances where the beliefs could not possibly be considered to be conscientious. That is a terrible slight on those good men and women in the Australian Industrial Relations Commission who give thought and consideration to these applications and then make a determination that a conscientious objection certificate should be provided to the particular person.

These certificates can only be applied for by the person who wants them. So you cannot have somebody else fronting up saying, ‘Joe Bloggs would like this and these are the reasons why.’ Joe Bloggs or Josephine herself would need to attend in person to make out the case—a very limited, very strict regime—so that when you read it you would think who on earth would want to apply for this certificate, unless you genuinely and conscientiously believed that which is being protected.

For a liberal-democratic society these sorts of conscientious objection clauses are one of its hallmarks. I also note with some interest that for those who so often try to make their career on the basis of preaching tolerance at all times, when the rubber hits the road they are often the most intolerant of those who have beliefs different from their own. I repeat: this is a principle issue; it is not whether you like an organisation or not. I dare say none of us in this chamber are members of the Exclusive Brethren for one good reason—none of us would agree with their views and beliefs. But just because we do not believe with somebody’s views and beliefs does not mean that we do not offer them, within our societal structure, the opportunity for conscientious objection. This is a fundamental principle and, as legislators, we have to be able to step back from our personal prejudices in certain circumstances and ask: what is the overarching principle? There is a very good and appropriate analogy, can I suggest to Senator Brown, with freedom of speech. Freedom of speech is a fundamental principle. People use it for good; people use it for bad. Nevertheless, it is a fundamental principle that we uphold very dearly, especially on this side of the chamber.
I repeat, we as a coalition, without wanting to enter into all the arguments for or against a particular organisation, are saying that we support a conscientious objection clause on principle. I remind senators that when the Fair Work Bill was considered by the Senate committee—on which there was Greens representation—this issue was not raised in the Greens minority report. The Australian Greens did not mention this as an issue. But they have snuck in an amendment, unfortunately with the support of the government. I simply say to them: it is not too late to abide by those fundamental principles that were held dear for many decades by Labor politicians in Queensland and New South Wales and Labour politicians in the federal parliament in New Zealand on the basis that there are some principles that are just worth adhering to, even if their consequences are such that some people that you may not necessarily be supportive of may benefit.

Senator Ludwig (Queensland—Minister for Human Services) (6.38 pm)—I will put my position on the record. Do you mind, Senator Brown?

Senator Bob Brown—No.

Senator Ludwig—Thank you. I have tried a couple of times to get into the debate. The government has had a very careful look at this. The conscientious objection certificate provisions exempt union entry to certain premises for the purpose of holding discussions with employees where no more than 20 employees work on the premises, where none of the employees are members of the union and where the employer of all of the employees holds a conscientious objection certificate. The Greens have moved an amendment removing ‘conscientious objection certificate’ from this section. So it is not at large. I am at a point of not quite going to what the opposition are saying. Conscientious objection can continue to exist under industrial organisations legislation. The government will support this amendment moved by the Greens, removing the conscientious objection certificate from this bill in the area that it subsists in.

There does not appear to be any compelling reason why an employer’s religious doctrine or belief should prevent a union from being able to talk to individuals whom that employer employs. Whether or not those employees wish to talk to the union, of course, should be a matter for them. On this point I note that the bill maintains the current protections that unions may only talk to employees who want to take part in those discussions. I would also note the limited effect of the existing exemption. It only applies in relation to entry for discussion purposes in circumstances where the employer employs fewer than 20 employees and none of those employees are union members. In addition, a conscientious objection certificate can only be endorsed where the employer is a natural person. This is because only a natural person is capable of having a conscientious objection based on religious beliefs. It means, when you look at it, that even where the person who owns or runs the company has a conscientious objection they will be unable to have it endorsed if the business is incorporated. Given the hour, I just wanted to be succinct so that the chamber is aware, should we go to a vote this evening, of what the government’s position is on this.

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (6.41 pm)—I will raise just a couple of things. Firstly, I think the government is making a sensible decision here. The Prime Minister did refer to the Exclusive Brethren as an extreme cult—and not without warrant. This is a cult that within recent decades required members to drink whisky because the elect vessel did. It is a cult that requires that women not be in a position of authority over
men under any circumstance. More notoriously, it is a cult that separates for life parents from children and children from grandparents and brothers and sisters. It breaks up families in the most cruel circumstances if they happen to leave the cult, because they are excommunicated. The literature on that is far and wide.

So much for freedom of speech and conscience. This clause, if it were allowed to stand, would simply give Exclusive Brethren bosses the right to deprive people in their workplaces of their freedom of speech, of their right to hold discussions. It would deprive them of their right to freedom of association. It would deprive them of their right to join a union. This has nothing to do with whether I like or do not like this organisation; it has everything to do with extending the right of 4,000 people in Exclusive Brethren workplaces to have an association, to have the unions brought in to hold discussions with them. That right—as we have heard from the government—should not be withdrawn by the employer. I might add, where is the conscience against being a member of another organisation? These employers have very prosperous businesses in Australia. They do not mind being part of the organisation of the Australian market, but when it comes to a union they draw the line. It is simply wrong. We should ensure that this excuse for depriving people in workplaces of their rights is not used by any religion—Christian or non-Christian—and it should not be extended to the Exclusive Brethren.

Senator ABETZ (Tasmania) (6.43 pm)—I wonder if I could ask the minister this question. The minister has indicated to us that all we are doing is removing ‘conscientious objection’ in relation to the right of entry to hold discussions.

Senator LUDWIG (Queensland—Minister for Human Services) (6.44 pm)—The right of entry provisions.

Senator ABETZ (Tasmania) (6.44 pm)—In what other circumstances would ‘conscientious objection’ be operable under this proposed legislation?

