INTERNET
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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

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For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-SECOND PARLIAMENT
FIRST SESSION—FIFTH PERIOD

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

Senate Officeholders

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

Senate Party Leaders and Whips

Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Leader of the Liberal Party of Australia—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Leader of the Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of the Nationals—Senator Fiona Nash
Leader of the Australian Greens—Senator Robert James Brown
Deputy Leader of the Australian Greens—Senator Christine Anne Milne
Leader of the Family First Party—Senator Steve Fielding
Chief Government Whip—Senator Kerry Williams Kelso O’Brien
Deputy Government Whips—Senators Donald Edward Farrell and Anne McEwen
Chief Opposition Whip—Senator Stephen Shane Parry
Deputy Opposition Whips—Senators Judith Anne Adams and David Christopher Bushby
The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert
Family First Party Whip—Senator Steve Fielding

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

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(1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.
(2) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Ian Campbell, resigned.
(3) 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
Minister for Defence and Vice President of the Executive Council Senator Hon. John Faulkner
Minister for Trade Hon. Simon Crean MP
Minister for Foreign Affairs and Deputy Leader of the House Hon. Stephen Smith MP
Minister for Health and Ageing Hon. Nicola Roxon MP
Minister for Health and Ageing Hon. Jenny Macklin MP
Minister for Finance and Deregulation Hon. Lindsay Tanner 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
Cabinet Secretary, Special Minister of State 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
Minister for Financial Services, Superannuation and Corporate Law and Minister for Human Services Hon. Chris Bowen, MP

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

Minister for Veterans’ Affairs
Minister for Housing and Minister for the Status of Women
Minister for Home Affairs
Minister for Indigenous Health, Rural and Regional Health and Regional Services Delivery
Minister for Small Business, Independent Contractors and the Service Economy, Minister Assisting the Finance Minister on Deregulation and Minister for Competition Policy and Consumer Affairs
Assistant Treasurer
Minister for Ageing
Minister for Early Childhood Education, Childcare and Youth and Minister for Sport
Minister for Defence Personnel, Materiel and Science and Minister Assisting the Minister for Climate Change
Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery
Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government
Parliamentary Secretary for Defence Support and Parliamentary Secretary for Water
Parliamentary Secretary for Western 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 the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion
Parliamentary Secretary for Multicultural Affairs and Settlement Services
Parliamentary Secretary for Employment
Parliamentary Secretary for Health
Parliamentary Secretary for Industry and Innovation

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. Greg Combet AM, MP
Senator Hon. Mark Arbib
Hon. Maxine McKew MP
Hon. Dr Mike Kelly AM, MP
Hon. Gary Gray AO, MP
Hon. Bill Shorten MP
Hon. Bob McMullan MP
Hon. Duncan Kerr SC, MP
Hon. Anthony Byrne MP
Senator Hon. Ursula Stephens
Hon. Laurie Ferguson MP
Hon. Jason Clare MP
Hon. Mark Butler MP
Hon. Richard Marles MP
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 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 12.30 pm and read prayers.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.30 pm)—by leave—We are now in the last two weeks of this sitting period. During this period we usually, through a leaders and whips process, ask for additional sitting hours so we can deal with the legislation that is before us. The amount of legislation that we have to deal with is not insubstantial, and we would like to set additional hours to ensure we can finalise the business by some time towards the end of next week. That will provide certainty to the government and to those on the opposition, the minor and the Independent benches about what those hours will be and what times they will be expected to be here to deal with the legislative agenda. We can also deal with the proposed bills that will come up because we can then schedule, and people can cut their cloth in their contributions to the bills accordingly.

At this juncture we are at what I call a ‘slight stalemate’. The view of the government is that we would like to sit additional hours this evening. There are substantive bills to be dealt with, including the fair work legislation. From the government’s perspective, we would like to use this evening to conclude the committee stage of that debate. However, at the moment we do not appear to have an agreement to sit additional hours. I could seek to move a motion and have a debate about this particular issue now, but I do not think that would be helpful. There is an understanding—as I understand it, but I am happy for the Manager of Opposition Business to contribute to this short statement as well—that we will indicate by this afternoon whether or not we judge that we can finish the relevant legislation for today and towards the end of the week within reasonable hours.

My understanding is that the opposition is minded to participate in that and is willing to cooperate to the extent possible to deal with budget bills and the like. There is a further issue about broader bills within budget bills and those other bills that are on the program that the government wants to progress during this sitting week and next week. I understand the opposition’s position, but the government does find itself in a position of pressing for those additional hours to ensure that those bills can be debated and dealt with in a way that suits all present and so that everyone can contribute to the debate. If that means that I defer moving the motion asking for additional hours tonight, I will do that, but I thought it was incumbent upon the government to at least flag that there may be additional hours tonight so that the whips can deal with that as well. Of course, the Senate will determine whether we do sit late tonight. Hopefully we will be able to reach an agreement, which is always a much better position to arrive at.

Senator PARRY (Tasmania) (12.34 pm)—by leave—The opposition is of a mind to assist the government in facilitating its urgent legislation program—and, by urgent legislation, I mean the package of bills that the Manager of Government Business has provided to us and discussions that we have had on it. However, it needs to be noted that, whilst we will facilitate this as much as we possibly can, if we keep agreeing to hours changes by this government, when this government has set the lowest number of sitting weeks in any calendar year outside of an election year since the Second World War, then this parliament will not be proceeding in the correct manner it should in considering bills in a timely, orderly fashion and in such
a way that the program is set and not changed on a daily basis. We understand flexibility is needed from time to time, but the government has been warned—and I can quote the Hansard on previous occasions when I have warned the government—that we will not continually facilitate mismanagement of the chamber.

Sitting weeks have been one problem. Also, the opposition have been exceptionally generous in giving up matters of public importance on a constant basis. We have also given up the time that the opposition have on a weekly basis—that is, the Thursday afternoons when we have opposition business. We have facilitated the government on previous occasions just this year on that alone, let alone at previous times during the last calendar year since this government has been in power. We are very mindful that the government has an agenda and that the public of Australia need to have some bills passed. We will not stand in the way of those bills being proceeded with this week and next week. And, if we need additional hours next week to facilitate some of those bills—or indeed this week, if the need can be clearly demonstrated—we will seriously consider that. In relation to the packages for today that Senator Ludwig is referring to, there are four packages that have been indicated to my office as those that we need to have completed, and we have agreed with that. We have said, ‘Yes, these four packages can proceed,’ and it is our view that these packages can be completed during the time allocated on the regular program for today.

To that extent, we have also given up matters of public importance again today to give the government an extra hour. We have lodged a notice for a matter of public importance but it is our intention to withdraw that on the basis that we will assist in the facilitation of the program for the day. I say to the Manager of Government Business that, if the program had been better constructed from day one, if the timetable for the Senate had been set not around the Prime Minister’s travel arrangements and the other needs of the government but around a sensible, full legislative program for the year, we probably would not be having this discussion now. Last night we had an example of a non-urgent bill—a highly desirable bill, according to the list that was provided by the government—being introduced at the end of the day.

The government really needs to consider its program and give us plenty of warning. Do not constantly rearrange. Where this nation needs legislation passed on a more urgent basis, we will pass it. We will never stand in the way of those issues. I give a commitment to the government for today only—and we will do this on a daily basis—that we will accede to the four packages. If we feel that we need extended hours later in the day, we will make that assessment later in the day and then discuss it with the government. It is our belief that, if it is managed correctly, the passage of this suite of legislation, the four packages that the government wants, will be achieved today.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.38 pm)—by leave—I remind both the government and the opposition that the crossbench is seriously involved in the process in this parliament, and if there is a dispute between the two parties it will ultimately determine the matter. The opposition is quite right: the government has not scheduled enough Senate sittings—and that is a matter that should be reviewed forthwith. We are in a period of global economic uncertainty, to say the least. We have rising unemployment, we have huge climate change challenges and we have very important social issues to debate—and you do not deal with these issues by not sitting. So I agree with the opposition—and it
is a point that the Greens have been taking right down the line—that these sittings are too few and should be extended. That said, there is a need for us to get on with the business of the nation in the Senate in the next two weeks, and we intend to help facilitate outcomes rather than hinder them.

The Greens have three bills coming on on Thursday. The first is about ending junk food advertising in children’s TV viewing hours. The second is Senator Milne’s bill on the feed-in laws to allow people who have renewable energy, such as solar panels, to be adequately paid for the electricity they feed into the grid, thus saving greenhouse gas pollution. The third bill, by Senator Siewert, is about ensuring that there are equal rights for people in the workplace in this country and that there is no discrimination, as there is under the current laws. We hope that the government and the opposition will be mindful that, in the very limited time available for discussion of important pieces of legislation brought forward by the crossbench, we would be looking for a result—that is, a second reading outcome—on those bills, or at least some of them, on Thursday afternoon in private members’ time. A bit of goodwill would be enormously well received by the Greens. Notwithstanding that, we have goodwill towards this place and we will be facilitating an outcome on, in particular, the bills the government has listed as urgent.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.41 pm)—by leave—I think we need to get on with the debate. Family First will support the government in making sure that their stuff is debated and not rammed through. By the same token, I have never understood the reason that we are sitting for a lesser number of days this year. It has not been explained to me at all. So let us get on with it and start the debate on the important issues.

Senator XENOPHON (South Australia) (12.41 pm)—by leave—I agree that there should be more sitting days. In respect of what the government is planning for tonight, I have indicated previously that if it is a matter of sitting until a reasonable hour tonight so that we can deal with the legislation—10 pm or 10.30 pm—as long as it is clearly urgent legislation, that is something I am prepared to consider. I think we need to deal with that. But the government needs to go back to the drawing board when it comes to the number of sitting days that we have, because the number is clearly not adequate. I think there is general consensus that ‘legislation by exhaustion’ is not the way to do things. Sitting until the early hours of the morning and starting up a few hours later is a very poor way to legislate for this nation. So I hope the government understands the concerns that have been expressed by the crossbench and the opposition and that we can have a focused approach to sitting days and sitting times.

Rearrangement

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (12.43 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 3, Nation Building Program (National Land Transport) Amendment Bill 2009.

Question agreed to.

NATION BUILDING PROGRAM
(NATIONAL LAND TRANSPORT)
AMENDMENT BILL 2009

Second Reading

Debate resumed from 15 June, on motion by Senator Faulkner:

That this bill be now read a second time.
Senator IAN MACDONALD (Queensland) (12.43 pm)—I indicate right at the outset that the coalition will be supporting the Nation Building Program (National Land Transport) Amendment Bill 2009. The bill builds upon one of the best infrastructure programs ever instituted in this country—that is, the AusLink proposals set up by the Howard government prior to the change of government a couple of years ago. The AusLink program is a program that for the first time had a targeted direction for infrastructure spending within our country. However, this bill is principally about spin. I indicate that the coalition will be moving a second reading amendment to highlight that this bill is just another part of the Rudd government’s propensity for spin rather than substance.

There was some consideration given by the coalition to amendments of a couple of items, but we thought on balance it is probably better to let the bill pass through. I am told that, in addition to the second reading amendment which I will be moving and which has been circulated, the Greens and Senator Ludlam in the committee stage will be moving a substantive amendment, which we have not yet seen. We will be anxiously awaiting that Greens amendment so that we can determine whether or not we will be supporting it. I understand from Senator Ludlam—and he will no doubt elaborate on this—that it is about some form of accountability, and we would like to scrutinise it.

I am also minded to support this bill for the reason that the Australian Local Government Association, for whom I have a very high regard, have urged us to ensure the legislation is passed. They indicate that any delay could possibly impact upon payment of Roads to Recovery funding to councils. As I say, because I hold that organisation in very high regard their urgings have a certain influence in them. I just wonder, though, if the Australian Local Government Association, and particularly their rural and regional members, are aware that elements of this bill take money from rural and regional Australia and put it into the more favoured, more highly populated and therefore higher-voting-strength capital city areas of our country. It is yet another indication that the Rudd government is more interested in the votes that it achieves from the more populous areas than in looking after Australia fairly and making sure that those parts of the country which produce the majority of the wealth of the country get some return from the government, in this instance in the form of infrastructure spending.

We come to these debates knowing that the Rudd government have a propensity for debt, a love affair with debt. They have turned a budget surplus of some $20 billion left to them by the Howard-Costello government into an astounding $58 billion deficit in 18 short months—just incredible. We know that, after the coalition paying off the debt of the last Labor government, of some $96 billion, we are now—again, within 18 short months—looking down the barrel of a debt of over $300 billion which some future coalition government will have to pay off. It is fine borrowing money and giving away bribes, one might almost say, of $900 to voters around the country, but somewhere along the line someone has to repay that debt, and the cost will be enormous. Two-thirds of that debt is due to reckless spending decisions by the Rudd government over the last 18 months.

The government are not only well known for their economic incompetence; they are also addicted to spin. As I mentioned earlier, this legislation is another example. The key element of this bill is a name change, would you believe it? It is changing the name of that wonderful coalition program AusLink to a new name: the Nation Building Program. It is remarkable that the government consider
using the resources of the public purse, the time needed to draft legislation and the priority given in parliament—we have just heard some pious words about how urgent these things are—to pursue what is effectively a spin issue, a change of a name. A popular and very useful coalition program is to be taken over by the Labor Party by their giving it a new name.

The Labor Party obviously think so much of the coalition’s AusLink program that they want to take it over as their own. It is all about removing from the public record an unwelcome association with a great nation-building program established and run by the previous government. Of course, the Labor Party government have been fiddling around with the AusLink term for some time. After managing to say, during the election campaign, that AusLink was a good program, they then decided they had to change it. They first of all called it the Building Australia program, but the spin doctors, the hollow-men, of the Labor Party decided that that was not good enough, and so on 5 February 2009, in a major COAG communique announcement, they decided to change the name of AusLink to the Nation Building Program. The legislation we are dealing with today is all about putting that into effect.

In Australia during the coalition government, infrastructure spending actually boomed. According to Engineering construction activity, published by the Australian Bureau of Statistics, in constant 2007 dollar terms infrastructure spending increased from $21 billion in the term of the last Labor government, in 1996, to over $56 billion by the end of 2007. If you put that another way, infrastructure spending in Australia rose from just under three per cent of GDP in 1996 to nearly 5½ per cent of GDP in 2007. So much for Labor claims that infrastructure spending declined under the coalition government.

In fact, it is interesting that a table produced by the Department of Infrastructure, Transport, Regional Development and Local Government in its 2009 portfolio budget statement clearly shows that land transport funding for 2008-09 was some $6,436 million. That was, of course, the money that came through from the coalition government. But, in the year 2009-10, according to this document of the department, the spend on land transport will be $4,427 billion—some $2 billion less than what was provided for by the coalition government. So it all makes interesting reading. But, whilst Labor tries to claim the credit for this AusLink program, it is clear that this is a program established by the coalition which the Labor government has taken over. The new funding in this program over the years of the coalition government was shared fairly between the more populous parts of the country and through regional Australia. Labor has put some different spending into this bill—and that is from the Building Australia Fund and is money that was set aside by the previous coalition government budget surplus. The additional funding in the budget statement is, therefore, made possible because of the coalition’s responsible economic management and the fact that we had set money aside in funds for the future.

I will not speak at length about individual issues, suffice it to say that a lot of the Labor Party so-called initiatives are just playing catch-up on the coalition. The F3 to Bracken Ridge to Curra section of the Bruce Highway on top of last year’s $200 million is only a belated matching of the $700 million which the coalition set aside for the project. I could go through and make similar comments about a
number of programs: the Strathfield to Gosford rail freight track or the Western Highway from Bacchus Marsh to the South Australian border. A lot of the projects which Labor are now funding are, of course, state responsibilities, an acknowledgement from federal Labor that their state Labor colleagues are simply not coping and are incapable of managing money in the state area. Of course, it will not be too long before we are clearly seeing that the federal Labor government are simply incapable of managing money either.

This legislation confirms, however, a far more disturbing feature: that this Rudd government is against regional Australia. We already know that most of the new projects funded from the $8.4 billion former government surplus will now be spent on urban projects. This is simply another example of Labor’s urban focus. Senators may recall that the Strategic Regional Program was designed to assist regional local governments to build better transport networks to support industry, tourism and economic development in regional Australia. The purpose of the Strategic Regional Program was to foster partnerships between the federal government and regional Australia by providing funding to worthwhile infrastructure related projects in areas off the National Land Transport Network. The $469 million that went to fund projects under the Strategic Regional Program between 2004 and 2007 went to many useful initiatives, including replacing ageing local bridges, road sealing, intersection upgrades, realignments, widening of roads, terminal improvements, traffic light installation, flood proofing and causeway construction. These are the sorts of projects that occurred under the Strategic Regional Program right across Australia. This could well now be changed, since the Labor Party wants to amend section 55 of the act to remove all references to ‘regional’ and simply rename the Strategic Regional Program a ‘Nation Building Program off-network project’. In other words, the key characteristics of the Strategic Regional Program will cease and funds for this program may now well go to urban Australia, and you can be assured that most of them will.