Senator LUDWIG (Queensland—Minister for Human Services) (6.44 pm)—I can go through the Workplace Relations Act 1996 in detail if you want me to. Those provisions have not been cavilled at in respect of the Fair Work Bill. At part 5 of the Act it provides:

180 Conscientious objection to membership of organisations

(1) Where a natural person:

(a) on application made to a Registrar, satisfies the Registrar:

   (i) in the case of a person who is an employer or is otherwise eligible to join an organisation of employers—that the person’s conscientious beliefs do not allow the person to be a member of an association of the kind described in paragraph 18(1)(a); or

   (ii) in the case of a person who is an employee or is otherwise eligible to join an organisation of employees—that the person’s conscientious beliefs do not allow the person to be a member of an association of the kind described in paragraph 18(1)(b) or 18(1)(c); and

(b) pays the prescribed fee to the Registrar;

the Registrar must issue to the person a certificate to that effect in the prescribed form.

That is, the longstanding provision dealing with conscientious objection for a person not to join a union remains. What we are dealing with tonight does not cavil at this provision. Section 3 of that act says:

(3) Subject to subsection (4), a certificate under subsection (1) remains in force for the period (not exceeding 12 months) …
So it is the usual provision where you pay the fee and you get the exemption from the registrar, and that operates for the period of 12 months or is otherwise renewed in a regular period of 12 months. It goes on from there. I will not go to any further matters unless the opposition want me to.

Senator ABETZ (Tasmania) (6.46 pm)—
I ask the minister whether that section will remain in the legislation in the transitional bill.

Senator LUDWIG (Queensland—Minister for Human Services) (6.46 pm)—
Yes.

Senator ABETZ (Tasmania) (6.46 pm)—
We will wait and see. I thought it was government policy not to require compulsory membership of any organisation these days, and in those circumstances why would you need to get a conscientious objection clause to joining an organisation if, as the government says, it now believes in voluntary membership? If there is no compulsion under awards or any other circumstances then clearly there is no requirement for a conscientious objection clause.

Senator LUDWIG (Queensland—Minister for Human Services) (6.47 pm)—
The short way of putting it is to go back to the 1996 model. I understand that you have a longstanding agreement with conscientious provisions remaining. I think we are keeping them in terms of the 1996 provisions. What happened after 1996 was that they differed in their operation. They were also included in the right of entry provisions. So we are keeping the certificates for conscientious objection, as I indicated. So in relation to the argument you have put forward about its having been a longstanding issue and that it is a fundamental freedom—not withstanding that freedom of association probably overbear on this in any event—the small point I make is that we will maintain these provisions should someone wish to seek a certificate from the registrar if they conscientiously object to joining a union.

Senator ABETZ (Tasmania) (6.48 pm)—
Can you quickly confirm that there is no longer the requirement in the regime for anybody to be compelled to be a member of an industrial organisation? And if that is right, then clearly conscientious objection is not required as part of the regime, and therefore my point stands: if we knock out conscientious objection in relation to this, conscientious objection will appear in name only and not in practice.

Senator LUDWIG (Queensland—Minister for Human Services) (6.49 pm)—
Do not take this as a facetious question: would you like us to remove that from the legislation?

Senator Abetz—No, you are removing conscientious objection.

Senator LUDWIG—In any event, I did not want to start an argument with respect to that. The short answer is that we are maintaining it in the way that it was structured in the 1996 legislation where, yes, it had freedom of association provisions and it had, in addition to that, the ability to have a conscientious objection. So both of those provisions are there. If you see some difficulty with them I am not sure I could persuade the advisers to remove the conscientious objection provisions on the basis of the argument you put forward but I am willing to give it a go.

Question put:
That the amendments (Senator Bob Brown’s) be agreed to.
The committee divided. [6.54 pm]
(The Chairman—Senator the Hon. AB Ferguson)
The question now is that clause 485 stand as printed.

Question negatived.

Progress reported.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Moore)—The President has received a letter from a party leader seeking variations to the membership of a committee.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (6.58 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Economics—Standing Committee—

Appointed—

Substitute member: Senator Crossin to replace Senator Furner on 31 March, 1 April and 8 April 2009

Participating member: Senator Furner

Environment, Communications and the Arts—Standing Committee—

Appointed—

Substitute member: Senator Crossin to replace Senator Lundy for the committee’s inquiry into forestry and mining operations on the Tiwi Islands

Participating member: Senator Lundy.

Question agreed to.

PERSONAL EXPLANATIONS

Senator MARK BISHOP (Western Australia) (6.59 pm)—by leave—I wish to make a statement concerning the most recent division on the Customs Tariff Amendment (2009 Measures No. 1) Bill 2009. I attended the previous division. I was unaware that the
bill was to be recommitted. I returned to a meeting being held in 2R2. At 17.57 I received a paged message to attend the division in the chamber. I immediately left 2R2 to attend the chamber. Halfway through my passage to the chamber, the bells stopped ringing. On reaching the chamber, the whip’s office advised me that two paged messages had been issued, one at 17.55 and a second at 17.57. I did not receive the first paged message at 17.55. I am advised by the whip’s office that my absence did not affect the outcome of the vote. I have subsequently provided my pager to the Black Rod’s Office for examination, checking and repair if necessary. I thought it appropriate to bring this matter to the attention of the chamber.

Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (7.00 pm)—by leave—We accept in full the explanation of Senator Bishop. We thank him very much for apologising to the chamber and for acknowledging that he missed a division. Unlike others opposite, we are not going to make a big issue out of this. We understand that this happens from time to time. It is important that we all reflect on this. The business of this chamber means that some senators on the odd occasions will not be able to attend the chamber for divisions. We certainly thank Senator Bishop for his comments and his apology to the chamber.

DOCUMENTS

Australian Radiation Protection and Nuclear Safety Agency

Senator IAN MACDONALD (Queensland) (7.01 pm)—I move:

That the Senate take note of the document.

That the Senate take note of the document.

It is important that the Australian Radiation Protection and Nuclear Safety Agency reports to the parliament. I am pleased to see the chief executive’s report for the period 1 October 2008 to 31 December 2008. We in Australia are all interested in radiation protection and nuclear safety.

This brings to my mind the question of nuclear energy and uranium. What I as a Queenslander am perplexed about is that in my state of Queensland the Labor government—and indeed this has a federal consequence as well—seems to be all over the ship on uranium issues. I raise this because the member for Mount Isa, Betty Kiernan, a Labor member, has said that she is very much in favour of uranium mining. I thought that it was Labor Party policy, both here and in the state of Queensland, to oppose uranium mining. I am aware that Mr Bill Ludwig, a very important man in the union movement in Queensland—he is from the AWU—and a person whose family tentacles reach even this august chamber, is also very supportive of uranium mining under certain circumstances. So I am confused as to what this is all about.

Those of us from Queensland would recall that the recent but one Labor minister for mines was Mr Tony McGrady. Mr McGrady was, prior to Ms Kiernan, the member for Mount Isa and a very important and influential person in the Labor Party. I understand that Tony, in his retirement, is now a lobbyist for the uranium industry. I understand that he totally supports not excluding uranium from the mix. I have heard other people say that, too. With climate change and greenhouse gas emissions, we have to look at all options—

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator Conroy, would you mind ceasing shouting across the chamber.

Senator IAN MACDONALD—Thank you for your protection, Madam Acting Deputy President. I know that Senator Conroy is trying to stop me being heard by the people of Queensland who might have an interest in
who is right in the Queensland Labor Party. Is it Ms Bligh, who seems to have the view that they are not going to do it, or is it Ms Kiernan, the Labor Party member for Mount Isa, who is saying that they should have a look at uranium? Or is it Mr Tony McGrady, the previous Queensland mines minister, a very influential person in the Labor Party who would now—and I hope that I am not maligning him—describe himself as a lobbyist for those interests that believe that uranium mining should be in the mix? I only say this because I am confused about what the policy is.

I am also confused about Ms Bligh. She said that only she and the Queensland Treasurer are guaranteed their ministry positions after the election—assuming that the Queensland people are going to return her; do not worry about the election; she is going to win anyhow. But she said that only a couple of ministers can be sure of their portfolios. Ms Desley Boyle, the minister based in the seat of Cairns, was one of those who was clearly being pointed out to get the axe. But I see that Ms Bligh was up in Cairns just yesterday and Ms Boyle apparently had a few words to her and said: ‘Hey, I’m not going nowhere. And after the election, Ms Bligh, it could be you that is getting the axe, not me, Desley Boyle.’ This is all relevant to the report—

Senator Conroy—I rise on two points of order, Madame Acting Deputy President. One is on relevance, because I am really not quite sure that this is relevant. The ACTING DEPUTY PRESIDENT—That is not a point of order, Senator Conroy. What is your second point of order?

Senator Conroy—My second point of order is that Senator Macdonald is casting aspersions on and making commentary about members of other chambers. That is traditionally something that we have not allowed. He is imputing a number of motives to members in other chambers and making claims about them and I ask you to call him to order and return him to the topic.

The ACTING DEPUTY PRESIDENT—I just draw Senator Macdonald’s attention to standing order 193. I know he will take care with his remarks. Senator Macdonald, you have 27 seconds left.

Senator IAN MACDONALD—Thank you, Madam Acting Deputy President. I am getting back to the report before the chamber, but, for Senator Conroy’s information, I am only reporting what the local press are saying. It is not my commentary; it is the commentary of people in the electorate of Cairns that Desley is not going to get the boot but Anna is going to be Premier. Anyhow, we will see on Saturday. This is an important report and I am pleased to draw the Senate’s attention to it.

Senator BIRMINGHAM (South Australia) (7.08 pm)—I too wish to take note of the quarterly report of the Chief Executive Officer of the Australian Radiation Protection and Nuclear Safety Agency, ARPANSA. This, of course, is one of Australia’s key nuclear safety bodies. It has responsibility for the sound management of our nuclear industry. Another key body is the Australian Nuclear Science and Technology Organisation, which is chaired by Mr Ziggy Switkowski, who I note is widely quoted in today and yesterday’s newspapers in relation to a speech on nuclear energy he gave in my home town of Adelaide. That speech is one of great import for this house, for this parliament and indeed for our country because it highlights once again the failure of the Labor Party to have an open mind and consider the full spectrum of potential solutions and responses to our climate change problems. Instead, this government is hell-bent on its own narrow-minded approach to addressing cli-
mate change issues rather than considering the nuclear response as one part of a fulsome response to the climate change challenges that Australia faces.

As a senator from South Australia, a state that is very dependent upon the mining industry and the mining resources of uranium, I believe that Australia needs to be doing much more to look at how we could make use, in a responsible, safe and appropriate manner, of those resources to provide us with lower cost, stable energy and baseload power into the future and simultaneously reduce our greenhouse gas emissions.

In his comments yesterday, Mr Switkowski was, firstly, quite damning of the government’s approach, which seems to be wholly and solely targeted at the emissions trading scheme. He said:

… the emissions trading scheme is a very complex path to no place significant …

Instead, he talked about the potential and the opportunity for nuclear energy. He said:

… nuclear energy is too important and effective a source of clean energy to be ignored.

Unfortunately, that is what this government is doing—ignoring this important potential source of clean energy. He went on to say:

If we were serious about reducing emissions then we would put most of our resources into developing the technologies that would give us cleaner energy, driving more productive use of electricity by our appliances and certainly introducing nuclear power.

I hope one day to see a situation where Australia can rely wholly and solely on totally renewable energy sources. That would be a wonderful situation and I urge and encourage the government, as I have done in this place many times before, to continue to support and invest in the solar industry. I had representations just this week from Origin Energy about their new SLIVER solar photovoltaic cell product, which they hope to receive additional support to roll out to thousands of homes potentially. I urge the government to continue to go down the path of encouraging geothermal, wind and tidal power and all those other alternatives.

But, for today, nuclear is a known source of energy. The rest of the world uses it extensively. We export it to the rest of the world for them to use it extensively and yet we choose to ignore the potential that it has here in our own country. Mr Switkowski said that under certain scenarios that potential could see an 18 per cent reduction in the use of fossil fuels in Australia, which of course would represent a significant reduction in our greenhouse gas emissions.

This government needs a clear and consistent policy on nuclear energy. It fails to have one. It fails to have one in relation to trade issues, where at present we see bizarre negotiations in situations where we are happy to consider selling uranium to China, we are not happy to sell it to India and yet we are keeping Russia—the chairman of whose upper house has been in the country recently posing questions on this matter—in a state of limbo, uncertain whether we are going to sell it to them or not. We need consistency from this government on climate change responses, which should include the potential of nuclear energy, and consistency on the trade of uranium. I urge the government to change its position. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Telecommunications Funding

Senator Barnett (Tasmania) (7.14 pm)—I move:

That the Senate take note of the document.