I wonder whether this amendment is a device to enable the government to raid the strategic regional allocation to fund their election promises that are principally focused on urban Australia. It is amazing that most of the funding that has been set out in announcements so far by the Labor government have curiously gone to seats held by the Australian Labor Party. What an amazing thing, that 81 per cent of all funds allocated go to Labor Party held electorates! We used to hear the screams from the other side in days gone by, when there was a fairer distribution of the money, but I would be interested to see what the Labor Party say about the 81 per cent of funds which go to Labor Party electorates. I am running out of time, unfortunately. I did want to mention the Black Spot Program, which could now again be an area where money does not go to rural and regional roads but is shovelled into the cities, which to all intents and purposes are more favoured in the amenities they enjoy than rural and regional Australia. I have circulated that we will be moving a second reading amendment—not wanting to hold up the bill but wanting to indicate to the Labor Party, and we hope that the crossbenches and the Greens will support this—

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Senator Macdonald, you may formally move that amendment now or just before you finish, if you like.

Senator IAN MACDONALD—I will do it just before I finish, Madam Acting Deputy President.

Senator Carr—Is there not a further amendment to this motion?
Senator IAN MACDONALD—Not that I am aware of.

Senator Carr—You might check that.

Senator IAN MACDONALD—From us or the Greens?

Senator Carr—It is yours.

Senator IAN MACDONALD—You are ahead of me, Senator Carr, if you are right. I did mention earlier that the Greens are talking about an amendment at the committee stage. My second reading amendment calls upon the minister, when approving a Nation Building Program off-network project, to consider the extent to which it benefits regional Australia. We are very concerned that funds will be going from the regions to the cities, which, as I mentioned, are already better supported by all levels of government. Our second reading amendment calls upon the Senate to make sure that, when making decisions, the minister does take into account their benefits to regional Australia. The second item in our second reading amendment calls upon the government to ensure that black spot funding continues to apply to roads that are not included in the National Land Transport Network. This again highlights the issue in this bill, which is that a lot of its focus has gone from rural and regional Australia to the more favoured city areas of our nation.

The amendment we are proposing is fairly simple: to preserve the regional focus of what was known as the Strategic Regional Program and, if not, to at least make the government aware of this focus and that the Senate requires the government to consider it. We simply want the government to be focused on black spot funding for local roads and streets, and the second reading amendment will, if it should be passed by the Senate, indicate to the government that the Senate has a view that these issues should be taken into account in the allocation of moneys.

It is unfortunate that the opposition has to move this amendment. I hope the cross-benches and the Greens will see that, as a second reading amendment, it does have an influence on the government, without holding up the passage of the bill, and it does ensure that issues concerning regional and rural Australia are taken into account in the allocation of moneys under this program—the coalition’s AusLink program, which is, by this bill, being renamed the Nation Building Program.

In conclusion, on behalf of the coalition, I formally move the second reading amendment:

At the end of the motion, add:
but the Senate:
(a) calls on the Minister, when approving a Nation Building Program Off-Network project, to consider the extent to which the project benefits regional Australia; and

(b) calls on the Government to ensure that black spot funding continue to apply to roads that are not included in the National Land Transport network.

Senator LUDBLAM (Western Australia) (1.03 pm)—I will speak fairly briefly on the Nation Building Program (National Land Transport) Amendment Bill 2009. The bill before us today is one that the Australian Greens will be supporting for many of the reasons that Senator Macdonald has outlined. The amendments, by and large, are sensible. They are tying up a number of administrative loose ends and rolling the funding, formerly known as AusLink funding, into the government’s Nation Building Program. The Australian Greens will be supporting these amendments. The Minister for Infrastructure, Transport, Regional Development and Local Government said in his second reading speech:
This bill is central to the effective delivery of the government’s road and rail infrastructure investment through the Nation Building Program—a program currently worth more than $26 billion. The emphasis is on ‘currently worth’ because obviously this funding commitment will need to be ongoing. As the financial crisis unfolds around us, presumably the government will be looking to future infrastructure spending.

There is an enormous amount of funding on the table and, in the context of the announcements that we received on budget night, last month, this is the first Commonwealth funding for public transport in probably 15 years. It is the first time in quite a while—since the Better Cities Program was closed down in 1996—that we are seeing the Commonwealth getting back into urban public transport, including urban rail. Some of those announcements are quite welcome. I suspect that there is a bit more to them than meets the eye, but at least we have more than in-principle support from the Commonwealth that it is not just in the business of roads. Thank goodness there are now some substantive investments in urban public transport. The most significant of these investments is the Gold Coast light rail project and, from a funding point of view, the rail project to the west of Melbourne. These investments are very welcome.

At the same time that we are seeing funding shift in a tentative way—but in a way that I hope signals a greater shift in the future—into public transport, we are also seeing the most robust and substantive scrutiny of large-scale infrastructure spending through Infrastructure Australia. It is not a perfect process, but one thing which is welcome is that at least Infrastructure Australia’s short list and the minister’s funding announcements were made public. We are now in a position to see how different the minister’s and the government’s final spending decisions were from what the expert panel identified. It is obviously a process that has still got quite a way to go, but at least we are seeing the beginning of some public accountability in the way that very large tranches of funding will be spent on critical infrastructure.

At this point, I say to Senator Macdonald that the Australian Greens will be supporting the second reading amendment circulated by the opposition, in the event that we come to a vote. I think the amendment is entirely sensible; it is basically a safeguard to the fact that we will have to take it on face value that the government does not propose that its bill will be a way of draining road funding out of regional areas where road transport funding can often be a matter of life and death, particularly where the Black Spot Program is concerned. We think the amendment is sensible and we will be supporting it.

I want to speak briefly to the amendment that I will be moving in the committee stage, which I should foreshadow with an apology for the late circulation. I know members of the opposition are still giving that amendment some consideration. I will also foreshadow for the minister’s benefit a question I will be asking in the committee stage before I move that amendment, which is: exactly who in the Commonwealth government is the lead minister on oil depletion, fossil fuel depletion and oil price shocks? Who is the minister? What is the lead agency? My understanding is that it is in fact Minister Martin Ferguson, but I guess what we are looking for is some statement on exactly how the Commonwealth government is dealing with fossil fuel depletion issues.

There are a range of estimates. These things were canvassed in quite a degree of detail by the Senate Standing Committee on Rural and Regional Affairs and Transport in years past before my time here. It is a matter
that is under active consideration in the public transport inquiry which I initiated late last year. But I would like to know who the lead agency is and what that agency is up to, because these matters have probably received quite a degree less scrutiny and discussion in the parliament and in the community than the issue of climate change. We are going to spend probably the balance of our time here in this session debating climate change and I am not sure that there is going to be a great deal of focus on the other pincer of fossil fuel prices that is enveloping industrial societies—and that is peak oil and fossil fuel depletion.

This is not an issue that will be coming 30 years down the track and that governments in four or five elections time will be needing to come to grips with. This is actually something that may well be upon us now. So what I am seeking is information, as detailed as the minister is able to come up with, when we get to the committee stage as to exactly whether or not the Commonwealth government is asleep at the wheel. That might sound like strong language, but I have been finding it very difficult in estimates committee hearings, in questions on notice and in my other work in here and in the community to establish whether or not this country is essentially sleepwalking into peak oil and, if there is another oil shock on a scale of the taste that we received 18 months or so ago before the economy dragged world oil prices back down, exactly what the contingency plans are.

Our amendment effectively goes to this in a way that I hope the government and the opposition parties in here will agree is sensitive to the intent of this bill. A lot of the funding that has been disbursed under the act that this bill is amending is around black spots and death traps on the nation’s road network, small-scale maintenance works and road funding that is administered by local government. You will see from the context of this amendment that we are not seeking to interfere with that important work. That is why there are some thresholds there for the amounts of money at which the Greens amendments would come into effect. At the moment we have a situation in which the minister in deciding whether or not to disburse funding under the program formerly known as AusLink may give regard to part 3, section 11 of the act, entitled ‘AusLink national projects’, where it says:

Is it appropriate to approve a project?

There are a number of criteria there which the minister may, if he or she chooses to on any given day, have regard to. But nowhere is there anything at all relating to sensitivity to future energy prices, which would capture carbon price in the medium term, depending on the outcomes of the CPRS later this week or whatever may happen down the track. But perhaps just as importantly, when, not if, Australia is hit by significant rises in the price of oil and gas, we will not be insulated from these shocks because we are now part of world markets.

I suppose the most substantive amendment which I am going to put to the chamber in the committee stage is that the minister must do no more than have regard to sensitivity to future energy price rises of any given development of a value greater than $50 million, which I hope you will agree—and I am happy to have a debate on the threshold amount of money—will not interfere with the sort of urgent work around the nation’s road network on black spots and so on. That is effectively what that amendment does. It does not tie the hands of the minister or put him in any kind of legislative handcuffs. It asks, ‘Have you considered traffic projections? Have you considered whether this piece of infrastructure is going to be obsolete in 20, 10 or two years time, depending
on your choice of projections, when oil goes to $200 or $500 a barrel?” I do not think at this stage—and I would be delighted to be proven wrong—there is any form of assessment at any level in the Commonwealth government that really pays great regard to this. We still have ABARE saying, ‘If the price of eggs is high enough then roosters will lay.’ I suggest that is just as bizarre a comment geologically as it is biologically. I trust the geologists when they talk about future oil stocks rather than the economists. That is what the first substantive amendment here is for.

The second amendment is almost self-evident—that projects with a significantly higher threshold of spending of $200 million or more be brought forward as a disallowable instrument so that parliament can take a look and make sure, as the final act of scrutiny in a long process, this is a worthwhile investment in nation building. These amendments are not intended to be retrospective. As I say, they are not to interfere with the works which I understand the parent act of this bill largely exists to regulate.

Just briefly in closing I would like to acknowledge the constructive way in which the minister and his staff have approached negotiations—albeit very hasty ones, as we were anticipating that this would come on tomorrow. But, nonetheless, I just want to put on the record that I appreciate the way in which the government has approached this discussion so far. I look forward to other contributions and I will speak again briefly to this amendment when we get to the committee stage.

Senator FARRELL (South Australia) (1.13 pm)—I am pleased to speak in favour of the Nation Building Program (National Land Transport) Amendment Bill 2009. This legislation forms a key part of the Australian government’s nation-building agenda. It will help ensure that the massive infrastructure investment that the Australian government has undertaken is within the framework of nation building, something which Labor governments do best. The Nation Building Program (National Land Transport) Amendment Bill 2009 improves upon the AusLink (National Land Transport) Act 2005 by integrating the legislation with the government’s bold nation-building agenda.

The National Land Transport Network is one of the foundations of Australia’s future wealth and prosperity. It consists of the major road and rail corridors that link Australia’s cities, ports and airports and is one of the foundations of Australia’s successful economy. The Nation Building Program (National Land Transport) Amendment Bill 2009 removes references to AusLink and forms an essential part of the government’s effort to stimulate the economy and to keep Australia’s economy going until the worst of the global financial crisis is over. This bill changes the name of the act to the Nation Building Program (National Land Transport) Act 2009, a move that has been criticised by those opposite as being merely symbolic; but this could not be further from the truth. This bill is essential for the effective delivery of Labor’s $26.4 billion road and rail infrastructure program. The bill also modifies the act to allow funding for black spot projects which are on the National Land Transport Network. It seems nonsensical to stop the Black Spot Program from fixing dangerous roads just because they happen to be on the National Land Transport Network. Thankfully this bill will give greater freedom for the government to repair hazardous sections of road.

This amendment also provides for 292 boom-gate crossings at dangerous rail intersections throughout Australia. I note that the South Australian government has recently begun advertising through its road safety
campaign about the need for motorists, pedestrians and cyclists to take more caution when they are near rail intersections. The additional boom-gate crossings will improve the safety of these intersections and will no doubt save lives. A major part of the Nation Building Program is the Roads to Recovery program, which has been extended from 2009 to 2014. Local councils have been allocated $1.75 billion to identify and repair sections of road that require maintenance. The local government authorities are allowed to spend the funds on road projects that they have identified as being the most important in their community. Each state receives a fixed share of the grant and the funding is then distributed between councils according to a formula based on population and road length to ensure that the allocation of funds is fair and equitable.

Another important component of the Nation Building Program is funding for heavy vehicle rest areas and upgrades to truck parking bays. Driver fatigue can sometimes have fatal consequences, and I am pleased that the Australian federal government is providing funding of $4.5 million over the 2008-09 and 2009-10 financial years to help improve facilities for truck drivers in South Australia—who are ably represented, I might add, by that great trade union official Mr Alex Gallacher. I am also proud that the $1.7 billion is being invested in road and rail projects in my home state of South Australia. Several major projects are being funded by the Australian federal government, which will significantly improve the long-term efficiency of the South Australian economy. These projects include: the Northern Expressway and the Port Wakefield Road upgrades; the South Road upgrade, which is long overdue; the Dukes Highway upgrade; work on the Victor Harbour, Main South Road and Seaford Road junction; work on the Main North Road between Gawler and Tarlee, which leads into the beautiful Clare Valley; the Mount Gambier northern bypass; work on the Crystal Brook and Redhill roads; and work on Montague Road.

The Northern Expressway is a critical road project for South Australia’s mid-north and Riverland communities, and for people who commute between Gawler and Port Adelaide. I know that the federal member for Wakefield, Mr Nick Champion, has been a tireless advocate of this project, and he deserves credit for his hard work in promoting the Northern Expressway. Once the Northern Expressway is linked with the Port River Expressway there will be savings in travel time, it is predicted, of 20 minutes between the Sturt Highway at Gawler and Port Adelaide, which is South Australia’s main shipping port. The Northern Expressway will therefore reduce driving time and improve the efficiency of the South Australian economy, the best-performing economy in the country at the moment. It is well worth the $451 million investment by the federal government. It will also remove many trucks from Main North Road, which will not only reduce the wear and tear on one of South Australia’s most heavily used roads but also make it faster and safer for motorists to use.

Then of course there is the Sturt Highway duplication works between Gawler and Ar gent Road. The Australian federal government has funded the entirety of this $21.7 million project. It will service one of South Australia’s biggest horticultural regions. The Barossa is a world-famous winemaking region and this investment will no doubt make it even better. The federal government is also funding a massive investment in South Road—$500 million has been allocated to upgrades of South Road. South Australia’s strategic plan calls for the transformation of South Road into a continuous non-stop route extending all the way from the Southern Expressway to the Port River Expressway that I
talked about earlier. Anyone who has travelled along South Road during peak hour, as I did last week, understands how congested this road can become. I know that reducing some of the bottlenecks along this stretch of road will help alleviate some of the congestion that delays motorists in getting to work and going home to spend time with their families.

As the only continuous stretch of road that links the south of Adelaide to the north, South Road is incredibly strategically important to South Australia. It runs past the CBD and the Adelaide airport and is a major connector between Adelaide’s industrial and agricultural base and the rest of Adelaide. The first stage of realising the dream of making commuting along South Road as continuous as possible is nearly complete. The Anzac Highway and South Road intersection upgrade is expected to be completed by the end of the year. This will relieve congestion on what was one of South Road’s worst bottlenecks. It is a massive undertaking by the federal and the South Australian governments to make South Road a continuous non-stop arterial corridor running through the heart of Adelaide. The 22 kilometres of road between the South Expressway and the Port River Expressway cuts through many Adelaide suburbs whose population density can only be expected to increase over the coming years. That is why $70 million has been allocated over the life of the project to undertake a comprehensive study and develop a plan to ensure that these upgrades are done as efficiently and effectively as possible over the longer term.

Then of course there is $80 million for one of South Australia’s longest roads, the Dukes Highway, which is already under construction. The Dukes Highway connects South Australia to Victoria. It stretches from Tailem Bend and extends all the way to Bordertown. The Australian government fast-tracked the extension of four overtaking lanes along the Dukes Highway just before the budget and the extensions are expected to be completed by the end of the year. The South Australian government are also doing their part and have committed to spend an additional $20 million to develop roads along the Adelaide to Melbourne corridor. Both the state and federal governments are working with the Barossa Council, the District Council of Loxton Waikerie, the Mid Murray Council, the City of Murray Bridge and the Coorong District Council to bring this project to fruition.

In addition to these infrastructure projects from the Nation Building Program, South Australia also received significant funding for rail and O-Bahn track improvements in the recent federal budget. The Australian government is providing $294 million in funding to upgrade the Adelaide-Gawler rail line. Again down south we see the Australian government providing $291 million to extend the Noarlunga rail line to Seaford, a fast-growing part of South Australia. I know that the member for Kingston, Amanda Rishworth, has been talking to her constituents about the issue for some time and it has been an incredibly important issue for the residents in the south of Adelaide.

Then of course there is the $61 million to extend the O-Bahn track to the heart of Adelaide. The O-Bahn is iconic in South Australia and is one of the few places in the world other than Germany where buses can both run on specially designed tracks and drive normally on the road. Buses currently exit the O-Bahn in Kent Town and have to cut through the worst of Adelaide’s peak-hour traffic to get into the city. By having a special laneway for buses to get into the city, the commuters who use the O-Bahn will be able to get into the city and back home again much faster than they do now.
I wanted to mention the rail and the O-Bahn upgrades that South Australia is getting from the Australian government because it underscores an important philosophical difference between the Labor Party’s and the Liberal Party’s approach to government. Labor believes in nation building and making the investments necessary for ensuring Australia’s wealth and prosperity into the future. Labor inherited an infrastructure black hole when it came to government at the last election. Despite having enjoyed record windfall revenues from the mining and commodities boom, the Howard government chose not to invest in Australia’s infrastructure.