In doing so, I note that the purpose of the report refers to the representation of the interests of consumers in relation to telecommunications issues and that, indeed, under
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the Telecommunications Act 1997, research should be undertaken ‘with respect to the social, economic, environmental or technological implications of developments relating to telecommunications’. I say here tonight in the Senate that we in Tasmania are being left behind when it comes to broadband services. We are being left behind by both the federal and state Labor governments because of their inaction. Their inaction is hurting small business in Tasmania. Their inaction is hurting consumers in Tasmania and, indeed, the general public.

The Tasmania ICT organisation—or TASICT—has said on the public record that Tasmania’s inadequate broadband services have resulted in an estimated loss to the state of some $6.4 million in revenue and 700 jobs. That is a lot of jobs especially in a state like Tasmania; we need them. Government inaction at the state and federal levels is causing job losses. Their inaction is dilatory and they need to do better. At the federal level, the federal government just cannot seem to get the National Broadband Network rollout right. So far we have seen the ‘Labor bungle’: they have bungled the tender process with Australia’s major telco, Telstra, withdrawing completely and now, as I noticed recently, Optus have criticised the government, in a submission to a Senate committee, for scrapping the Howard government’s proposed OPEL network. Optus is right to criticise the Labor government. The OPEL network would have delivered high-speed broadband to 99 per cent of the country by the end of this year. Sadly, Labor’s sham plan has no clear date for the launch of their network, and the earliest that it can actually be delivered is in or around 2012.

At the state Labor government level, we have seen the announcement by Premier David Bartlett, with much fanfare, that Tasmania would be connected. This announcement was made in November last year. Of course it is now autumn and it is 18 March and we have seen nothing further. He indicated that it would be commenced in or around February, March, April or May this year, but we have heard nothing. He has not committed to a commencement date other than to say that hopefully it will be in the first quarter of this year. Well, time is progressing. There is a lack of clarity and it is extremely frustrating for service providers and consumers alike.

Tasmanian taxpayers have been paying $2 million a year since 2004 for nothing—diddly squat. It has been for renting a cable which is dormant on the sea floor of Bass Strait. That is $2 million of Tasmanian taxpayers’ money going down the gurgler big time. So Premier Bartlett should make it clear exactly when this broadband connection will start and what the total cost to date to the taxpayers of Tasmania is as a result of government inaction.

Interestingly, Digital Tasmania, represented by Andrew Connor—and I congratulate him on his leadership in Tasmania for standing up for small business and for better services—gave evidence to a Senate committee and he commented on the recent report from the industry peak body, TASICT. He knows that it is costing dollars, he knows that it is costing jobs in Tasmania and he also knows that efficient, timely, reliable and cost-effective broadband will deliver good results for Tasmania across the board. What we do know is that expensive and unreliable broadband is detrimental. It is a little bit like grocery prices and petrol prices: if they are high, then they hurt the average Joe and the average mum and dad out there. Frankly, it is simply not good enough and Tasmania deserves a whole lot better. I seek leave to continue my remarks.

Leave granted.
Consideration

The following order of the day relating to government documents was considered:


General business orders of the day nos 57 to 61 and 63 relating to government documents were called on but no motion was moved.

The PRESIDENT—It being 7.20 pm, I propose the question—

Senator Brandis—Mr President, I rise on a point of order. I am confused. The reason for my confusion is that this debate goes for 30 minutes. The debate has not been going for 30 minutes. I can see it is 7.20 pm. The debate has not been going for 30 minutes because there was a division at 6.50 pm.

The PRESIDENT—Senator Brandis, 7.20 pm is the fixed time. It is at ‘7.20 pm, or when consideration of government documents concludes’.

Senator Brandis—Yes, ‘or when consideration of government documents concludes’. But the consideration of government documents goes for 30 minutes.

The PRESIDENT—They spill over until the next time for government documents. They do not get lost, Senator Brandis. They remain available on the Notice Paper to be addressed.

Senator Brandis—Mr President, with respect, it is not 7.20 pm alone. It is ‘7.20 pm, or when consideration of government documents concludes’ and 30 minutes is a fixed time allocated to the consideration of government documents. We have not had the 30 minutes.

Senator Payne interjecting—

Senator Brandis—As Senator Payne says, it is not like the adjournment, which must be taken at a fixed time. This is a variable time.

The PRESIDENT—Senator Brandis, I hear what you say. It is up to 30 minutes. The clerks at the table advise me that the adjournment is proposed on Wednesdays, in accordance with paragraph xii, at 7.20 pm or it can be proposed earlier.

Senator Brandis—Are you saying there is an error in the way in which this is expressed on the red, Mr President?

The PRESIDENT—Sorry, Senator Brandis?

Senator Brandis—Are you saying there is an error in the way in which this is expressed on the red, which there may well be?

The PRESIDENT—It may well be that if that is the interpretation that has been placed on it, Senator Brandis. We will look—

Senator Brandis—Item 20 of the red indicates that it is a variable time with ‘7.20 pm, or when consideration of government documents concludes’. Item 19 indicates that consideration of government documents can go for 30 minutes.

The PRESIDENT—Senator Brandis, I hear your point. The adjournment can be called before 7.20 pm but it cannot be called later than 7.20 pm and hence, in the Standing Orders we have reference at paragraph (xii): At 7.20 pm adjournment proposed.

If it is a difficulty in the way in which the words have been placed on the Notice Paper or the red, I will see if we can make that clearer so that this is not to confuse people into the future.

ADJOURNMENT

The PRESIDENT—Order! It being past 7.20 pm, I propose the question:

That the Senate do now adjourn.
Rock Lobster Industry

Senator PRATT (Western Australia) (7.23 pm)—I rise today to speak on a matter of great importance to the Western Australian community. I refer to the perilous state of WA’s estimated $300 million per annum rock lobster industry. It also potentially represents an environmental collapse of this important species. We have got to do lots of work to make sure that we know what is going on. I refer also to the mismanagement of this important industry by the current WA government, who I believe is asleep at the wheel on this issue. I would like to emphasise that the head-in-the-sand approach to climate change of the Howard government has perhaps contributed to the parlous state of the WA rock lobster industry.