I believe that the problem that the Liberal Party have is that they have been addicted to a free market, laissez faire ideology that leads them to believe that if you simply sit back the market will deliver what Australians want—that Adam Smith’s invisible hand will build the roads, the rail networks, the universities and the hospitals for them. However, it became apparent to the Australian public after a decade of the Howard government that the laissez faire ideology was just an excuse for inaction—not just an excuse but an ideological imperative for the Liberal Party to do nothing.

Australians expect their elected representatives to lead, and to show leadership you need to have a vision for where you want to take this country. At the end of the day the Howard government failed to develop a strategy to prepare Australia for the future. If we take broadband, for example, you did not have to be an IT expert to know that the internet is the future of business and commerce in Australia—but what did the Liberal Party do to prepare Australia for this new digital age? They did absolutely nothing. Senator Conroy, who is here in the chamber, is the man who is delivering broadband on behalf of the Australian people. He is doing it. Labor made broadband a key election issue at the last election and has now developed a $43 billion plan over eight years to develop our national broadband network.

Senator Ian Macdonald—Stephen, you won’t even be alive!

Senator FARRELL—No, we will all be alive—even you will be alive, Senator Macdonald! You will be alive to see it. You will be alive to see the great achievements of the Labor government. This will be one of them. They talked about the railways a century and a half ago and now they are going to talk about Stephen Conroy’s broadband plan. That is what we are talking about here. And he is the one man who can do it. He will even get it down to Yankalilla.

Senator Ian Macdonald—He wouldn’t know where Yankalilla is!

Senator FARRELL—He knows exactly where Yankalilla is because I have spoken to him about Yankalilla. He is a very big fan of Yankalilla. He knows exactly where Yankalilla is and he is going to be the man to deliver broadband right down there, just like he is for the rest of the country.

Senator Ian Macdonald—What—did you give him a GPS?

Senator FARRELL—He doesn’t need a GPS; he has got his iPhone—he is using it as we speak.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Senator Farrell, you have the call.

Senator FARRELL—Thank you, Madam Acting Deputy President; I appreciate your protection. The differences between Labor and Liberal on broadband illustrate the differences between Labor and Liberal on the need to invest in the infrastructure to guarantee Australia’s future. The Liberal Party wanted to sit back and let the market sort it out, but major infrastructure projects do not come about without government investment.
and, most importantly, without leadership. It is this do-nothing approach that has seen the Liberal Party oppose the Australian government’s economic stimulus package and the nation-building agenda at nearly every turn.

In conclusion, the Nation Building Program (National Land Transport) Amendment Bill 2009 should be supported in the Senate. It is key legislation for the effective implementation of the Australian government’s $26.4 billion investment in rail and road infrastructure. As a South Australian senator, I am particularly pleased about the range of projects that are being funded in my home state. I have mentioned them; they are both in the north and in the south, and I am very pleased that those developments have all been made in my state.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.29 pm)—I wanted to thank all senators but particularly Senator Farrell for that inspired contribution to the debate on the Nation Building Program (National Land Transport) Amendment Bill 2009.

Senator Ian Macdonald—Madam Acting Deputy President, I raise a point of order. Senator Carr, when he was in the chair, was mumbling something about an amendment. We have not seen it. Furthermore, because the minister is closing the debate, we are not even going to be able to have a comment on whether it is sensible or nonsensible. I suspect it will be the latter, nonsensical as well as non-sensible. It would seem appropriate that, if the minister is to move an amendment to a second reading speech, we should have notice of it; and, secondly, we should also have an opportunity to comment on whether or not we intend to support it.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Senator Conroy, I am sure you will deal with that matter forthwith.

Senator CONROY—I am not closing the debate, Senator Macdonald; I am just going to advise you of that suggested amendment to your amendment.

Senator Ian Macdonald—I thought that when you spoke you actually did close the debate.

Senator CONROY—Not if I indicate that I am not closing the debate.

Senator Ian Macdonald—Is that the rule?

Senator CONROY—I am so advised, Senator Macdonald. We all live and learn as we move around this chamber. This bill is central to the effective delivery of the government’s Nation Building Program, a road and rail infrastructure program worth more than $26 billion. This program will deliver jobs and critical infrastructure across the nation. The amendments to the act proposed in this bill put in place the appropriate provisions to ensure the effective delivery of a suite of initiatives now funded under the program. The bill proposes changes to ensure the effective provisions for major road and rail infrastructure projects on the National Land Transport Network as well as for projects off the network and the effective provisions for the Roads to Recovery program and the Black Spot Program.

Over the last 18 months we have seen the transition from the old AusLink program to the implementation of the government’s Nation Building Program. As AusLink no longer exists, this bill updates the land transport program references in the act so that they now refer to the Nation Building Program. It is crucial for the government to make these changes now to ensure that we can deliver our road and rail infrastructure program in the most efficient way. This is a program that will deliver jobs and critical infrastructure around the nation. We want to get on with the job of delivering the road and
rail projects this nation needs after 12 long years of inaction by the coalition government.

I indicate to the chamber that we intend to move a government amendment to Senator Macdonald’s second reading amendment. I move:

Paragraph (a), omit “regional Australia” substitute the words “the national interest”.

There is another item I would like to address where there has been serial misquoting. I am prepared to be generous to Senator Macdonald and Senator Williams in that there was an error that they have perhaps drawn from, but I just wanted to correct the record. I want to turn to the Bills Digest for a moment. I wish to draw to the chamber’s attention a couple of errors that were contained in the Bills Digest, and this might be instructive to the debate we have today.

Firstly, the land transport funding table 2 in the Bills Digest omitted the funding initiatives for both the 2008-09 and 2009-10 financial years. Therefore, it inaccurately represented the funding totals for both of those financial years. For 2008-09 the digest stated that the total was about $6.4 billion when it should have read about $6.8 billion and for 2009-10 the digest stated that the total was $4.4 billion when it should have read $6.4 billion. This correction would clearly negate the comment in the digest that land transport infrastructure funding in 2009-10 was about $2 billion lower than 2008-09, because it is clearly not the case, given the errors in the table.

Senator WILLIAMS (New South Wales) (1.35 pm)—I have some brief comments in relation to Senator Farrell’s reference to the National Broadband Network. We were told clearly before the election that this super-duper broadband network would cover 98 per cent of Australia—98 per cent of Australians would be covered by fast broadband. Now it has been reduced to 90 per cent. What happened to the other eight per cent is a question I would like to know the answer to. The other eight per cent from the promise prior to the election are now missing out. Of course, we know what areas they will be. They will not be the urban areas or city areas; they will be small communities such as Ashford and Nundle, and those towns of 1,000 people or less will be missing out.

This is another broken promise: 98 per cent prior to the election was the figure that everybody is in no doubt of remembering and it is now 90 per cent—the eight per cent discount has been brought in because of Minister Conroy. This is a situation where he is simply saying to those in rural and regional areas and small communities: ‘You are irrelevant; you can miss out. We’ll bring the super-duper 100 megabytes download broadband to the urban and city areas, but to hell with the small areas.’

Senator Conroy—You are being very cheeky!

Senator WILLIAMS—Cheeky is something that I have never been in my life! I want to make the point to the Senate that those eight per cent—towns of 1,000 people or less—will miss this. It is a big investment; it is a big borrowing of $43 billion. You would think those people who are vital to our nation, who grow the food bringing the export dollars that earn so much for our nation, should not be forgotten. That is the point I wish to make.

Senator IAN MACDONALD (Queensland) (1.37 pm)—I have spoken, but I seek leave to speak again in view of the fact—

The ACTING DEPUTY PRESIDENT (Senator Barnett)—You do not need leave, Senator Macdonald. You have a right to speak. You are speaking to Senator Conroy’s amendment to your amendment, so you can proceed.
Senator IAN MACDONALD—Thank you, Mr Acting Deputy President. We will not be supporting the amendment to our amendment. Quite clearly, as I suspected without having seen it, the amendment is nonsensical, talking about ‘the national interest’. I might say I still have not seen a bit of paper with this amendment on it.

Senator Williams—Here it is—a bit of scribble there.

Senator IAN MACDONALD—Oh, we have got it. If you need any example of how this government are simply incapable of running the country, their amendment comes in handwritten form on the back of an envelope. And this lot are supposed to be running the country! No wonder they have run us into over $300 billion worth of debt.

Senator Conroy’s amendment removes ‘regional Australia’ and substitutes ‘the national interest’. The whole purpose of our amendment was to highlight the fact that this government is stealing from rural and regional Australia funds the previous government had allocated there and diverting them to the cities. They are part of Australia, sure, but I think any fair observer would say that those living in the more populous areas of Australia do have better infrastructure, better facilities and better roads. They have a suburban train network, they have taxis down the end of the street and they have bus systems. Those sorts of facilities are not available in rural and regional Australia. I am sure Senator Conroy, with his wide journeys into rural and regional Australia, would understand that the reason you need better roads—or at least decent, usable roads—in rural and regional Australia is that you do not have a commuter train down the end of the street. You do not have a hospital one suburb away.

The AusLink program, which this is a steal of, put money into rural and regional Australia, because roads in many instances are the only means of transport. There are no trams, no buses, no suburban railway stations, very few taxis and no ferries. We in the previous government were keen to make sure rural and regional people got a fair go. This government are not interested in a fair go for rural and regional Australia. They have gone to where there are more votes, which is obviously in the capital cities. So we will certainly not be agreeing to the amendment to our amendment. The bill, as I say, we are allowing through with amendments to highlight these issues, and we are hoping for support from the crossbenches for the amendment that we have moved.

The ACTING DEPUTY PRESIDENT—The question is that Senator Conroy’s amendment to Senator Macdonald’s second reading amendment be agreed to.

Question negatived.

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT—Senator Conroy, you need two senators to make a call for a division. I only heard one call, from Senator Conroy. That being the case, I called it for the noes. The question now is that the second reading amendment moved by Senator Macdonald be agreed to.

Question agreed to.

The ACTING DEPUTY PRESIDENT—The question now is that the original question, as amended, be agreed to.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDLAM (Western Australia) (1.42 pm)—In the second reading debate, I put a couple of questions through to the minister and I am wondering whether you are in a position to address those. This is broad, big
picture stuff about Australia’s preparation, effectively, for fossil fuel depletion.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.43 pm)—I was just seeking some information for you, Senator Ludlam, on that matter. If I could just seek confirmation, there was an indication given from the opposition benches that the Greens were not supporting the government’s amendment to the opposition’s second reading amendment and that you were supporting their amendment. So I am just seeking clarification. Perhaps you might be able to clarify the position of the Greens, as I do not think you were in the chamber when those matters came up.

Senator LUDLAM (Western Australia) (1.43 pm)—That is right—I was actually out of the chamber at the time. But no, just to correct the record, I had given no such undertaking. We will be supporting the government’s amendment to the second reading amendment moved by Senator Macdonald.

Senator Conroy—Sorry, you are or you aren’t?

Senator LUDLAM—We will be supporting your amendment to the second reading amendment.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.44 pm)—Thank you for clarifying that. But, given that there was some confusion in the chamber, which I am sure was completely unintentional, I move:

That progress be reported.

Question agreed to.

Recommittal

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.45 pm)—I seek leave to recommit the vote on my amendment to the opposition’s second reading amendment.

Senator IAN MACDONALD (Queensland) (1.45 pm)—by leave—I want to be absolutely clear on what Senator Ludlam said. He may, as he was walking back in, have been fully au fait with what was happening but I am not sure. Perhaps I can briefly say that the government sought to amend the first part of the opposition’s second reading amendment by removing the words ‘regional Australia’ and inserting the words ‘the national interest’ so that the amendment would read:

… calls on the Minister, when approving a Nation Building Program Off-Network project, to consider the extent to which the project benefits the national interest …

rather than, as we had it, ‘benefits regional Australia’. The whole point of the amendment with which I thought Senator Ludlam agreed was that it was highlighting that this was money that had been set aside for regional Australia and which was now going into the cities. It was simply alerting them to that. Perhaps Senator Ludlam did understand that but I am not sure which way he was calling. Could we get clarification of that before giving Senator Conroy leave to recommit?

Senator LUDLAM (Western Australia) (1.47 pm)—by leave—Thank you to both sides. I would like to clarify this so that we can move on and conclude the debate. I was certainly aware of the amendment which we were debating—the one that was written by hand on the back of an envelope, as you put it, Senator Macdonald. I apologise that I was out of the room at the time. I have been advised that essentially the amendment is somewhat redundant as some of this funding
is destined for metropolitan areas. It therefore would be a little curious for the minister to be considering how the project benefits regional Australia when not all of these projects will be occurring in regional Australia. The minister can correct me, I suppose, if that is an incorrect reading of the amendment, but that is certainly the intention with which we support the government’s amendment.

Leave granted.

The ACTING DEPUTY PRESIDENT (Senator Barnett)—The question now is that Senator Conroy’s amendment to Senator Macdonald’s second reading amendment be agreed to.

Question agreed to.

The ACTING DEPUTY PRESIDENT—The question now is that the second reading amendment moved by Senator Macdonald, as amended, be agreed to.

Question agreed to.

The ACTING DEPUTY PRESIDENT—The question now is that the original question, as amended, be agreed to.

Question agreed to.

Bill read a second time.

In Committee

Consideration resumed.

Senator LUDLAM (Western Australia) (1.49 pm)—As I foreshadowed in the second reading debate, I wish to move an amendment. As I spoke to it at some length in the second reading debate, however, I would, before moving it, put the question to the minister as I believe he was probably out of the room when I was giving my introductory remarks. So I will be a little bit more specific. Can you, Minister, enlighten the chamber as to the state of preparation within the Commonwealth government for an oil shock and the state of preparation for oil rationing? If the minister could give us some advice on those matters, it would be greatly appreciated.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.50 pm)—I am advised that the information you are seeking is quite detailed. We do undertake to get back to you with a very detailed response, if that is satisfactory to you. We are more than happy to get you the information you are seeking, but I am advised that there is just a little bit too much to gather at relatively short notice. But we are very happy to commit on the floor of the chamber to get you that information.

Senator LUDLAM (Western Australia) (1.50 pm)—I thank the minister for that response. If that is the case—which was the reason that I put these questions a little while ago—I would appreciate that. I will also seek a little more information while we are at it. Could the minister point to me where there are, in any act, regulation or decision, criteria before any current minister or Commonwealth agency that explicitly address sensitivity to future energy prices—oil and gas—aside from considerations there might be in increasing those prices as a result of carbon levies or carbon taxes or whatever form that may take? I am talking specifically about the situation on world oil and gas markets to which Australia will not be immune when these prices go north again. Quite frankly, Minister, I cannot find it. I hope you will speak to the amendments that I am about to put and perhaps give us some tangible reasons as to why you are intending, as I believe you are, to vote those amendments down. All the amendments do is put a safety net under large tranches of Commonwealth funding, particularly for road infrastructure, that would cause the minister to at least have regard to those matters.
As I said in the second reading debate, I am not putting handcuffs on the minister and I am not binding him to any form of decision one way or another; I am asking that these matters be explicitly addressed and reported on before we commit the Commonwealth to tens of billions of dollars of funding on infrastructure which may well shortly be obsolete. Those are the matters on which I would seek any advice that you are able to provide us with now and certainly anything that you are able to provide us with subsequently.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.52 pm)—I am seeking advice. I can indicate that, as you thought, we will be opposing your amendments. We believe that they are already covered by the act and that this is a very stringent process which must be followed, and therefore we believe that they would be redundant in this particular place.

Senator LUDLAM (Western Australia) (1.53 pm)—I suspected that that might be the case, and I do not propose to dwell here long. If the minister or any of the officers at the table could just point us to where in the act fossil depletion or sensitivity to future energy prices is addressed, I will make a judgment from there as to whether to withdraw the amendments if that has indeed been addressed.

Senator IAN MACDONALD (Queensland) (1.53 pm)—Whilst Senator Conroy is trying to run the government—as I said before, their amendments come written on the back of an envelope, and they are not here to call the divisions as they are; they have to recommit motions, which just demonstrates how hopeless the government are at running the chamber, let alone running the country—I just want to indicate for the record that the coalition will not be supporting the amendments proposed by the Greens.

Whilst we appreciate that the sentiment behind the amendments is to bring greater accountability to this government—and, heaven knows, greater accountability is always needed when dealing with the Labor Party in any aspect of life—we think these amendments are wrong. As I have mentioned to Senator Ludlam, had we been aware of the amendments prior to about two minutes before he spoke, perhaps we could have had some discussions about more appropriate amendments that might have got the result Senator Ludlam was seeking. But I think Senator Ludlam acknowledges that, with a couple of minutes notice and the fact that I am only representing the shadow minister, who is in the other place, we were only able to give them very brief consideration.

The shadow minister, Mr Truss, who senators will remember was a very distinguished minister for transport, amongst other things, and who has experience with these matters, has indicated that the approvals process for getting major projects in action is already a very, very long process. Making the approval process subject to a disallowable instrument of either house of parliament would mean that the process would be extended by at least another six months and perhaps more.