The industry has relied on sophisticated scientific models to predict the potential catch for the crayfish season several years ahead. But interconnected changes in wind, water temperature and ocean currents appear to be disrupting these predictive models. The crayfish life cycle includes great migrations of adults to deeper waters to lay eggs. The larvae that hatch from the eggs are swept long distances offshore and back. Eventually currents will carry juveniles from offshore to inshore reefs. There they feed and grow for three years or more before they are at catching size. Puerulus settlement is affected by the south-flowing Leeuwin current, which is in turn powered by the El Nino southern oscillation cycle, the intercontinental gradient that gives us the well known El Nino and La Nina.

Climate change has given us more frequent El Nino, which means a weaker Leeuwin current and climate change has made the water temperature increase. Climate change has caused the westerly winds in winter to weaken and slip south. It is, therefore, highly likely that there is a connection between climate change and the dramatic drop in puerulus numbers this year and scientists will need to adjust their predictive models to cope with these changes in our climate.

Western rock lobster fishing families have raised their plight with me and it is indeed a sorry story. In February this year, the WA Minister for Fisheries, Norman Moore, announced additional measures to address a crisis in the WA rock lobster future stock. This was on top of measures announced prior to the start of the rock lobster season. The earlier measures included a 15 per cent reduction in unit values—or lobster pots—introduced at the start of the season. The February measures included restricting fishing times and bringing forward to 1 March a further 15 per cent reduction in unit values proposed for next season.

So what this means is that the minister took a decision to change the rules under which the industry was operating and this happened after the season had started. Families in the fishing industry had made financial commitments based on what they thought the rules were. For example, some had taken out loans to acquire lobster pots for the season and others had remortgaged their homes. Yet after the season had started, and they had made these commitments on the basis of the rules as announced, the rules were then changed.

I am not arguing that measures were not needed to address a dramatic drop in the numbers of puerulus or larval lobsters but that this was not done before the season started so that the industry could plan ahead and that is damning. It points to a lack of adequate planning on the part of the government. And it really suggests that the minister has not consulted adequately with the WA rock lobster industry about where the larval stocks were growing.
So where does this leave the industry, an industry that is struggling to survive in the face of contracting markets in the United States and Asia and as banks increasingly tighten up on credit for small business? I believe, in the face of these challenges, there is a clear case for the WA state government to provide financial relief for the industry. As the shadow minister for fisheries in WA, Hon. Jon Ford, has pointed out:

It is unfair to change the goalposts once a season has already commenced without offering some form of assistance.

It is unfair indeed—unfair to those working in the industry, unfair to their families and unfair to consumers. There are different ways such a package could operate. According to Mr Ford, it:

… could take the form of discounts or exemptions on licence fees, ex-gratia payments, assistance in negotiating the refinancing of commercial loans, and assistance and strategies in retaining staff.

But the next question here is: why did the original western rock lobster management plan, instigated only a few months ago by Norman Moore, fail? In relation to this question, the spectre of climate change looms large. But the fact is that we need better information. We need better information because the former Howard government had its head in the sand that climate change even existed. As climate change deniers, they were incapable of assessing the extent of climate change, let alone of assessing its impacts including its impacts on the now precariously operating WA rock lobster industry.

But I am pleased, Senators, that the Rudd Labor government knows that climate change is real. I am pleased that the Rudd Labor government is working toward getting real evidence about the current and future impact of climate change on all our industries, including the WA rock lobster industry. The Rudd Labor government recently announced a more than $6 million investment in the future of our fishing industry. This means getting the evidence to sustain and create jobs in the industry into the future. This is important news for the WA rock lobster industry.

Just last Friday, the Minister for Agriculture, Fisheries and Forestry, Tony Burke, announced funding for WA rock lobster research through the Fisheries Research and Development Corporation, the FRDC. Research projects in WA will include over $400,000 to identify factors affecting the low western rock lobster larval stock. This research will involve assessing environmental factors, including water temperature, current, wind, productivity and eddies, which may well relate to climate change. There will also be further funding of more than $130,000 to help evaluate the potential use of new techniques for determining harvest rates and driving efficiency increases in the WA rock lobster fishery. I note that the University of Western Australia is also going to receive an additional $165,000 to conduct an evaluation of the WA rock lobster population genetic structure and to look for severe bottlenecks in population size.

These specific initiatives are in line with the Rudd Labor government’s commitment to help prepare Australia’s primary industries for climate change and build resilience in our agricultural sector into the future. The Rudd government is already delivering on this commitment. It has already announced the $46.2 million Climate Change Research Program in agriculture, to which the fishery industry can also apply. The Climate Change Research Program is a competitive grants program that provides grants of between $50,000 and $5 million, on a matching funding basis, to support research and development, proof of concept and early stage commercialisation activities to develop solutions to climate change challenges.
Under Australia’s Farming Future arrangements, the Rudd Labor government is also taking further steps to help the fishing industry confront an uncertain future. These arrangements will allow wild harvest fishers to apply for grants under the FarmReady program of up to $1,500 per financial year to attend things like FarmReady approved courses. These courses focus on equipping primary producers with the tools to manage and adapt to the impacts of climate change. In addition, FarmReady Industry Grants provide eligible industry organisations with grants of up to $80,000 to help develop the skills and strategies needed to respond to the impacts of climate change.

Unlike the Howard government, the Rudd government is taking action on climate change and its inevitable impacts. But in the case of the WA rock lobster industry, the challenge will be ongoing. That is why I urge the Rudd government to continue to lead the way by providing better coordination of information across the western rock lobster industry. I also ask the Rudd government to work with all the relevant members of the industry, researchers and fisheries managers to discuss the reasons behind the crisis facing this important industry. (Time expired)

**Turkish-Australian Community**

Senator FERGUSON (South Australia) (7.33 pm)—Mr President, as you are well aware, I rarely speak on adjournment, but tonight I have been moved to speak because of a series of events that have taken place this week. In particular, I want to say to the Senate that this year is the 40th anniversary of the formal Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Turkey concerning the Residence and Employment of Turkish Citizens in Australia. The aim is to celebrate and commend the achievements of the Turkish community here in the Commonwealth of Australia that has been created as a result of this agreement in the 40 years since its implementation.