In relation to the other two amendments to be moved by Senator Ludlam, it is our understanding that most of those items are in fact items which can be addressed through the EPBC Act—an act, I might say, of the coalition government. In relation to amendment (3), whilst again it would be interesting to see the statement of reasons, the result might well be, ‘Well, so what?’ Apart from tabling them before the parliament, nothing seems to follow from that, and the reasons, I guess, we could in any case get from the estimates process at the appropriate time. So, for those reasons, very briefly explained, the coalition will not be supporting the Greens amendments.
Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (1.56 pm)—I will just add some further information. I am advised that the government believes that the issues that you are flagging, Senator Ludlam, are encompassed within the following two sections: section 11(d), which reads ‘the results of any assessment of the economic, environmental or social costs or benefits of the project’, and also section 55(c), which is ‘the results of any assessment of the economic, environmental or social costs or benefits of the project’. We believe that those issues you have raised, while not being specifically mentioned, are encompassed within that assessment process to include issues like those that you are more specifically identifying.

The TEMPORARY CHAIRMAN (Senator Barnett)—Senator Ludlam, I note that you have not formally moved your amendments, so I ask you to bear that in mind.

Senator LUDLAM (Western Australia) (1.57 pm)—Thanks, Chair. I will do so now. I thank the minister and the opposition spokesperson on this issue. Remarkably unsatisfactory as those contributions were, I nonetheless thank you for at least putting them on the record. Minister, I put to you that the reason these issues you have raised, while not being specifically mentioned, are encompassed within that assessment process to include issues like those that you are more specifically identifying.

I thank the minister and the opposition spokesperson on this issue. Remarkably unsatisfactory as those contributions were, I nonetheless thank you for at least putting them on the record. Minister, I put to you that the reason these issues you have raised, while not being specifically mentioned, are encompassed within that assessment process to include issues like those that you are more specifically identifying.

Senator LUDLAM (Western Australia) (1.57 pm)—Thanks, Chair. I will do so now. I thank the minister and the opposition spokesperson on this issue. Remarkably unsatisfactory as those contributions were, I nonetheless thank you for at least putting them on the record. Minister, I put to you that the reason these issues you have raised, while not being specifically mentioned, are encompassed within that assessment process to include issues like those that you are more specifically identifying.

I thank the minister and the opposition spokesperson on this issue. Remarkably unsatisfactory as those contributions were, I nonetheless thank you for at least putting them on the record. Minister, I put to you that the reason these issues you have raised, while not being specifically mentioned, are encompassed within that assessment process to include issues like those that you are more specifically identifying.
The Committee divided.
(The Deputy President—Senator the Hon. AB Ferguson)

Ayes ............ 6
Noes ............ 65
Majority ........... 59

AYS
Brown, B.J. 
Ludlam, S. 
Siewert, R. *

NOES
Abetz, E. 
Adams, J. * 
Arbib, M.V. 
Bernard, C. 
Bilyk, C.L. 
Boswell, R.L.D. 
Bishop, T.M. 
Boyce, S. 
Brown, C.L. 
Carr, K.J. 
Cameron, D.N. 
Colbeck, R. 
Collins, J. 
Conroy, S.M. 
Cooman, H.L. 
Cormann, M.H.P. 
Crossin, P.M. 
Evans, C.V. 
Faulkner, J.P. 
Ferguson, A.B. 
Fierravanti-Wells, C. 
Fisher, M.J. 
Furner, M.L. 
Humphries, G. 
Hutchins, S.P. 
Joyce, B. 
Ludwig, J.W. 
Macdonald, I. 
Mason, B.I. 
McGauran, J.J. 
Minchin, N.H. 
O’Brien, K.W.K. 
Pratt, L.C. 
Ryan, S.M. 
Sherry, N.J. 
Troeth, J.M. 
Williams, J.R. 
Wortley, D.

* denotes teller

Question negatived.
Bill agreed to.
there; therefore, the people who were disadvantaged were the long-term unemployed.

Job Services Australia is a one-stop shop—seven programs turned into one program. Formerly, job seekers would have to go through seven doors to get support and now it is one door. There is no doubt that this will be a huge task of transition. Already, 700,000 job seekers have received a letter from the department in relation to the transition. (Time expired)

Senator FIERRAVANTI-WELLS—Mr President, I ask a supplementary question. The minister having failed to answer the question, perhaps I will try it in another way. Did the government receive advice that a 100 per cent rollover of employment services was actually required on 1 July 2009? If so, will the minister table the advice?

Senator ARBIB—I am unaware of the advice that the senator is talking about. She asked about the transition and what work is being done regarding the transition. There is no doubt that this is a large reform, but work is being undertaken to ensure a transition as seamless as possible. Already, 700,000 job seekers have been written to by providers ensuring that they understand the provisions of the changeover. They have already been written to. That has happened. Just this week, new providers under Job Services Australia are individually phoning their long-term unemployed inside the network to let them know about the new service and also to arrange personalised interviews. This did not happen in the old days. There was no personalised service. This is what is going on in Job Services Australia. (Time expired)

Senator FIERRAVANTI-WELLS—Mr President, I ask a further supplementary question. Minister, why has the government decided to offer an extension of contracts to high-performing providers in the disability employment network while reducing to only 30 per cent the weighting for past performance in the new Job Services Australia tender?

Senator ARBIB—Thank you, Senator, for the question, and I do appreciate your interest in this. Not only are we undertaking the work with Job Services Australia but also we are helping those providers who missed out. The one thing that we have put in place is an agency adjustment fund of $3.5 million to assist those providers that missed out and to give them a transition on the way through. That is the work that we are doing. On top of that, there is also the Jobs Fund of $650 million and localised projects that can be used by providers to increase jobs. But not just that: there are pathways to employment. That is also what the innovation fund of $41 million is about—real work. This is not just the old work for the dole; this is real training and pathways. (Time expired)

Honourable members interjecting—

The PRESIDENT—Order! I remind senators that discussion across the chamber during question time is disorderly. People have a right to hear the answers and also, as I said yesterday, the questions.

Nation Building and Jobs Plan

Senator McEWEN (2.14 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Can the minister inform the Senate of the progress on rolling out the government’s Nation Building Economic Stimulus Plan? For example, does the minister have details of the number of housing and schools projects which have started and the benefits these are providing to our local communities? In particular, the Nation Building Economic Stimulus Plan provides a great chance for 2.9 million Australian households to improve the energy efficiency of their homes by taking up the opportunity to have ceiling insulation installed for free. Does the minister know how many house-
holds have taken up the opportunity under the plan to get free insulation?

Senator CHRIS EVANS—I thank Senator McEwen for the question. The stimulus plan of the Rudd Labor government is well underway around the country and is providing jobs in local communities. The stimulus plan is working. The stimulus package is expected to raise the level of gross domestic product by 2¾ percentage points in 2009-10 and 1½ percentage points in 2010-11, supporting up to 210,000 jobs. The government’s aim was to get the stimulus money out and working quickly. We now know that more than 27,000 Australian homeowners have had the ceiling insulation actually installed in their homes. While those opposite are contemptuous about this, those people regard that as a very important way of managing their household expenditure on power bills. Twenty-seven thousand have already got the ceiling insulation in. Construction of nearly 270 new social housing dwellings is underway; 270 are already started, with more to come. Work is well advanced on repairs to and maintenance of social housing, with work already completed on over 9,000 houses. Defence Housing Australia have started 233 of the 800 houses they are building for our defence personnel.

Every school in Australia has now been allocated between $50,000 and $200,000 for maintenance and repairs. Work has started on the projects approved in round 1 for the Primary Schools for the 21st Century project, and construction has started at 300 sites to build libraries, halls and classrooms at primary schools around the country. So the stimulus is working, jobs are being created, projects are underway and there is more to come to try and protect Australia from the impacts of the world economic downturn. But the stimulus package has been delivered in local communities now, delivering jobs now.

Senator McEwen—Mr President, I ask a supplementary question. Can the minister inform the Senate of other views on the effects of the government’s Nation Building Economic Stimulus Plan? Has the government had an opportunity to consider those opinions, and what conclusions can the government draw about the success of the Nation Building Economic Stimulus Plan in helping to cushion the effects of the global recession on the Australian economy? In particular, is the minister aware of any expert views on the effect that the economic stimulus plan is having on the global economy?

Senator Ferguson—who’s an expert?

Senator CHRIS EVANS—What is clear is that the opposition are not experts, because they opposed the stimulus plan. They opposed many of the measures that are delivering jobs and supporting our economy, although I note many of them turn up to the openings and launches of these projects. I was at one the other day. The local Liberal member voted against it in the House of Representatives, but he turned up at the council to try and get associated. In fact, he is in the picture with me. I will just bring the picture in. The member for Swan is in the picture, but he did not vote for it in this chamber. What we know is that the stimulus package is working.

Senator Heffernan—Mr President, on a point of order: in due course there will be a royal commission into the lack of tenders into these contracts.

The President—There is no point of order, Senator Heffernan.

Senator CHRIS EVANS—What we know is that people who have the responsibility in these areas and who make serious judgments know that the increase in consumer spending driven by our stimulus packages is delivering for the economy. Steve
Lowy of Westfield said the performance of local operations of his firm had been positively influenced by the effects of the government’s stimulus package. Economists know the stimulus package is working. (Time expired)

Senator McEWEN—Mr President, I ask a further supplementary question. Despite those expert views outlined by Senator Evans, there continue to be some senators opposite who claim the stimulus plan is not working. As the economic stimulus is having an impact in the housing and construction sector, could the minister detail other measures which may indicate the success of the government’s plan? Is the minister able to advise the Senate of the evidence which indicates that the government’s nation-building economic stimulus package is working? In particular, does the minister have data which shows the effect on the economy?

Senator CHRIS EVANS—I can say to the chamber that the stimulus package has resulted in improved economic data, particularly in the housing area but more broadly in the economy. The housing figures recently released show housing finance rose 3.6 per cent in April and is now 13½ per cent higher over the year. The number of loans for the construction of new owner-occupied homes rose to the highest level since January 2002. Loans to first home buyers are at record levels, representing 28 per cent of new loans financed—young families getting a start and an opportunity to move into their first home. The broader economy is also showing signs of responding to the stimulus package. Consumer confidence recorded its largest increase in 22 years in June and is at its highest level since January 2008, and business confidence also rose sharply in May. The stimulus package is working, building confidence and providing jobs and opportunities in the Australian economy. (Time expired)

Employment

Senator FIFIELD (2.21 pm)—My question is to the Minister for Employment Participation, Senator Arbib. With regard to the new Job Services Australia contracts, will the minister confirm that there were employment services providers who were deemed not to be preferred tenderers in a particular employment service area on 5 March yet who were subsequently offered business in that employment service area on 2 April?

Senator ARBIB—Thank you, Senator Fifield. I know you have had an interest in this area. Mr President, I am unaware of what Senator Fifield is referring to, but I am happy to attempt to find that information for him. In terms of the unsuccessful providers, there have been a number of issues in the media and there has also been a parliamentary inquiry. Almost 3,000 bids were received for the new Job Services Australia from over 400 organisations across all the employment services. It was a very competitive process—there is no doubt about it—and there was a strong field of candidates.

These are major reforms and any change like this has to be managed and managed properly. Many of the providers who have not been successful are disappointed, of course. Many of them are decent organisations, community organisations, working for the common good, working to get long-term unemployed back into work. Thirty-seven organisations that have not been successful in the tender have been assisted by the Agency Adjustment Fund, receiving up to $100,000.

My department, as the opposition knows, are absolutely at arm’s length from the government. They assess these providers against published criteria, including the key consideration of past performance. I remind those opposite that the government consulted industry throughout the process and in finalis-
ing the tender criteria. Organisations that tendered successfully were able to demonstrate performance, an understanding of the new service delivery model, connections with local community and the ability to translate this to effective local strategies. The overwhelming majority of current five-star providers will be delivering Job Services Australia. Eighty-five per cent of the successful providers were ranked— (Time expired)

Senator FIFIELD—Mr President, I ask a supplementary question. I am surprised that Senator Arbib is not aware of such a fundamental component of the Job Services Australia contract arrangements, but I appreciate the fact that Senator Arbib has offered to take that on notice. I assume that he will report back to the chamber as soon as possible. Could the minister also provide on notice, unless he finds it in his notes while I am talking, the reasons, if my proposition is correct, for these employment services providers being offered additional business in each ESA in which this occurred? Could the minister also advise the Senate which organisations were involved and what employment services areas this occurred in?

Senator ARBIB—This was a competitive process. Obviously there are many people that are disappointed. We are working with those groups. We have put in place the adjustment fund. We have put in place the Jobs Fund. I think it is good we are talking about jobs, because in terms of jobs there is a real difference between what this side of the chamber is doing and the record of that side of the chamber. On this side of the chamber we have people that are actually working to help workers and working to help the unemployed through the global recession. That is why we are attempting to stimulate the economy. On the other side, the member for Wentworth—273 days, no jobs plan. (Time expired)

Senator FIFIELD—Mr President, I ask a further supplementary question. I assume Senator Arbib took that question on notice, because he did not directly address any element of it. A more straightforward question for Senator Arbib: can the minister confirm to the Senate whether during the probity period there was any communication relating to purchasing matters between the previous Minister for Employment Participation or his staff and a tenderer? Straightforward question—an answer, please, Minister.

Senator ARBIB—The tender process for the Job Network was at arm’s length from the government. The tender process for every tender for the Job Network was ticked off by an independent probity auditor. The probity auditor in his report on the procurement process said:

… the ES procurement process represents a high benchmark for the conduct of Commonwealth procurements …

He also said that the achievement in delivering such a well-run procurement process is emphasised by the scope and complexity of the endeavour involved in the ES procurement process. In relation to the minister, my advice is that any MP who sent correspondence from constituents to the former minister’s office in relation to the employment services tender was referred immediately to the department and to the independent probity auditor.

Climate Change

Senator WORTLEY (2.27 pm)—My question is to the Minister for Climate Change and Water, Senator Wong. Can the minister outline why it is necessary to act on climate change, can the minister provide authoritative sources that demonstrate that climate change is real and can the minister advise the Senate on whether there are any alternative views?
Senator WONG—I thank Senator Wortley for the question and for her interest in climate change matters. There are, of course, a great number of authoritative sources that can be cited on the issue of climate change. But those opposite might be interested to hear from one authority in particular. That would, of course, be the Leader of the Opposition, Mr Turnbull. It is Mr Turnbull who has said:

… climate change is a fact, not a theory.

He also said that the work of the Intergovernmental Panel on Climate Change ‘confirms that human activity is causing global warming’. The fact is that 13 of the 14 warmest years on record occurred between 1995 and 2008. But, sadly, on this issue Mr Turnbull’s party room still remains a safe haven for the climate change sceptics. He appears to be incapable of showing the strong leadership that is needed and standing up against the sceptics in the party room for what he knows is right. Last night we saw the extraordinary spectacle of a Liberal senator—

Honourable senators interjecting—

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

Senator WONG—I was saying that last night we saw the extraordinary spectacle of a Liberal senator in this place actually being to the right of Senator Boswell on the issue of climate change, and I congratulate Senator Cash for that remarkable achievement. But, most importantly, Senator Cash broke ranks with her leader, Mr Turnbull, by demanding—

The PRESIDENT—Order! There needs to be silence on my right when Senator Wong is answering the question. When we have order we will proceed.

Senator WONG—As I said, Senator Cash is the latest in a line of senators and MPs who have broken ranks with their own leader, Malcolm Turnbull, but more importantly they do not even agree with John Howard. (Time expired)

Senator WORTLEY—Mr President, I ask a supplementary question. Given the minister’s answer, can the minister now outline whether there is any hope on the horizon for action on climate change? Have any recent developments increased the likelihood of Australia making progress on climate change? Will it be possible for Australia to move forward on climate change?

Senator WONG—It is quite clear from Mr Turnbull’s public statements that he does want to act on climate change. He was once one of the parliament’s strongest advocates for emissions trading, but since he has taken over the leadership, which I note he did so in part by campaigning against Dr Nelson on the issue of climate change, he has unfortunately been looking over his shoulder, watching his back against Mr Costello, worried about losing the support of the climate change sceptics such as Senator Cash. With Mr Costello now apparently out of the picture, we might see Malcolm Turnbull finally able to show the leadership to put Australia’s national interest ahead of his own political interests. Mr Turnbull should do what he knows is right. He should support action on climate change. Instead of looking over his shoulder, he now has the chance to look forward and look to the national interest.

Senator WORTLEY—Mr President, I ask a further supplementary question. Can the minister further expand on the prospects for action on climate change? Is there any new evidence that the minister can provide to the Senate that climate change action may be possible?

Senator WONG—There is some evidence—and it comes from a surprising quarter—of there being some light at the end of
the tunnel and that is from Mr Abbott. This morning Mr Abbott was asked the question, ‘Do you think Turnbull now has more authority in the party room on difficult issues such as the CPRS now that Costello has gone?’ and Mr Abbott said:

All of those issues can now be discussed purely on their merits without any injection of personalities that might otherwise have occurred.

Tony Abbott has said it how it is. The internals of the Liberal Party have been driving the opposition’s position on climate change. So with Mr Costello out of the picture the question now is: does Mr Turnbull have the nerve to do what he knows is right, to stand up to those like Senator Cash, sceptics on that side, and support action on climate change? Those over there who know climate change is a real issue should turn up and say, ‘Hey, Malcolm, Peter’s gone; it’s your chance now to do the right thing.’

**Broadband**

Senator MINCHIN (2.33 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I refer the minister to the outrage sparked in the early 1990s when aerial pay television cables were rolled out under the federal Labor government despite the objections of residents and councils and the subsequent safeguards introduced by the coalition requiring carriers to seek state and local planning approval before deploying overhead cables. When does the government plan to attempt to repeal these safeguards in order to enable aerial cables to be rolled out for the $43 billion National Broadband Network, thus denying the opportunity for residents and individual councils to object?