I was most concerned to receive a visit from the Turkish ambassador earlier this week in which he expressed his deep concern about a speech that was made by the Hon. Michael Atkinson, the Attorney-General, Minister for Justice and Minister for Multicultural Affairs in the Labor government in South Australia. I had not thought that I would be surprised by anything that the South Australian Attorney-General said in relation to the Turkish community, particularly as most state parliaments do not have a role in foreign affairs in the same way that the federal parliament does.

I have had the privilege of visiting Gallipoli and being a guest of the Turkish government. I will concede that at the outset. I have had the privilege of going to Gallipoli, where our two countries were once enemies. Since that time, the Commonwealth of Australia and the Republic of Turkey have established a unique relationship and a bond forged in the blood of young men from both our nations. This uniqueness, at the core of the deep-rooted relations between our two countries, gained even more momentum following the unforgettable reconciliatory remarks of the founder of the modern Turkish republic, Mustafa Kemal Ataturk, to the mothers of the fallen Anzac soldiers. He said:

You, the mothers who sent their sons from far away countries, wipe away your tears. Your sons are now lying in our bosom and are in peace. After having lost their lives on this land, they have become our sons as well.

There is no statue or plaque more moving than the one at Ari Burnu, on the beach at Gallipoli. The words of Ataturk are there for all Australians and others to read.
So you can imagine how surprised I was to be told this week by the Turkish ambassador that Michael Atkinson, the South Australian Attorney-General, in a speech to the Greek association in South Australia—and the Pontians in particular—made the following statement. I cannot believe that a minister would say this. He made reference to:

The nationalist Turks led by Mustafa Kemal’s forces and their frenzied followers began to persecute them through beatings, murder, forced marches and labour, theft of their properties and livelihood, rape, torture and deportations.

The Turkish ambassador found that most offensive, and a wholly unjustified caricature of the truth. It can only cause deep ill-feeling, not the least since Mustafa Kemal was the leader of a nation that was, at that time, fighting for its survival against an invasion from Greece—a point that the Attorney-General in South Australia seemed to overlook.

We can all try to rewrite history. There were atrocities in the past. We are talking about events that took place almost 100 years ago. There are always debatable issues. We have the situation with the Armenians, with the Pontian Greeks and with a range of other people who currently are trying to put today’s moral judgment on events that took place 100 years ago. These events cannot be accurately depicted. I have no doubt that there were atrocities on both sides. But those of us today find it very difficult to pass judgment—we should not be passing judgment when we do not know the full facts.

The Turkish nation is now a friendly power. Members of the Turkish community have integrated into Australian society and become wonderful Australians. To be reminded of events that took place in history that long ago, and a biased interpretation if I may say so, is certainly not warranted. I acknowledge along with a lot of others the unique relationship that exists between Australia and Turkey—a bond that has been highlighted by the commitment of both our nations to the rights and liberties of our citizens and to the pursuit of a just world, which was highlighted in a statement of Kamel Ataturk: ‘Peace at home; peace in the world.’ I commend the Republic of Turkey’s commitment to democracy, to the rule of law, and—particularly in the region in which it lives—to secularism, which is something that is quite unique in that part of the world.

On this, the 40th anniversary of the formal Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Turkey concerning the Residence and Employment of Turkish Citizens in Australia, we pledge our friendship with, our commitment to and our enduring support of the people of Turkey as we celebrate this important landmark together.

In relation to the Attorney-General in South Australia—and I am not saying this personally; I am saying it because I think it was a very ill-judged statement to make. It was obviously made in the context of being at a Greek function where it was suitable for him to make these remarks. But such a speech coming from a minister in a state government is very damaging to the otherwise excellent relations between our two countries. I would contrast that with the conciliatory words to the mothers of fallen Anzacs at Gallipoli of the great statesman and founder of the Turkish Republic, Mustafa Kemal Ataturk. I commend the Senate to take note of the statement that was made by the minister but I also commend to the Senate that in fact we reaffirm our commitment to the wonderful friendship that exists between our two countries. I fully understand the concern expressed by the Turkish ambassador who, as well as being a wonderful representative of his country in Australia over
Mr Michael Atchison

Senator WORTLEY (South Australia) (7.41 pm)—I rise tonight to speak about one who South Australia claims as its own, and who sadly we recently farewelled. Cartoonist, artist and educator, Michael Atchison died on 16 February this year at the age of 75. I had the honour of having Michael as a colleague in my days at the Adelaide Advertiser. And I also had the honour in 2004 of inducting him into the South Australian Media Hall of Fame, the state’s highest industry award, recognising an individual’s long-term commitment and achievement in the media.

Michael began work at the Advertiser in 1967 and spent his career closely examining the lives and times of the political characters which graced the state, national and world stages. He worked for such auspicious publications as Britain’s Punch to Australia’s racy Man magazine as well as newspapers now defunct, including Sydney’s Daily Mirror and the Sunday Advertiser. He explored and brought to light idiosyncrasies of our politicians with a deft hand on a daily basis.

He cited amongst his favourite subjects political leaders Paul Keating, Bob Hawke, Don Dunstan and Steele Hall, while sports personalities, film stars and just about anybody in the public spotlight was unable to escape his attention. While some journalists spend thousands of words exploring the ins and outs of the rich, the famous and the infamous, Michael could capture the essence of the story in one satirical blow—all with the help of his trusty art pens and, for around 30 years a furry little dog who became instantly famous by urinating in his first ever appearance in the media.

Michael’s was an extraordinary talent and he was recognised by his cartooning peers as one of the great Australian political satirists. In 1998 he was bestowed with the hallowed artist’s smock by his colleagues, a tradition dating back to the 1920s, in appreciation of his service to the cartoonist profession. The list of accolades for Michael is long and includes a Medal of the Order of Australia for service to the community as a political and social commentator through the print media and as an author and cartoonist. Despite the esteem in which he was held, he was a humble man and he never sought recognition by entering awards.

Michael’s cartoon history of word origins, Word for Word, has appeared daily in newspapers in Australia and around the world since 1989 and has been well loved by his many thousands of readers. A friend and colleague, South Australian poet and columnist Max Fatchen said of Michael:

When he sat down with his pen, magic flowed from it because he looked at humankind in a passionate but perceptive way.

Another colleague, friend and well-known Advertiser journalist and arts critic Samela Harris said on his passing:

For 40 years, Atchison made people laugh, smile and think. He had that quirk of intelligent mind which could see the comic and ironic aspects of even calamitous events.

Michael had other passions, among them teaching. It was while studying at Adelaide Teachers College that he met his beloved wife, Olga, then a fellow student art teacher. Their five-decade partnership produced two daughters, Michelle and Nicola, and three grandchildren. Michael’s working days began with six years of teaching, before he moved with Olga to Britain to work as a freelancer. While abroad he was for seven years art director of a London advertising agency.

His love for teaching never faded though. After his return to Australia, from 1968 until 1997 this was his morning occupation before
arriving at the *Advertiser* to set about his daily creation. His love for mentoring art students at his own Adelaide alma mater, Kings College, today known as Pembroke School, was well known. In Samela’s words, ‘Michael Atchison is no longer with us but his humour remains, timeless in its perfect encapsulation of the big themes of life.’

**Commonwealth Grants Commission**

**Senator CASH** (Western Australia) (7.46 pm)—I rise to address an issue that is relevant to Western Australia. It follows the announcement by the Commonwealth Grants Commission that Western Australia is to receive a $311 million cut in its share of GST revenue for 2009-10. This is set out in the Commonwealth Grants Commission’s *Report on state revenue sharing relativities 2009 update*, which was tabled in the Senate last Thursday. This cut in Western Australia’s share of GST revenue for 2009-10 represents an 8.9 per cent reduction in the amount estimated in the 2008 relativities update and comes on top of a reduction of $326.7 million last year as a result of the 2008 relativities update. This is well below our state’s population share of more than 10 per cent.

The GST revenue grants made by the Commonwealth to the states and territories are provided under the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations agreed in June 1999 between the Commonwealth and the states. These GST revenue grants represent the most important and indeed the greatest single source of revenue for the states and territories. The 2008-09 Western Australian budget papers indicate that in 2008-09 Western Australia’s GST revenue would represent approximately 19 per cent of total revenue. It is, therefore, obvious that any reduction in this state’s share of the GST has a significant impact on the state’s capacity to provide the infrastructure and services required by our resource based economy.

I recognise that the Commonwealth Grants Commission recommendations for the distribution of GST revenue to the states and territories are based on the principle of horizontal fiscal equalisation and that in implementing the equalisation the Commonwealth Grants Commission states that ‘assessments are based on the average expenses incurred by states to provide services and the average revenues collected from their taxes and charges’. However, the situation is becoming unsustainable for Western Australia. So much so that, within three years, for every GST dollar that Western Australia contributes we will get a return back to us of only 57c. The Commonwealth Grants Commission justifies their analysis and reasons for their recommendations in relation to Western Australia on the basis that:

In the last update—
being the 2008 update—

Western Australia became the State with the strongest fiscal capacity, replacing New South Wales. In this update, its relative capacity increased further.

... ... ...

The continued strengthening of the relative capacity of Western Australia ...to raise revenue from their own sources, has led to a compensating redistribution of the pool away from them to other States, notably New South Wales.

Based on the 2009 relativities, last year in the 2008 update Western Australia had the highest average fiscal capacity and this fiscal capacity has further strengthened in this latest 2009 update. The relativities update report notes that this change occurred because of a further rise in Western Australia’s relative revenue-raising capacity. WA’s relative costs of providing services and its share of Commonwealth payments were almost unchanged. The resulting overall change in its
relative fiscal capacity reduces, amazingly, its share of the GST by $311 million.

It is already the case that Western Australia’s net fiscal contribution to the Commonwealth is rising dramatically. In the 2007-08 Economic and Fiscal Overview, which is one of WA’s annual budget papers, it was noted that in the fiscal year 2005-06 the Commonwealth took $5 billion more out of Western Australia, through its own taxes, than it put back into the state through grants and other spending. This was up $1 billion in fiscal year 2006-07 due to the increased company taxes from Western Australia. Given that this trend is continuing, it is no surprise that the Premier of Western Australia, Colin Barnett, is calling for changes to the current formula that is used by the CGC to determine state and territory relativities.

I note that the current Commonwealth Grants Commission five-year review is due to report to the government in February 2010. It is critical that the Commonwealth Grants Commission recognise the flaws that exist in the present system. WA’s 2007-08 Economic and Fiscal Overview budget paper lists some of the obvious flaws in the Commonwealth Grants Commission process, including the following:

- the Grants Commission does not recognise costs of State initiatives specifically aimed at promoting economic development …
- … any of the interest costs of financing the infrastructure investment needed to cater for the State’s rapid … economic growth …

and:

- the Grants Commission has not fully recognised costs in remote areas, due to distance from the capital city, higher demands on public health services from a lack of general practitioners, and the cost of subsidies to ensure affordable electricity services.

But the need for changes to the distribution formula is not restricted to Western Australia; other states have actually come out in support of a review. We say that Western Australia continues to be penalised for the work it has done in the past in encouraging mineral and petroleum exploration which has now matured into economic benefits for the whole of Australia. We say that the current Commonwealth Grants Commission formula fails to take into account the real costs of economic success and, in its present form, has the effect of rewarding failure or nonachievement, rather than rewarding success and recognising the costs associated with achieving economic success.

The fact that the relativities are based on a five-year rolling average means that, notwithstanding the fact that the mineral boom has come to an abrupt end in Western Australia, our past economic success will actually count against us for at least the next three years. This lag created by the five-year rolling average means that Western Australia be penalised for its economic success for years after the mineral boom in the state has ended.

We need a Commonwealth Grants Commission formula that rewards best performance and embraces the principles and concepts of competition and productivity. This formula must avoid ambiguity and be able to respond promptly to changes in economic issues and changing economic circumstances. Success must be encouraged and rewarded; failure must be discouraged. There is no doubt that the current Commonwealth-state financial relations need urgent review if we are to be satisfied that the Commonwealth Grants Commission’s methodologies and processes meet the tests of equity, ease, effectiveness, efficiency and transparency.