Senator CONROY—Can I thank Senator Minchin for his ongoing interest in his own portfolio. On this issue, the government wants to expedite the rollout of fibre optic components of the NBN because it will deliver substantial benefits to homes and businesses. That said, the government will take account of community sensitivities in making changes to carrier powers and immunities. The faster fibre optic can be rolled out, the sooner Australians can enjoy the benefits of superfast broadband. Unlike those opposite, who after 12 years have now been 18 months in opposition, we have a broadband plan.

Honourable senators interjecting—

**Senator CONROY**—You have a plan to hold a study. You have a plan to invite the Productivity Commission to investigate. Let us be clear about this: the government wants the rollout to be as unobtrusive as possible. Where possible and where it is cost effective, fibre optics can and will be placed underground. In other instances, aerial cabling may be faster and more cost effective. Where necessary to facilitate the rollout of fibre optics, the government is prepared to amend the existing carrier powers and immunities. The government will consult stakeholders on legislative changes and will give due consideration to community sensitivities. The government has begun discussions with the Australian Local Government Association about the NBN and looks forward to an ongoing, constructive dialogue. *(Time expired)*

**Senator MINCHIN**—Mr President, I ask a supplementary question. I thank the minister for his answer, but I note that in Tasmania the state government has indicated that overhead cables will comprise about 70 per cent of that state’s broadband rollout. Can the minister indicate what proportion of the optical fibre rollout on mainland Australia will comprise aerial cable?

**Senator CONROY**—The government will be looking at ways the impact of any aerial cabling can be minimised. Given that Senator Minchin has referred to Tasmania, I note comments from Dr Jonathan Spring,
who is involved in the FTTP pilot in Tasmania with TasCOLT and who said on 3 June 2009:

In the TasCOLT project we rolled it out as an aerial cable deployment. It's a very attractive way of doing in comparison to the way cable TV was laid out, because the fibre cable is very much smaller than the existing cable that people might be aware of from Optus and Telstra.

Let us be clear. Senator Minchin is attempting to hug a piece of HFC cable. He is desperate to have a debate about cable the size of HFC. Perhaps if he went and got a briefing he would begin to understand that in actual fact what is available today for the fibre-optic rollout is considerably smaller than that. (Time expired)

Senator MINCHIN—Mr President, I ask a further supplementary question. I wonder if the minister was so dismissive of the Minister for Foreign Affairs when he raised this issue in the one meeting that the cabinet had on this matter. I ask the minister what assumption was made regarding the degree to which aerial cabling would be used in relation to the government’s cost estimate of $43 billion for its NBN mark 2. Does the minister agree with Optus that the estimated cost of the project—that is, $43 billion—will mean at least 70 per cent aerial deployment nationwide?

Senator CONROY—Senator Minchin is actually misquoting Optus. I think they were indicating that for a 70 per cent rollout it was $33 billion, depending on the level of the rollout. I think, if you read it carefully, that is what they were actually saying; I am happy to be contradicted. But let me be clear: we have said we are having an implementation study to go through all of these issues. We have said that from day one, and we do not resile from that. We are in negotiations which will allow us to be definitive on that. Depending on whether one company or another company is involved, we will change this equation. Senator Minchin, instead of just sitting back and calling for more studies, why don’t you get behind giving Australians faster broadband? Why don’t you just do that—or, as Mr Kim Williams from Foxtel said today—(Time expired)

Environment: Dieback

Senator SIEWERT (2.40 pm)—My question is to Senator Wong, the Minister representing the Minister for the Environment, Heritage and the Arts. I wish to draw the minister’s attention to the recently released four-year study of the impact of phytophthora dieback in WA—Project Dieback. Phytophthora dieback is identified as a key threatening process under the EPBC Act and has been named as the most significant threat to biodiversity in south-west WA, which is a world biodiversity hotspot. Project Dieback showed that one million hectares in southern WA is infected with dieback and another one million hectares is at high risk. Nearly 80 per cent of the plant species in the south-west of WA are found nowhere else in the world. At least half of these are vulnerable to dieback. As a key threatening process under the EPBC Act, why is dieback not listed as a priority funding under Caring for our Country and what action is the government taking to address phytophthora dieback urgently?

Senator WONG—I thank Senator Siewert for the question. I have some information on this, but I may need to take some of the question on notice. I can tell you that phytophthora, which I might call root rot or dieback, is the subject of a threat abatement plan which was made in May 2009. I am advised that the plan is currently being enacted and the plan will be enacted across the coming five years. I am also advised that Mr Garrett’s department is in consultation with the Western Australian government to clarify proposals, particularly in relation to the Fitzgerald River National Park. Dieback, as the
Senate is probably aware, is listed as a key threatening process under the Environmental Protection and Biodiversity Conservation Act. The first threat abatement plan to address this issue was made in 2001. As the senator may be aware, these plans set out the research, management and other actions necessary to reduce the impact of listed key threatening processes on native species and ecological communities.

Under the EPBC Act, threat abatement plans are reviewed at intervals of not longer than five years. The review in relation to this particular fungus was undertaken in 2006 and it is the findings of this review which have been utilised to develop the revised threat abatement plan made recently by Minister Garrett. This plan was revised to reflect the findings of the review, incorporating research undertaken and advances in knowledge about managing the fungus made since the release of the 2001 threat abatement plan. I indicate that, in relation to the Caring for our Country criteria, that is a matter for which I will ask if Minister Garrett can provide further information.

Senator SIEWERT—Mr President, I ask a supplementary question. I thank the minister for her answer. The Fitzgerald national park is a Man and the Biosphere reserve which is under international convention. This park is highly vulnerable to dieback. It is an extremely important area because it is one of the last few areas that may remain uninfected by dieback in the future. The state government proposed to put a coastal road through the park which will go through what are at present uninfected areas. Is the government funding or considering funding any part of that road?

Senator WONG—On that issue of the road, I will have to take on notice what involvement, if any, the Commonwealth has. I am unaware as to whether or not there have been any applications or exercise of the powers under the EPBC Act. I will take that on notice and come back to the Senate on the issue.

Budget

Senator BUSHBY (2.45 pm)—My question is to the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, Senator Conroy. Can the minister explain why the budget contained no new federal funding for Tasmania’s endangered rail network?
Senator Sherry—Because you flogged it off; you sold it.

The PRESIDENT—Order!

Senator CONROY—Let’s be very clear—and I thank Senator Sherry for that interjection—after having sold it—

Opposition senators interjecting—

Senator CONROY—Perhaps, if I could just clarify, Mr President. I am somewhat confused. The question appears to be about something that those opposite sold. Is that the tenor of the question, Senator Sherry?

Senator Sherry—Yes.

Senator CONROY—Let me be clear about this—

Senator Parry—Mr President, on a point of order. If Senator Conroy would just stick to the question asked by Senator Bushby and not refer to the interjections of Senator Sherry. It was a very, very clear question.

The PRESIDENT—Order, on my right! Senator Conroy, address the question and address the Chair.

Senator CONROY—Let me be clear about this: the Rudd government will invest $35.8 billion over six years to 2013-14 in road and rail, more than double what the coalition spent over a similar period. The $35.8 billion is made up of the Nation Building Program, $26.2 billion; ARTC, $1.2 billion; and new budget investments, $8.5 billion. We will be investing a record $6 billion in 2009-10 to build new transport infrastructure and upgrade existing transport infrastructure. This builds on our first budget in 2008-09, which delivered $5.9 billion. Over the six years to 2008-09, the coalition spent only $17.3 billion on road and rail through Aus-Link and ARTC. So let us be clear: when it comes to infrastructure on road and rail—

Senator Barnett—Mr President, I rise on a point of order going to relevance. The question was very clear and specific. It related to rail funding in Tasmania. The minister has not touched on that in any sense at all. He absolutely has not touched on it. Could you please direct him to answer the question and be relevant.

The PRESIDENT—Senator Conroy, I draw your attention to the question. You have 13 seconds to continue.

Senator CONROY—Thank you, Mr President. As I was saying, the Rudd government have demonstrated its commitment on road and rail infrastructure. We are spending more than twice what those opposite did in the same period, so let us be clear about that.

Senator BUSHBY—Mr President, I ask a supplementary question. Thank you very much for that information, Minister, but I note that you failed to touch on Tasmania once. Has the government held any direct discussions with the Tasmanian transport minister, Graeme Sturgess, since the collapse of the Tasmanian rail and freight network last Wednesday?

Senator Sherry—It is a private company, is it not? You sold it off.

Opposition senators interjecting—

The PRESIDENT—Order! Senator Sherry and others, it is disorderly to engage in this debate across the chamber. Senator Conroy has been asked a question.

Senator CONROY—The Rudd Labor government have committed close to $200 million to improve Tasmanian rail infrastructure through our Nation Building Program. Minister Albanese is working constructively with the Tasmanian government to make sure that this investment delivers the best outcome for the state’s industries and communities. Those opposite crying wolf and crying crocodile tears in this area are again exposed.
You are complete frauds. You cannot match—

The PRESIDENT—Senator Conroy, you have to withdraw that word.

Senator CONROY—I withdraw, Mr President. My apologies. Those opposite know well that this government have committed twice as much and are putting forward $200 million to improve Tasmanian rail infrastructure. You cannot escape the number because it is standing there in the budget. (Time expired)

Senator BUSHBY—Mr President, I ask another supplementary question. I thank the minister once again for reminding us of election commitments that were made before the election in terms of funding the rail. Those commitments all relate to problems—

Senator Carr—When did you make that commitment?

The PRESIDENT—Order! Senator Carr and others, the senator is entitled to be heard in silence.

Senator BUSHBY—Those commitments all relate to upgrading of the line—upgrading that was needed and had been long planned. What we face in Tasmania at the moment is a crisis with the total collapse of the rail network. I repeat the question: has the government met with Minister Graeme Sturgess to discuss the most recent crisis facing Tasmanian rail infrastructure?

Senator CONROY—It is extraordinary that after nearly 12 years in government those opposite now try to blame the current government for a lack of investments in rail—what a pack of shonks! You had 12 years to secure the future of Tasmanian rail and you did nothing whatsoever. You sold it off and you had every opportunity—

Senator Colbeck—Mr President, on a point of order: if the minister does not know the answer to the question he should take it on notice. Almost 50 per cent of the funding that is there now was put in place by the previous government and, for the information of Senator Sherry, the rail tracks in Tasmania are actually owned by the Tasmanian government.

Senator Ludwig—On the point of order, Mr President: we now have a point of order being taken for an explanation as to why they got the question wrong in the first place. It is not appropriate to use a point of order to try to correct the question and put the issue. The issue of relevance was raised but it was raised—

Senator Conroy interjecting—

The PRESIDENT—Order! Senator Ludwig, I cannot hear you because of those near you who are calling out. It is impossible to hear you.

Senator Ludwig—Mr President, I am speaking to two matters in respect of the point of order. The first matter is that it was raised as a point of order on relevance. In my submission, the minister was relevant to the question. He was talking specifically about funding of Tasmanian rail. The second matter I raise on the point of order, which in my submission you should rule out of order, is that it was not speaking to the point of order of relevance; it was in fact dealing with the question to try to correct it. I think in that sense it is impermissible.

The PRESIDENT—There is no point of order. Senator Conroy, you have 25 seconds to answer the question.

Senator CONROY—The interjection before, masquerading as a point of order, again clearly demonstrates the way that those opposite are prepared to mislead this chamber, because they are the ones who sold this rail network. They sold it to a company that failed to invest in it. And you failed to notice— (Time expired)
Building the Education Revolution Program

Senator MARSHALL (2.54 pm)—My question is to the Minister Assisting the Prime Minister for Government Service Delivery, Senator Arbib. Can the minister inform the Senate of actions the government has taken to invest in infrastructure across Australia in order to cushion our economy from the blow of the worst global recession in 75 years? In particular, can the minister update the Senate on infrastructure investments that are being made across the country and how these projects provide an economic stimulus to our economy and support jobs? How does this compare with the levels of infrastructure investment from previous governments?

Senator ARBIB—I thank Senator Marshall for that question. I know he is a big supporter of the infrastructure projects that the government is putting forward. He is also passionate about education and about Building the Education Revolution. In Victoria, I am happy to tell you, Senator Marshall, all 2,273 schools will be getting upgrades out of the Building the Education Revolution funding in infrastructure, which for the other side of the chamber was too hard.

Senator Abetz—Even the ones that have been closed.

Senator Carr—Do you support it or not?

The PRESIDENT—Order! It is disorderly for both sides to be interjecting across the chamber when Senator Arbib is answering the question.

Senator ARBIB—Infrastructure is something that really was in the too-hard basket for the Liberal Party over the 12 years. We now know the fact that there was a 20 per cent fall in investment in infrastructure as a share of national income during their time in power. Looking at infrastructure, there were 20 Reserve Bank warnings about capacity constraints in the economy. Where was the former Treasurer then? Infrastructure was on the backburner.

When the global recession hit, the government acted and acted decisively, and at the forefront of what the government was doing was infrastructure—the largest school modernisation project in the country’s history. Every school across the country will be getting funding. Every school will be getting upgrades. Every primary school will be getting new buildings—new libraries and new halls. On top of that, we are rebuilding roads. Senator Bushby raised Tasmania. In terms of Tasmania, let me tell you that one of the first projects that came out of the stimulus package was the Brighton bypass. How many jobs will that support? Three hundred and seventy jobs. Three hundred and seventy jobs will be coming out of the stimulus package in Tasmania—the largest road project in Tasmania’s history. (Time expired)

Senator MARSHALL—Mr President, I ask a supplementary question. I thank the minister for that comprehensive answer. As the minister is aware, there will be around 35,000 individual construction projects across the country when the stimulus package gets up to full steam in about 12 months time. Could the minister please inform the Senate how these projects create work opportunities for small businesses, tradespeople and suppliers across the country? Will these projects be delivered in every community in Australia? How do these construction projects support local economies in general? And is the minister aware of any examples he could provide the Senate to illustrate how these projects support jobs and small businesses, not just directly but also indirectly?

Senator ARBIB—As Senator Marshall has said, in about 12 months there will be 35,000 individual construction projects—individual building sites—across the country.
The effect that is going to have on the economy in terms of the multiplier effects is endless. Can I just mention one project. Last week I went to Queanbeyan with the Parliamentary Secretary for Employment, Jason Clare. At one site, a community housing project, I spoke to the project manager and there were 95 jobs. Those 95 jobs are new jobs. How will that help stimulate the Queanbeyan economy? Firstly, those 95 workers will all go to the local service station, they will all get their petrol from that service station and that will help to protect the jobs there. They are all going to go to the local hardware stores to get their materials and their supplies, supporting jobs there. This will stimulate the economy. And it goes through to the department stores—(Time expired)

Senator MARSHALL—I thank the minister for his answer. Given the previous government’s neglect of Australia’s rail infrastructure and major roads, which are vital not only to the safety of Australian motorists but also to our nation’s productivity, is the minister able to provide details of any infrastructure projects that are currently underway in these two important areas?

Senator ARBIB—These projects are not on the drawing board; these projects have started now. Stimulus projects are underway and people are in jobs right now. I just want to give you a couple of examples. In May, at Singleton, the first sod was turned on the Hunter Valley to Newcastle $135 million rail track. That is 150 jobs in the Hunter region. In South Australia work has begun on the line between Maroona and the South Australian border and in Victoria the line between Albury and Seymour. That is more jobs. That is two rail projects and more than 240 jobs. More than 200 jobs are being supported by the increased demand for concrete rail sleepers. There are 200 jobs there: 50 jobs in Geelong at Austrak’s factory; 65 people at Austrak’s Wagga Wagga factory, 60 people at the Rocla Sleepers Mittagong factory and 60 people at their Grafton factory. They are real jobs. There are 200 jobs from the F5 freeway upgrade; 140 jobs at the Alstonville bypass in the north and—(Time expired)

Defence

Senator JOHNSTON (3.02 pm)—My question is to the Minister for Defence, Senator Faulkner—and I, of course, congratulate him on his elevation to that position. On a very good day, the Navy can have two of our six submarines at sea to help defend Australia and its interests. Why have the number of unit ready days for the submarine fleet fallen by a worrying 17 per cent in the current year?

Senator FAULKNER—First of all I have to indicate to Senator Johnston that I cannot confirm the statistics that he has provided to the Senate, but I will certainly outline to him information in relation to the situation we face in relation to the crewing and operation of our Collins class submarines. I am advised that three submarines are presently crewed and operating in various stages of their routine operational and maintenance cycles. I am advised that media speculation suggesting otherwise is factually incorrect and I have also been advised that Chief of Navy has previously written to newspaper editors to correct these errors. The remaining three submarines are in waiting or longer term docking cycles which involve major overhauls and refurbishment by the original manufacturer, ASC. The opposition should be aware that, of course, submarine availability is managed to ensure that we can meet a range of contingencies, some at short notice and also some which require and have a longer lead time. (Time expired)

Senator JOHNSTON—Mr President, I ask a further supplementary question. The budget papers, specifically at page 45, optimistically say that unit ready days will rise to
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916 in 2009-10. With HMAS Sheehan and HMAS Rankin in full-cycle docking all year, HMAS Dechaineux completing a full-cycle docking later in the year, HMAS Collins tied up at Stirling in a training role from late 2009 and the remaining two—HMAS Farncomb and HMAS Waller—scheduled for short maintenance periods also in 2009-10, how will these unit ready days be achieved?