In 2001 Western Australia joined New South Wales and Victoria in commissioning Professor Ross Garnaut and Dr Vince Fitzgerald, both respected economists, to conduct a comprehensive review of Common-
wealth-state financial arrangements. The report, titled *Review of Commonwealth-state funding*, was published in 2002 and contains significant research and recommendations on the improvements needed to make Commonwealth-state financial arrangements more effective and efficient and beneficial to the people of Australia. There is clearly much to be done to address many of the issues and recommendations in the report. But I reiterate: we need a Commonwealth Grants Commission formula that rewards best performance and embraces the principles and concepts of competition and productivity.

**Senate adjourned at 7.55 pm**

**DOCUMENTS**

**Tabling**

The following government document was tabled:

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 October to 31 December 2008.

**Tabling**

The following documents were tabled by the Clerk:

Christmas Island Act—List of applied Western Australian Acts for the period 16 September 2008 to 15 March 2009.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 16 September 2008 to 15 March 2009.

Defence Act—Determinations under section 58B—Defence Determinations—

- 2009/16—Additional recreation leave and travel on a long-term posting – amendment.
- 2009/17—Miscellaneous amendments.
- 2009/18—Medals and awards.
- 2009/19—Education costs for child – amendment.
- 2009/20—Army trade transfer bonus, education assistance and settling in/settling out allowance – amendment.

**Indexed Lists of Files**

The following document was 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—Statement of compliance—Resources, Energy and Tourism portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Treasurer: Communications
(Question Nos 761, 762 and 763)

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 30 October 2008:

(1) Since the 2007 Federal Election, on how many occasions has there been communications between the Minister and:
   (a) the Governor of the Reserve Bank of Australia;
   (b) the head of the Australian Office of Financial Management;
   (c) the head of the Australian Prudential Regulation Authority;
   (d) the head of the Australian Securities and Investments Commission;
   (e) the Secretary of the United States Department of the Treasury;
   (f) the head of the United States Federal Reserve;
   (g) the head of the Australian Stock Exchange;
   (h) the head of each of Australia’s major banks (Commonwealth Bank of Australia, Westpac Banking Corporation, National Australia Bank, Australia and New Zealand Banking Group Limited (ANZ));
   (i) the head of the World Bank; and
   (j) the head of the International Monetary Fund.

(2) For each separate communication in (1) please provide details of: (a) date; (b) place; (c) medium; and (d) duration.

Senator Conroy—The Treasurer has provided the following answer to the honourable senator’s question:

The very detailed information sought in the honourable senator’s question is not readily available in consolidated form and it would be a major task to collect and assemble it. The practice of successive governments has been not to authorise the expenditure of time and money involved in assembling such information on a general basis.

Agriculture, Fisheries and Forestry: Media Monitoring
(Question No. 915)

Senator Ronaldson asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 25 November 2008:

What is the aggregate amount spent by the department on media monitoring during the 2008 calendar year.

Senator Sherry—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

From 1 January 2008 to 24 November 2008 the Department of Agriculture, Fisheries and Forestry spent $233,040.69 on media monitoring.
Veterans’ Affairs: Program Funding  
(Question No. 1114 amended)

Senator Abetz asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 3 December 2008:

(1) (a) For the period 1 December 2007 to 30 June 2008, what funds has the Government committed to spend under regulation 10 of the Financial Management and Accountability Act 1997 (the Act) for each department and/or agency that operates under the Act in the Minister’s portfolio; and (b) how much of this commitment was approved: (i) at the department or agency level, and (ii) by the Minister for Finance and Deregulation.

(2) How much depreciation funding for each department or agency in the Minister’s portfolio: (a) was available as at 30 June 2008; (b) was spent in the 2007-08 financial year; and (c) was spent in the 2007-08 financial year to directly replace assets for which it was appropriated.

Senator Faulkner—The Minister for Veterans’ Affairs has provided the following amended answer to the honourable senator’s question:

Department of Veterans’ Affairs (DVA)

(1) (a) $6.720 million; and
(b) (i) $6.720 million; and
(ii) Nil.

(2) (a) Nil;
(b) $17.552 million; and
(c) $10.093 million.

Australian War Memorial

(1) Not applicable.
(2) (a) $14.761 million;
(b) $15.6 million; and
(c) $15.6 million.

Human Services: Moncrieff Electorate  
(Question No. 1280)

Senator Mason asked the Minister for Human Services, 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 Ludwig—The answer to the honourable senator’s question is as follows:

The Department of Human Services did not provide any funding in the form of donations, sponsorships or gifts to organisations and projects within the Moncrieff electorate during the period 3 December 2007 and 20 January 2009.
Senator Abetz asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 10 February 2009:

With reference to the answer to question on notice 1210 (Senate Hansard, 4 February 2009, p. 102):

Can the Civil Aviation Safety Authority (CASA) confirm that the Violations of Controlled Airspace (VCAs) that did not result in prosecution did not involve other breaches as well as VCA breaches.

What factors separated the 18 cases referred to CASA’s Enforcement Policy and Practice Branch from the remaining 5,094 that were not referred to the branch.

Senator Conroy—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

The two matters that were prosecuted involved other breaches which included breaches of the Civil Aviation Act and could not be addressed by action such as issuing infringement notices. CASA can confirm that 14 of the 16 were single VCA offences. The remaining two involved several regulatory offences that were appropriately handled by counselling and infringement notices.

The majority of VCA are single occurrences, that is, a one-off event involving minor infringements of airspace by either student pilots or private pilots who infrequently operate in or near controlled airspace. In these cases CASA usually takes an educative approach. This approach is more likely to produce a better safety outcome than moving directly to an enforcement response. Similarly, where infringements involve student pilots, particularly from large training establishments where the student population is one for whom English is a second language, in addition to dealing with the individual pilot, the matter is also taken up with the flying training organisation. CASA also conducts regular general education campaigns aimed at the pilot population at large. However, where the circumstances warrant, as shown above, CASA will take appropriate enforcement action.