Senator FAULKNER—I would say to Senator Johnston, through you, Mr President, that, like any such complex piece of equipment, some unexpected issues and effects occasionally occur, and that requires repairs to be undertaken outside routine maintenance cycles. Such defects may lead to the imposition of an operational restriction, meaning that one or more submarines could be precluded from proceeding to sea for routine trials and training activities until the impact of the problems are fully investigated and repaired. (Time expired)

Senator JOHNSTON—Mr President, I ask a further supplementary question. The budget papers, similarly at page 45, further say that the submarine fleet’s unit ready days will decline by 10 per cent in 2010-11 and 20 per cent in 2011-12. Why is there such a dramatic decline in submarine availability to protect Australia and its interests over the next four years and what precisely is your plan to fix that shortfall?

Senator FAULKNER—I will certainly have a look at that information contained on the page of the budget papers that Senator Johnston refers to. But let me say this: the Collins class submarines are arguably, I think, the world’s most advanced and capable conventionally powered submarines—as you know. It should come as no surprise to anybody in this chamber that they therefore require very advanced technology and specialist skills and service to maintain them effectively. We have an absolute responsibility to the men and women serving aboard our submarines to ensure their safety at all times. I can assure you, Senator, that that is my priority and the government’s—(Time expired)

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Employment

Senator FIFIELD (Victoria) (3.08 pm)—I move:

That the Senate take note of the answers given by the Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery (Senator Arbib) to questions without notice asked by Senator Fierravanti-Wells and Senator Fifield today, relating to employment services.

The coalition introduced a paradigm shift in the provision of job placement services in 1998. The old CES, the Commonwealth Employment Service, was progressively replaced by the Job Network—a system of support and placement for the unemployed which, combined with a strong and growing economy, saw unemployment at record lows.

When the coalition were in office, we, like this government, re-let a number of contacts in this area. There are always winners and losers in any competitive tender—such is the nature of the process—but the outcry from providers of the Job Services Australia tender round is unlike anything seen or heard before in this sector. But Minister Arbib seemed completely unaware of the controversy swirling around the JSA tenders; unaware that a full day of Senate estimates was devoted to questions from Senator Cash alone about the tender; and unaware that, on a motion moved by Senator Siewert and me, a Senate committee is inquiring into the tender.
Mr Deputy President, I am quite fond of Senator Arbib, as you may know, so it pains me to say that I think that, if Minister Arbib had spent some time being briefed about his portfolio rather than parading around work sites in his rainbow selection of safety jackets and hard hats, he may have been aware of some of these matters. He may have been aware that the weighting in selection criteria for past performance had been reduced to 30 per cent. He may have been aware that well-regarded, highly performing providers had been turfed out. He may have been aware that, as a result of this tender bungle, 47 per cent of job seekers will be reassigned caseworkers and job providers on 1 July. I am at a loss to understand how forcing 47 per cent of job seekers to new caseworkers and new service providers at a time of slowing growth and rising unemployment helps those people find jobs. That is something Minister Arbib needs to explain.

The reason for this debacle is that 100 per cent of services in employment service areas were put to tender. The minister was also unaware of this fact. He was unaware as to why 100 per cent of contracts were put up for tender and he was unaware as to whether advice had been tendered to the department, to the then minister, recommending that approach of tendering 100 per cent of services at the same time. The minister was also unaware about the tender process itself and whether any provider deemed not to be a preferred tenderer was subsequently offered business—something which goes to the very heart, integrity and probity of this tender process.

The minister needs to get briefed—and get briefed fast—on his portfolio. He needs to get briefed and he then needs to answer why 100 per cent of contracts were put up for tender at the same time. He needs to answer why the weighting for past experience for service providers was reduced to 30 per cent. He needs to answer how it is that 47 per cent of clients having to find a new caseworker, and a new provider, helps them in their search for work. And he needs to confirm the very integrity of the tender process. In particular, he needs to confirm whether during the probity period there was any communication relating to purchasing matters between the previous minister, his staff and a tenderer. While he is doing that, he should also endeavour to establish whether there were any communications between the former minister or his office and the department regarding additional contracts being let, as I asked him in my question—something of which he was completely unaware.

Minister Arbib has been in his position only a few a weeks—I grant him that—but the tendering arrangements for Job Services Australia go to the very heart of what his portfolio is about. It is about helping Australians out of work find work. He does not understand the first principles of how his portfolio seeks to bring that about. He needs to get briefed, and get briefed fast.

Senator CROSSIN (Northern Territory) (3.14 pm)—Could I start by congratulating Senator Arbib on his elevation to the Employment Participation portfolio. He is, quite clearly, across the elements of his portfolio and is more than capable of answering the questions that he was asked today.

There is a difference between not liking the answers that you get and whether or not you accept that on this side of the chamber, under a Rudd Labor government, you have a party of reform and on the other side of the chamber you have a party of people who want to keep rolling over contracts without any accountability or any examination of whether or not those contracts have been effective. We went to the last election with a policy to reform Job Network. That is what we did in 2007. We went on the campaign...
trail saying that we would reform the Job Network provisions and capacity in this country. You see, the Howard government left us with a Job Network that was out of date, one size fits all, bogged down in red tape and incapable of dealing with Australia’s chronic skills shortages. They took the politically easy decision to simply roll over 95 per cent of businesses in the last Job Network tender. In 2006, when the Job Network became available again for retendering, it was not put out to tender. Ninety-five per cent of the businesses in the contracts were not put out to tender. There was no scrutiny under the Howard government. They simply lay down, rolled over and continued with the incompetent and inept system that was in place. There were no improvements and no accountability. They simply rolled over the existing contracts in 2006 for 95 per cent of businesses.

Throughout 2008, under Minister Brendan O’Connor, we embarked on a wide program of consultation with the employment service providers, employers, job seekers and community groups to actually hear their views about how to improve Job Network, now Job Services Australia. We fulfilled our promise by announcing that we will now have Job Services Australia and not Job Network. What is this going to do? One of the fundamental issues that the people opposite have failed to grasp is that the government’s new employment services will actually integrate seven programs. It will integrate Job Network, JSP, JPET, Green Corps, Work for the Dole, Harvest Labour Services and the NEIS. What we are being asked for is a different service to be provided now. That is why it went out to tender. We now have a service that will be tailored for each job seeker. We will be scrapping waiting periods for services for more job seekers. We will promote the value of real training that leads to job opportunities—unlike the previous government. They did not want to link any training to job outcomes and job seeker provisions. Our program will cut red tape for providers, freeing them up to help job seekers; retain and expand access to specialist services for highly disadvantaged job seekers; and be uncapped and demand driven. This is unlike the system we inherited, which had a waiting list of over 20,000 for the Personal Support Program.

What we have seen is a government of reform—a government that went out there last year and actually consulted right around the country about a new program of job services provision for those who are seeking employment. You may well ask, ‘What about those who did not get the tender? What about those who might have missed out?’ Quite simply, tenderers who missed out can request a debriefing. That is an opportunity that has been provided to them. They can contact the Employment Services Purchasing Hotline and get a debriefing. We know that tenderers were required by the process to nominate areas they wished to work in, and they were measured against each other on an area-by-area basis. It was a competitive tendering process. It may well be that they might have been excellent in one area but not in the other six. Remember: this is a reform, a change program, a program for the better. This is where we are rolling up seven programs into one. Just because you were good at one did not mean that you were going to be good in all of them. What we had was an open, competitive tendering process, at arm’s length from the government, that will now deliver for this country integrated and responsive job services.

Senator CASH (Western Australia) (3.19 pm)—Picking up from comments made by the last speaker: the government is rolling seven programs into one. I think it is more a case of rolling seven jobs into none. I had to laugh when the minister, in answer to one of
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Senator Fifield’s questions today, said that the job services contract is very important. I have to say, though, that I rolled my eyes when he actually told this chamber that the government had had wide consultation with industry and they had had wide consultation with community groups. What the government tend to forget is this: you can consult as much as you like but, if you do not listen to the concerns of those people and take action to rectify them, it is worth nothing. But you would expect nothing more from those in that government. Unlike them, the coalition listened to the concerns of the job providers and we ensured that this debacle was sent to a Senate committee. We are now looking forward to getting to the bottom of the mess that Labor have created.

I also have to say that it is rather ironic that the new program will be called Job Services Australia, because the bad news for those poor Australians who do need that service is that it will not be a job that they will be found, it will be absolute, complete, total and utter distress. All of the information that we have been provided with to date confirms that this tender process is a complete debacle. The last thing that this service is going to find Australians is jobs. What is more disappointing is that unemployment continues to rise, with more than 200,000 Australians having lost their jobs since August last year—and it is those on the other side who continue to tell us unemployment is going up. You would actually think that they would try to implement policies that would not result in Australians losing their jobs. But, quite the opposite, it would appear that everything that the ALP touches results in another Australian losing their job.

The minister should have revised this model back in August last year, when he had the opportunity to. But he did not. As a result of his inaction, you will have Australians languishing on the dole queue. That is un-Australian. We on this side continue to advocate that every element of government policy should be focused on implementing measures that ensure that employment in Australia remains high, not measures that will result in Australians losing their jobs.

What is interesting, though, is that the new employment services contract excludes many providers who offered exceptional service under the last employment services contract. The question must then be asked: why would providers with a proven track record be excluded this time around? I thought you wanted the best possible organisations, those with a proven track record, taking on the role of trying to find jobs for out-of-work Australians. When Senator Fifield raised this with the minister opposite, the minister said, ‘I don’t know what Senator Fifield is referring to.’ That is just not good enough. We are talking about the fact that many Australians will not have a job. They need a service that is going to assist them in getting back into the workforce.

The public also have the right to know about another issue that Senator Fifield raised—a very important one. They have a right to know if, during the probity period, there were any communications relating to purchasing matters between the previous Minister for Employment Participation, or his staff, and a tenderer. Again, the minister failed to answer the question. The public have a right to know: was probity adhered to or wasn’t it? It is going to be devastating for all of the caseworkers in the Job Network who may now themselves be facing the same dole queue, through no fault of their own. (Time expired)

Senator BILYK (Tasmania) (3.24 pm)—One thing I would remind those on the other side about is that the previous government actually privatised the CES, and every job seeker then had to find a new provider. There
were 790,000 people on unemployment benefits when that occurred. You would do well to remember that.

The Rudd government went to the last election with a policy to reform the Job Network. We are investing over $4 billion over the next three years in more effective and practical employment services. I have worked in employment services. I have run a program that put 300 long-term unemployed people back into the workforce. Let me tell you, the red tape that was involved in doing that was completely mind-boggling. Under our process, instead of people having to go and knock on seven different doors, they will be able to access the services through one door. That obviously is a benefit to those people.

Employment services and the unemployed are not an excuse for the other side to stand up and rant and rave and feign concern, especially with their history of implementing Work Choices. They do not care about working people. They do not care about unemployed people. They just stand up, feign anger, as Senator Cash did, and think that that is going to get some headlines. Senator Cash, I hate to tell you, but I do not think it is going to get any headlines.

There was a need to reform the previous government’s inflexible Job Network. Employers, employment providers, job seeker advocates and church groups told the government of the need for fundamental reform. Under the previous Minister for Employment Participation, Brendan O’Connor, we started that reform. Senator Arbib is a great example of someone who will take that challenge on and deal with it appropriately. He is strongly committed to making sure that the unemployed get a fair deal. That is what we are about.

The old, outdated system, mired in red tape and not linked to the training and employment required by job seekers, had to go. A key feature of Job Services Australia is its flexibility. It can provide job seekers with the right mix of training, work experience and other support to help them find and keep a job. That is critical. It is critical to the whole process of keeping the economy going and getting people into work. We are trying to make sure that people do not have to go through that 12-week cycle of revolving doors and then start again. We are making sure that people do not have to wait 10 weeks before they can get help getting their CV written. These are very important moves. The Rudd government is doing all it can to make sure that these changes are put into place efficiently.

These reforms will mean that there is personalised assistance, better links to training and greater opportunity for relevant work experience. As I said, I have run a long-term unemployment program. I managed to get 300 people into training programs and jobs in Tasmania. It is significant to see the changes in those people’s lives. The sooner you can get them into relevant work and training, as opposed to irrelevant work and training, the better it is for their self-esteem, for their families and for the place where they end up being employed.

Under our process there will be access to around 2,000 sites Australia wide—at least 200 more than existed in the Job Network under the previous government. There will be 196 providers delivering streamlined services under Job Services Australia. This model is demand driven. It can accommodate any movement in unemployment rates and it can focus on skills development and targeted assistance, particularly for those who are highly disadvantaged. Job Services Australia, senators on the other side might be interested to know, has a greater focus on employers. (Time expired)
Senator HUMPHRIES (Australian Capital Territory) (3.29 pm)—Today Senator Arbib shuffled his way through answers to questions from senators on this side of the chamber, stating much of what Senator Bilyk has just stated and Senator Crossin before her—simply rehearsing the details of the government’s new Job Services Australia plan.

It does appear as if none of these senators have any appreciation of the serious, persistent concerns which have been stated in a number of forums, including the Senate inquiry last week in Melbourne, about the way in which this program is being rolled out. Your ideals, the projects you want to get off the ground and the way you want to make this change happen are one thing; actually achieving that is quite another. I suggest that senators opposite who are not fully aware, as the minister appears not to be fully aware, of these concerns should go back and look to see what people on the ground, at the coalface, are saying about this process. People like Catholic Social Services Australia, people like Jobs Australia and people like the Australian Council of Social Service are not people normally known for supporting coalition initiatives, but all have expressed concerns about aspects of this process: the way in which it is impacting on the level of expertise and experience of our providers of job services in Australia and how that would be diminished as we move into this new phase and we lose that valuable experience.

The National Employment Services Association said:
The loss of experienced, skilled and high performing employment service organisations weakens the sector and its ability to meet the needs of Australian job seekers and employers.

That represents a very large portion of the providers in this sector today. Those concerns need to be taken on board by the minister and by the Labor government. That statement was followed by comments from Catholic Social Services Australia, which made the point in respect of the weighting on previous performance in the sector of only 30 per cent that Senator Fifield referred to:

… the 30% weighting allocated to past performance was inadequate, allowing far too many proven performers to be dumped from the services on the basis of their written responses to selection criteria which we have already argued biases the results to larger, richer entities so often unproven in particular local areas.

ACOSS follow those comments by saying:
The playing field appears to have been tilted in favour of those with a strong submission, as distinct from a strong performance in the field.

If senators opposite, including the minister, think they can gloss over these concerns and run forward to this new start date of 1 July for their new contracts they are seriously overlooking the dislocation and disorientation taking place in this sector at the moment. I suspect they are going to find the large number of providers and job seekers who will be put out by this new system a serious surprise. That should not be the case, because the evidence that the government needs to take account of is there already.

Some providers in this field will be completely new to the particular areas in which they are operating, with no previous experience in those areas. The expertise that particular providers have already built up in those areas—the relationships with people at risk, young job seekers, Indigenous job seekers, those with disabilities and those with mental illness—is not easily substituted by a new provider walking in, with no background in that particular area, and attempting to take over. Some providers are multinationals, with no experience in Australia and the Australian job market at all. Some staff will be lost to the system; a large number of staff from the existing successful providers—ones with high performance under the
previous system—are simply going to be lost to the system and that will be a great blow to the effectiveness and the expertise available within this sector. It begs the question: why did we throw that expertise away? Why have those people walked out the door?

On 1 July we will see just what happens with this new system; but I think we can reasonably expect a great deal of dislocation and a great many people with serious concerns about how this is going to be delivered. We are going to find people unable to connect with the services they need because of the loss of a trusted party at the other end of the telephone line or on the other side of the desk. The government and the minister appear completely unaware of that, and that is a great concern. I hope that in the next few weeks, before 1 July, the minister lifts his game and finds out what is going on, because if he does not know what is going on a great many people are going to get very badly hurt. (Time expired)

Question agreed to.

Environment: Dieback

Senator SIEWERT (Western Australia) (3.34 pm)—I move:

That the Senate take note of the answer given by the Minister for Climate Change and Water (Senator Wong) to a question without notice asked by Senator Siewert today relating to phytophthora dieback in Western Australia.

Phytophthora dieback has long been an issue in Western Australia, which has obviously been recognised by the fact that in the past there has been a threat abatement plan generated. As the minister highlighted, there was one developed in 2001, it was reviewed in 2006 and, as the minister informed the Senate this afternoon, a new one was put in place in May 2009. The problem here is that at this stage it looks like that abatement plan is unfunded.

As I touched on in my question, the south-west of Western Australia is highly vulnerable to dieback. A million hectares of some of the most biodiverse bushland on the planet is already infected with phytophthora dieback and a further million hectares in the south-west of Western Australia are at high risk. The Fitzgerald River National Park, in the south-west of WA, is one of the most highly diverse places in an already highly biodiverse area. It is largely unaffected by phytophthora dieback at the moment. There is a small area of infection in the park, which governments and the department in various guises—the Department of Land Management is now the Department of Environment and Conservation—have worked very hard to make sure is contained.

The point here is that, unless we take this threat seriously, we may lose most of the biodiversity in south-western Western Australia. Phytophthora dieback has been identified as the most threatening process to the biodiversity in the south-west of WA. It is absolutely imperative that we put in place measures to stop its spread and particularly to stop it getting into as yet uninfected areas, which is why the Fitzgerald River National Park is so important and why researchers are saying they need at least $10 million per year to keep these uninfected areas protected. They have put forward a plan to both the state and Commonwealth governments.

One of the problems here is that, although phytophthora dieback has been identified as a key threatening process and although it is recognised as being the most threatening process affecting the biodiversity in south-west WA, the threat abatement plan has not been funded and, unfortunately, it was not listed as a priority under Caring for our Country. We have got to ask why. Is it because it is in Western Australia, which is far away from Canberra and the eastern states? Is it because it is not recognised in the east-
ern states for the devastation that it is causing in Western Australia? Western Australians are sitting back and saying, ‘Why isn’t this key threatening process a priority under Caring for our Country?’

That is why I asked the government today what it is intending to do about it. How is the government intending to address what is listed under the EPBC Act as a key threatening process? Where is the funding for the abatement plan? Where is the funding to protect the Fitzgerald River National Park? The Fitzgerald River National Park, as the minister quite rightly pointed out, is a state national park, but it is one of national significance. It is one of international significance because it is one of only two parks in Western Australia that is listed under the archaic Man and the Biosphere Program, which means that it is internationally recognised. I say ‘archaic’ because I think we need to address the ‘Man and the Biosphere’ name. Nevertheless, it is recognised as a park of international significance. Therefore, we need to do our utmost to protect the biodiversity in that park.

It is essential that the federal government not only discuss, as a matter of priority, with the Western Australian government what they are going to do about funding that particular park but also discourage the Western Australian government from putting a road along the coast and through the middle of some of the most important areas in the Fitzgerald River National Park. They also need to be talking to the state government about why the state government is not listing threatened ecological communities under the national register and why they are not listing them under the EPBC Act. I think this is part of the problem. These threatened ecological communities are not being recognised nationally and therefore, of course, the federal government does not necessarily think they should be a priority for funding, despite the fact that dieback is recognised as a key threatening process. Obviously something is going wrong here.  

(Time expired)

Question agreed to.

PETITIONS

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

**Binge Drinking**

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

The petition of the undersigned shows:

The undersigned Petitioners respectfully request that the Senate recognises:

- That binge drinking is a problem in Australian society that needs to be tackled.
- That imposing a punitive tax on one form of alcoholic beverage will not stop young people binge drinking- it will simply encourage substitution to different alcoholic products.
- That the “alcopops tax” could cost at least 285 Australian jobs. If new excise measures are passed by the Senate, Independent Distillers will be forced to consider moving its operations overseas due to a drop in production. This would mean the loss of 135 jobs at its Melbourne factory and potentially a further 150 among suppliers.
- That the “alcopops tax” is an experiment that has already failed and its failure will come at a high price for Australian families.

Your petitioners ask that the Senate:

- Rejects any arbitrary increase in excise on just one type of alcoholic beverage; and,
- Work together in the national interest to find real solutions to binge drinking.

by Senator Ryan (from 116 citizens)

Petition received.

NOTICES

Withdrawal

Senator WORTLEY (South Australia) (3.40 pm)—Pursuant to notice given on the last day of sitting, I now withdraw business of the Senate notice of motion No.1 standing
in my name for six sitting days after today
and business of the Senate notices of motion
Nos 2, 4, 5 and 6 standing in my name for
nine sitting days after today.

Presentation

Senator Ludwig to move on the next day
of sitting:

That the government business order of the day
relating to the Social Security and Veterans’ En-
titlements Amendment (Commonwealth Seniors
Health Card) Bill 2009 be discharged from the
Notice Paper.

Senator Ludwig to move on the next day
of sitting:

That on Monday, 22 June 2009:
(a) the hours of meeting shall be 10.30 am to
6.30 pm and 7.30 pm to 10.30 pm; and
(b) the routine of business from 10.30 am to 2
pm shall be government business only.

Senator Nash 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
References Committee on public passenger trans-
port in Australia be extended to 20 August 2009.

Senator Humphries to move on the next
day of sitting:

That the time for the presentation of the report
of the Education, Employment and Workplace
Relations References Committee on the oversight
of the child care industry be extended to
17 September 2009.

Senator Lundy to move on the next day
of sitting:

That the Joint Committee of Public Accounts
and Audit be authorised to hold a public meeting
during the sitting of the Senate on Wednesday, 24
June 2009, from 11.30 am to 1.30 pm, to take
evidence for the committee’s review of Auditor-
General’s reports.

Senator Mason to move on the next day
of sitting:

That the Parliamentary Joint Committee on
Corporations and Financial Services be author-
ised to hold public meetings during the sittings of
the Senate on Wednesday, 17 June and Wednes-
day, 24 June 2009, from 5.30 pm.

Senator Mason to move on the next day
of sitting:

That the Parliamentary Joint Committee on
Corporations and Financial Services be author-
ised to meet during the sitting of the Senate on
Thursday, 18 June 2009, from 9.30 am to 11.30
am, to allow officers of the Australian Securities
and Investments Commission, to provide a pri-
ivate briefing to the committee.

Senator Cormann to move on the next
day of sitting:

That the Senate notes with concern:
(a) that the Select Committee on Fuel and
Energy has been seeking unsuccessfully to
gain information from the Government re-
garding the modelling undertaken by the
Department of the Treasury titled, Australia’s
Low Pollution Future: The Economics of Climate
Change Mitigation, since December 2008;
(b) the following history of the Government’s
refusal to provide the information needed
to properly scrutinise the Government’s
proposed Carbon Pollution Reduction
Scheme:
(i) the committee wrote to the Treasurer
on 9 December 2008 seeking additional
information about the modelling,
(ii) the committee eventually received a
response from the Treasurer on
3 February 2009 refusing the commit-
tee’s request stating ‘The Treasury is
obligated, under contractual agree-
ments … to not disclose or make public
any Confidential Information of the
other party’,
(iii) on 4 February 2009 the Senate made an
order requiring the production of in-
formation by 5 February 2009,
(iv) on 5 February 2009, Senator the Hon-
ourable Ursula Stephens, Parliamentary
Secretary for Social Inclusion and the
Voluntary Sector, made a statement in
the Senate on behalf of the Government
that the ‘Treasury is obligated, under contractual agreements … to not disclose or make public any confidential information of the other party’.

(v) the committee again wrote to the Treasurer on 6 February 2009 pointing out that the Senate in passing the order of 4 February 2009, had accepted the judgement of the committee that contractual obligations to consultants did not constitute a valid reason for declining to produce documents because parliamentary privilege overrides any contractual obligations,

(vi) Senator Stephens made another statement in the Senate on behalf of the Government on 11 February 2009, attempting to make a new and different case of commercial harm,

(vii) following the response from the Government, the committee wrote to Monash University and Purdue University on 11 February 2009 seeking to work with the universities to protect the intellectual property of the universities while allowing the committee to properly scrutinise the material,

(viii) on 12 February 2009 the committee received correspondence from Purdue University stating that commercial harm to its Global Trade and Analysis Project, would be avoided by the simple purchase of a licence,

(ix) on 19 February 2009 the committee received correspondence from Monash University which stated that ‘The University wishes to assist your Committee in every way possible’,

(x) on 11 March 2009, the Senate made a further order requiring the production of information by 13 March 2009 and specifying that some of the requested information was to be treated as confidential, meaning that any disclosure or use of the information otherwise than in accordance with the order would be a contempt of the Senate and a criminal offence under the Parliamentary Privileges Act 1987,

(xi) on 12 March 2009 the committee again wrote to Monash University informing it of the Senate’s order of 11 March 2009 and seeking to establish whether the protections afforded by the Senate sufficiently protected the university’s intellectual property in relation to the Monash Multi Regional Forecasting model,

(xii) on 17 March 2009 Senator Stephens made a further statement to the Senate in response to the Senate order of 11 March 2009, in which she stated ‘the government continues to believe that the provision of the proprietary model code and data related to the modelling conducted for Australia’s low pollution future: the economics of climate change mitigation would cause commercial harm to organisations that were contracted to assist Treasury’,

(xiii) the committee received further correspondence from Monash University on 18 March 2009 attaching a letter the university had sent to the Treasurer which stated that ‘Monash University waives its requirements of confidentiality on the basis that confidentiality is protected under the provisions of Order SJ61-11 March 2009’,

(xiv) following receipt of the 18 March 2009 correspondence from Monash University, the committee wrote to the Treasurer on 18 March 2009 once again requesting the relevant information and reiterating the committee’s judgement ‘that contractual obligations to consultants do not constitute a valid reason for declining to produce information’ and pointing out that ‘given the information is required under an order of the Senate, parliamentary privilege overrides any relevant contractual obligations of the government’.

(xv) the committee heard evidence from the Department of the Treasury on 2 April 2009 stating that it was the Govern-
ment’s position that ‘there is potential for commercial harm for aspects of the information to be provided’, and

(xvi) following this evidence provided by the Department of the Treasury, and in the absence of a response to the Treasurer’s letter of 18 March 2009, the committee again wrote to the Treasurer on 3 April 2009 seeking the information as ordered by the Senate on 11 March 2009 and stating that the committee views the response from the Government and the Department of the Treasury ‘as unnecessarily bureaucratic, baseless and deliberately unhelpful to the Committee’;

(c) that the committee has gone to considerable lengths and provided robust protections to accommodate any issues of potential commercial harm to Monash University and Purdue University;

(d) that the Government has failed to respond to either the committee’s letters of 18 March 2009 and 3 April 2009;

(e) that the Government has failed to provide any information to the committee despite the considerable efforts taken by the committee to avoid any commercial harm, and the Government’s claim of commercial harm only applying to some of the information sought; and

(f) that the Government has failed to provide any explanation to the Senate or the committee as to why the remainder of the information was not provided or responded to the fact that Monash University has informed both the committee and the Treasurer that the university is prepared to waive its requirements of confidentiality in accordance with the order of the Senate of 11 March 2009.

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

That the Senate—

(a) notes the decision by the New South Wales Mining Warden permitting BHP Billiton to proceed with exploration for coal near and under prime food-growing floodplain at Caroona, in the centre of the Liverpool Plains, near Gunnedah;

(b) acknowledges the undiminished opposition to this exploration by local farmers and other members of the local communities and the independent Member for New England in the House of Representatives, Mr Tony Windsor; and

(c) calls on the Government:

(i) to exercise all legal and ethical options available to cease the exploration activities of BHP Billiton at Caroona until the completion of the independent expert evaluation of the hydrology of the region, and also

(ii) to cease the granting of all exploration licences for the purpose of resource and mineral extraction and undertake further independent studies into impacts of mining on the surficial and underground aquifer systems which form part of the Murray-Darling system if significant risks are identified in the expert evaluation currently underway.

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

That the following matters be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 16 November 2009:

(a) the roles and responsibilities of education providers, migration agents, state and federal governments, and relevant departments, in ensuring the quality and adequacy in information, advice, service delivery and support, with particular reference to:

(i) student safety,

(ii) adequate and affordable accommodation,

(iii) social inclusion,

(iv) student visa requirements,

(v) employment rights and protections from exploitation, and
(vi) adequate international student supports and advocacy;
(b) the identification of quality benchmarks and controls for service, advice and support for international students studying at an Australian education institution; and
(c) any other related matters.

Senator Bob Brown to move on the next day of sitting:
That the Senate—
(a) notes the findings of Professor Brendan Mackey, Professor David Lindenmayer and Dr Heather Keith of the Australian National University that Victoria’s *Eucalyptus regnans* (mountain ash) forests are the most carbon dense on Earth; and
(b) calls on the Government to inform the Senate by 24 June 2009:
(i) whether the report has validity,
(ii) what government measures are being taken or considered to protect *Eucalyptus regnans* forests in Australia that are currently targeted for logging,
(iii) what area and volume of such forests are available for logging under current planning regimes, and
(iv) whether ending native forest and woodland removal in Australia would reduce the nation’s greenhouse gas emissions by 10 to 20 per cent.

LEAVE OF ABSENCE
Senator O’Brien (Tasmania) (3.43 pm)—by leave—I move:
That leave of absence be granted to Senator Stephens from 16 June 2009 to the end of the 2009 winter sittings, for personal reasons.

Question agreed to.

COMMITTEES
Legal and Constitutional Affairs Legislation Committee
Extension of Time
Senator O’Brien (Tasmania) (3.44 pm)—by leave—At the request of the Chair of the Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I move:
That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the AusCheck Amendment Bill 2009 be extended to 18 June 2009.

Question agreed to.

CAR DEALERSHIP FINANCING GUARANTEE APPROPRIATION BILL 2009

Referral to Committee
Senator Parry (Tasmania) (3.45 pm)—At the request of Senator Abetz, I move:
That the Car Dealership Financing Guarantee Appropriation Bill 2009 be referred to the Economics Legislation Committee for inquiry and report by 23 June 2009 and, in undertaking its inquiry, the committee hear evidence from relevant bodies and individuals, including the Department of Treasury, about the operation and management of the proposed OzCar scheme.

Question agreed to.

COMMITTEES
Rural and Regional Affairs and Transport References Committee

Reference
Senator Nash (New South Wales) (3.46 pm)—I, and also on behalf of Senator Hanson-Young, move:
That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 August 2009:
An assessment of the adequacy of Government measures to provide equitable access to secondary and post-secondary education opportunities to students from rural and regional communities attending metropolitan institutions, and metropolitan students attending regional universities or technical and further education (TAFE) colleges, with particular reference to:
(a) the financial impact on rural and regional students who are attending metropolitan secondary schools, universities or TAFE;
(b) the education alternatives for rural and regional students wanting to study in regional areas;

(c) the implications of current and proposed government measures on prospective students living in rural and regional areas;

(d) the short- and long-term impact of current and proposed government policies on regional university and TAFE college enrolments;

(e) the adequacy of government measures to provide for students who are required to leave home for secondary or post-secondary study;

(f) the educational needs of rural and regional students;

(g) the impact of government measures and proposals on rural and regional communities; and

(h) other related matters.

Senator HANSON-YOUNG (South Australia) (3.46 pm)—by leave—I want to concur and say that I am happy that the Greens and the coalition have been able to join forces to put this very important issue relating to students in rural and regional Australia on the agenda and to look at the impacts of student support and at how the proposed government changes are going to impact on them.

Question agreed to.

Fuel and Energy Committee
Resolution of Appointment

Senator PARRY (Tasmania) (3.47 pm)—At the request of the Chair of the Senate Select Committee on Fuel and Energy, Senator Cormann, I move:

That the resolution of the Senate of 25 June 2008, as amended, appointing the Select Committee on Fuel and Energy, be amended as follows:

(a) paragraph (1)(a), omit “petroleum, diesel and gas”, insert “fuel and energy”;

(b) paragraph (1)(c), after “domestic,”, add “energy markets, and”;

(c) paragraph (1)(e):

(i) after “set of”, add “federal and”, and

(ii) omit “petroleum, diesel and gas”, insert “fuel and energy”;

(d) paragraph (1)(f), omit “petroleum, diesel and gas”, insert “fuel and energy”;

(e) paragraph (1)(g), after “role of”, add “alternative sources of energy to coal and”;

(f) paragraph (1)(h), before “the domestic oil”, add “domestic energy supply”;

(g) paragraph (1)(h)(i), omit “this industry”, insert “these industries”;

(h) after paragraph (1)(h)(iii), add “(iv) securing Australia’s future domestic energy supply;”;

(i) after paragraph (1)(i), add “(j) any related matters.”.

Question agreed to.

Environment, Communications and the Arts References Committee
Extension of Time

Senator PARRY (Tasmania) (3.47 pm)—At the request of the Chair of the Senate Environment, Communications and the Arts References Committee, Senator Birmingham, I move:

That the time for the presentation of the report of the Environment, Communications and the Arts References Committee on forestry and mining operations on the Tiwi Islands be extended to 17 September 2009.

Question agreed to.

POLAND

Senator O’BRIEN (Tasmania) (3.48 pm)—At the request of Senators Hutchins, Hurley, Furner, Polley, Farrell, Bilyk, Collins and Bishop, I move:

That the Senate—

(a) notes that 4 June 2009 was the 20th anniversary of the free elections in Poland, elections which were the beginning of the end of communist party rule not only in Poland but in all the countries of central and eastern
Europe, and eventually also in the republics of the Soviet Union;

(b) congratulates the people of Poland for their courageous struggle over more than 40 years to reclaim their independence and to restore democracy and freedom, and on the increasing security, prosperity and freedom which Poland has enjoyed since 1989; and

(c) recalls that it was the Solidarity free trade union which led the successful struggle of the Polish people to achieve independence and democracy in Poland, and declares that strong, free and independent trade unions are an essential part of the fabric of a democratic society.

Senator PARRY (Tasmania) (3.48 pm)—by leave—I would just like to place on record that, whilst the opposition support the intent of the motion that is moved by the government in relation to Polish democracy, we feel that the government’s motion is too narrow in attributing credit for the nation’s transition to democracy in that it only identified trade unions. As such, Senator Humphries has given notice of another motion which he will place before the chamber shortly and which reflects the opposition’s views on this issue. Senator Humphries did seek to have the government motion amended, but unsuccessfully.

Question agreed to.

POLAND

Senator HUMPHRIES (Australian Capital Territory) (3.49 pm)—I move:

That the Senate—

(a) notes that 4 June 2009 was the 20th anniversary of the first free elections in the Republic of Poland since World War II;

(b) acknowledges Poland’s tremendous contribution to the fall of communism in Europe and notes Poland’s democratic achievements, particularly that the citizens of Poland resolutely voted to restore their Senate and reinstate the accountability and transparency of their government; and

(c) notes the 40 years of struggle and hardship endured by those who fought to assure the independence of judges and the courts, to assure that Poles could freely form associations and clubs, and to bring about an overhaul of the economy.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.49 pm)—by leave—Mr Acting Deputy President, I ask that the Greens’ agreement to both those motions be recorded.

CHINA

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.50 pm)—I move:

That the Senate—

(a) remembers the thousands of people who were killed 20 years ago on 4 June 1989 in the Tiananmen Square massacre;

(b) supports the pro-democracy and pro-human rights principles outlined in Charter 08, which has been written by prominent Chinese academics and activists; and

(c) condemns the detention and interrogation of signatories to the Charter 08 by Chinese authorities, including the continued detention of acclaimed author Liu Xiaobo.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.50 pm)—by leave—The Australian government cannot, unfortunately, support the proposed notice of motion in its current form. The Australian government would like again to place on the record its objection to dealing with complex international matters such as the one before us by means of formal motions. Such motions are a blunt instrument. They force parties into black and white choices to support or oppose. They do not lend themselves to the nuances which are so necessary in this area of policy. In addition, they can be and are too often easily misinter-
interpreted by some audiences as statements of policy by the national government. The Australian government is happy to work with the minor parties, particularly the Greens, on notices of motion of this particular nature, but we will not support notices of motion in the Senate unless we are completely satisfied with their content.

The government’s views on the tragic events of 4 June 1989 are on the public record. The Prime Minister made a statement in parliament on 4 June 2009 remembering those who lost their lives on 4 June 1989. Australia will continue to engage frankly with China on questions of human rights, including at high-level meetings and through the Australia-China Human Rights Dialogue. The government believes the best way to encourage China to make further progress on human rights issues is through these channels and not through public condemnation.

While there have been many positive steps on human rights in China since 1989, there is, in Australia’s view, considerable room for further progress. The Australian government encourages China to address the concerns raised by the authors of Charter 08. The government will continue to make representations to China on the detention of Charter 08 signatories and others who were exercising internationally recognised liberties, including freedom of speech. Australia again calls for the release of internationally acclaimed author Liu Xiaobo.

Senator PARRY (Tasmania) (3.52 pm)—by leave—I place on record the coalition’s views on this notice of motion. Like the government, we believe that complex foreign affairs matters should not be the subject of a brief notice of motion in this chamber. They need full and thorough analysis, and consideration needs to be given on many fronts in relation to this. In that regard, we support the comments of the government. I also note that our leader, Mr Malcolm Turnbull, made similar comments on the same occasion in the other chamber just after the Prime Minister.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.53 pm)—by leave—What arrant hypocrisy we are seeing from the big parties in this chamber right now! They have just put forward motions congratulating the people of Poland, quite rightly—and we supported them—for taking off the yoke of jackboot communism and for finding their freedom and their democracy. The government motion congratulated the people of Poland for their courageous struggle. The opposition motion acknowledged Poland’s tremendous contribution to the fall of communism in Europe and noted its democratic achievements, particularly that the people of Poland resolutely voted to restore their senate and reinstate the accountability and transparency of their government.

But, when it comes to taking on Chinese jackboot communism, suppression of democrats and the massacre of peaceful citizens in China aspiring for exactly the same thing that the Poles achieved 20 years ago, this government and this opposition resile from it, back off from it, will not stand up for it, sell out on it and use double standards that they should be ashamed of. How dare the government and the opposition put up this double standard in this place! How dare they turn their backs on the democrats currently jailed or in labour camps—those that are lucky enough to still be alive—in China! What a rotten response to the responsibility that the government and the opposition should be upholding here today! Democracy, freedom—they have no boundary. You should be ashamed of yourselves.

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

The Senate divided. [3.59 pm]

(The Acting Deputy President—Senator GM Marshall)

Ayes........... 6
Noes........... 37
Majority....... 31

AYES

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

NOES

Adams, J. Arbib, M.V.
Back, C.J. Barnett, G.
Bilyk, C.L. Bishop, T.M.
Boyce, S. Brown, C.L.
Bushby, D.C. Cameron, D.N.
Colbeck, R. Collins, J.
Farrell, D.E. Feeney, D.
Fisher, M.J. Heffernan, W.
Hurley, A. Hutchins, S.P.
Joyce, B. Kroger, H.
Ludwig, J.W. Lundy, K.A.
Marshall, G. McEwen, A.
McGauran, J.J. McLucas, J.E.
Moore, C. Nash, F.
O’Brien, K.W.K. Parry, S. *
Pratt, L.C. Ronaldson, M.
Sterle, G. Troeth, J.M.
Trood, R.B. Williams, J.R.
Wortley, D.

* denotes teller

Question negatived.

PERUVIAN AMAZON

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.02 pm)—I seek leave to amend general business notice of motion No. 444 standing in my name by adding the word ‘peacefully’ before the word ‘protest’ in paragraph (a) and by removing the word ‘condemns’ in paragraph (b) and inserting the words ‘has concern about’.

Leave granted.

Senator BOB BROWN—I move the motion as amended:

That the Senate—

(a) supports the rights of Indigenous peoples living in the Peruvian Amazon to peaceful protest against the exploitation of their ancestral lands by oil, logging and mining companies; and

(b) has concern about the violence that occurred when police tried to break-up protests and resulted in injuries and deaths of protestors and police officers.

Question agreed to.

ANTARCTICA

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.03 pm)—I move:

That the Senate—

(a) recognises, with the Australian Government, the effective protection of Antarctica that is already in place through global agreements;

(b) notes that Australia is an active participant in the Antarctic Treaty Consultative Meeting and plays a lead role in its Committee for Environmental Protection; and

(c) calls on the Australian Government to pursue the lead role towards inscribing Antarctica on the World Cultural and Natural Heritage list.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.04 pm)—by leave—In response to the motion, the benefits of a World Heritage listing have already been achieved or exceeded in Antarctica through the international agreement that comprises the Antarctic treaty system. These include the 1961 Antarctic Treaty, the 1970 Convention for the Conservation of Antarctic Seals, the 1980 Convention on the Conservation of Antarctic Marine Living Resources and the 1991 Protocol on Environment Protection to the Antarctic Treaty, otherwise called the ‘protocol’, and measures adopted under those instruments. In particular, the protocol declares Antarctica
to be a natural reserve devoted to peace and science and ensures that Antarctica’s envir-

onment is very well protected.

Australia is an active participant in the Antarctic Treaty Consultative Meeting and plays a lead role in its Committee for Envi-

ronmental Protection. The listing mechanism of the convention concerning the protection of the world cultural and natural heritage requires a country with territorial jurisdiction to make a nomination. The special legal and political status of Antarctica accommodating the positions of both those countries claim-

ing territory and those which do not recogn-

ise such claims would present significant challenges in applying this listing mecha-

nism and, as already stated, the benefits of World Heritage listing have already been achieved or exceeded in Antarctica. For those reasons we will not be supporting the motion.

Senator BOB BROWN (Tasmania—

Leader of the Australian Greens) (4.06

pm)—by leave—So this is Labor policy. The argument that the Manager of Government Business gives for Antarctica already being well protected under various mechanisms is an argument for saying how easy and logical it is for giving it world park status and for moving for World Heritage listing. The argu-

ment that it needs a country with territorial claim—effectively, Australia has the largest territorial claim for Antarctica but has sus-

pended it as part of the Antarctic Treaty or-

ganisation—puts Australia in the box seat to be making this move. The motion calls for Australia to be a leader in conserving Antarc-
tica and in giving it the status of the top World Heritage listed item on the planet. The government should be proceeding with this and the Greens intend to continue—because it is logical, appropriate and it would do this country proud—to take a lead in seeing that Antarctica gets this status.

Question agreed to.

PARLIAMENTARIANS’ ENTITLEMENTS

Senator BOB BROWN (Tasmania—

Leader of the Australian Greens) (4.07

pm)—I move:

That the Senate calls on the Rudd Government to establish an independent Parliamentary Stan-

dards Commissioner to give clear and independent advice on the legitimate expenditure of elec-

torate allowance, and other allowances to mem-

bers of parliament and to monitor and publicly report on the expenditure of the $32,000 per an-

num electorate allowance.

Senator LUDWIG (Queensland—Special

Minister of State and Cabinet Secretary) (4.07 pm)—by leave—I thank Senator Brown for moving his motion to establish an independent Parliamentary Standards Com-

missioner. I respect the initiative behind this motion. The Australian Taxation Office has a role in monitoring electorate allowances, but the motion as recognised is constructed more broadly than just the electorate allowances; it includes other allowances as well. Senator Brown has correctly identified that this broad area of public expenditure has its problems as it is currently arranged, and I think there are two main grounds for this. Firstly, there is a need for greater transparency in the area of politicians’ entitlements. Of course, it is not helped by the fact that the system itself is complex, arcane and has grown up out of a range of ad hoc arrangements. Secondly, it is, not surprisingly, a complex area dealing with entitlements systems. Members and senators can and do find the administration difficult to navigate through. It is a technical, unique and quite discrete area of administra-

tion, and it requires significantly well trained staff to deal with the requirements of provid-
ing advice and clarity about it. The ministe-

rial and parliamentary entitlements section of the Department of Finance and Deregulation has that responsibility. I am not convinced
that it is equipped with either clear guidelines or a system of practices that would enable the offering of definitive advice in this area.

For those reasons, over the coming weeks I intend to examine this area and I will take on board the model proposed by Senator Brown. I know it is not formulated in a final method, but I understand the suggestion which underpins it, amongst others that I may look at as well. (*Extension of time granted*) However, I am not prepared to commit the government to the selection of this model or to an agreement to a motion of this broad application. Accordingly, I will not be supporting the motion. I think it requires time to consider the views, to discuss it with colleagues around this chamber, including ministerial colleagues, and to undertake a consultative process in respect of it. I have previously in this chamber dealt more broadly with the issue of the Remuneration Tribunal, which dealt with the increase to the allowance, so I will not go over that territory again. I have indicated a position that, though Senator Brown may not agree with it, I think serves a better course. I am happy to further discuss with him how he might want to progress some of these matters as well. I know he has interest in ensuring there is integrity and public accountability in this area.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.11 pm)—by leave—I thank the Senate. This is an important motion and right in the heart of this is the word ‘advice.’ I ask senators to take that into consideration. I know from trying to keep my own affairs clear and within the rules of proper expenditure of public money—as all senators do—that you very often cannot get advice on whether a matter is part of electoral spending or not. I think parliamentarians ought to be able to get such advice. We have only to look at the debacle in Britain at the moment to know that it is better not to put our head in the sand but to know exactly what we are doing here.

The government says there are not people trained to be able to give that advice. There ought to be. There should be clear guidelines and the Taxation Office should keep a watch on this. There is no public reporting from the Taxation Office—nor should it be a watchdog on this matter. I thank the minister. We will be supporting the government in establishing a form of advice to members of parliament as well as a watchdog in the public interest, because there is a considerable amount of public money involved. We will not be acceding to a process of putting this on the shelf and allowing it to drift. That is what worries me about the government’s opposition at this time. I take up the offer for further talks. I would like to see this matter expedited and have some resolution this year.
I move:
That there be laid on the table by the Minister representing the Minister for the Environment, Heritage and the Arts (Senator Wong), by 22 June 2009, the Australian Terrestrial Biodiversity Assessment 2008 and all documents used in its preparation, including drafts.

Senator Ludwig (Queensland—Special Minister of State and Cabinet Secretary) (4.20 pm)—by leave—The government cannot support this motion as the document requested, the Australian Terrestrial Biodiversity Assessment 2008, is not complete. Responsibility for the former National Land and Water Resources Audit’s draft Terrestrial Biodiversity Assessment 2008, is not complete. Responsibility for the former National Land and Water Resources Audit’s draft Terrestrial Biodiversity Assessment was assigned to the Department of the Environment, Water, Heritage and the Arts in November 2008. The draft report has been considered by peer reviewers and the states and territories. All reviewers identified that further work was needed to finalise the report. When the draft report was received by the department that additional work had not occurred. The report is currently being revised in line with the comments from the peer reviewers and the states and territories. It is due to be made available to the public in October 2009. The report will summarise the available data and information on Australia’s biodiversity. It would be inappropriate to release the report in draft form before the additional work required has been completed.

Question negatived.

MATTERS OF PUBLIC IMPORTANCE
Youth Allowance

The Acting Deputy President (Senator Marshall)—I inform the Senate that Senator Williams has withdrawn the proposed matter of public importance he had submitted to the President today relating to the independent youth allowance.

DOCUMENTS
Survey of Senators’ Satisfaction with Departmental Services

The Acting Deputy President (Senator Marshall)—On behalf of the President, I present a report, prepared by Ipsos-Eureka for the Department of the Senate, on senators’ satisfaction with departmental services, dated June 2009.

COMMITTEES
Finance and Public Administration Legislation Committee
Report: Corrigenda

Senator McEwen (South Australia) (4.23 pm)—On behalf of the Chair of the Senate Finance and Public Administration Legislation Committee, Senator Polley, I present a correction to the report of the committee on the Plebiscite for an Australian Republic Bill 2008.

Ordered that the document be printed.

COMMITTEES
Australian Commission for Law Enforcement Integrity Committee
Report

Senator Parry (Tasmania) (4.23 pm)—On behalf of the Chair of the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, I present the report of the committee on the examina-
tion of the annual report of the Integrity Commissioner for the year 2007-08, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator PARRY—by leave—I move:

That the Senate take note of the report.

Question agreed to.

**Treaties Committee Report**

Senator PARRY (Tasmania) (4.24 pm)—

On behalf of the Chair of the Joint Standing Committee on Treaties I present the committee’s report entitled *Report 101—Treaties tabled on 3 February 2009*. I seek leave to move a motion in relation to the report and to have the tabling statement incorporated in *Hansard*.

Leave granted.

Senator PARRY—I move:

That the Senate take note of the report.

The statement read as follows—

Mr President, I present Report 101 of the Joint Standing Committee on Treaties. The report reviews two treaty actions:

- the Convention on the Protection and Promotion of the Diversity of Cultural Expressions; and
- the Agreement between Australia and the European Community on Trade in Wine.

In each case the Committee has supported the proposed treaties and recommended that binding treaty action be taken.

The *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* identifies the expression of culture by an individual or group as a tangible entity. The purpose of the Convention is to protect and promote the diverse range of these cultural expressions in an increasingly globalised world.

The Convention requires nations to undertake to assist the creation of cultural expressions, both domestically and abroad, through regulatory, legislative, financial and technical assistance, and to report to the United Nations on these measures. The Convention is particularly concerned with securing cultural expressions that are under immediate threat and securing the cultural expressions of developing nations.

Mr President, the Committee is of the view that the Convention will help to develop and maintain Australia’s cultural industries and to protect Australia’s valuable cultural expressions. The Committee considers that accession to the Convention will demonstrate to the international community Australia’s commitment to cultural diversity and will expand Australia’s active engagement with UNESCO.

The Committee also considered the *Agreement between Australia and the European Community on Trade in Wine*.

Mr President, under the Agreement, Australia and the European Community are required to accept a range of wine labelling restrictions based on the production and geographical origin of the wine, and to recognise 16 previously unauthorised winemaking techniques.

Significantly, Australian fortified wine makers will be required to phase out the use of the terms ‘Port’ and ‘Sherry’ within 12 months of the entry into force of the Agreement, and the term ‘Tokay’ will have to be phased out within 10 years of the Agreement’s entry into force.

Mr President, the Australian Wine and Brandy Corporation assured the Committee that, whilst there will be a cost to the industry in ceasing the use of these wine names, the agreement will secure the use of terms valuable to Australia’s fortified wine industry including ‘ruby’, ‘tawny’, ‘vintage’ and ‘cream’. Also, the Government has provided financial assistance to assist in the rebadging of wines. This project will see the term ‘Sherry’ replaced with the term ‘Apera’ within twelve months, and the term ‘Tokay’ replaced with ‘Topaque’ within 10 years.

In exchange for Australia’s acceptance of these labelling restrictions, the European Community will be required to permit the import and marketing of Australian wines produced using 16 winemaking techniques which previously lacked authorisation. Therefore Australian wine makers
stand to gain greater access to European wine markets under the Agreement.

Mr President, the Committee considers that accession to the Agreement will strengthen trade between Australia and the European Community. The Committee is of the view that the Agreement will provide Australian winemakers with greater, and more secure, access to European wine markets.

I thank the numerous agencies, individuals and organisations who assisted in the Committee’s inquiries.

I commend the report to the Senate.

Senator BIRMINGHAM (South Australia) (4.25 pm)—I rise to support the motion to take note of Report 101 of the treaties committee, in particular the detail within this report on the agreement between Australia and the European Community on trade in wine. I will keep my remarks relatively brief, but it is important for the Senate to note the significance of this agreement, which provides some mutual recognition between Australia and the European Community around the trade in wine and the terms under which that trade occurs.

It is important to recognise that this agreement has been under negotiation for a particularly long period. The initial agreement between Australia and the EU on wine trade was reached and came into force in 1994, and the agreement that we report upon today has largely been under consideration and negotiation since that time. I pay tribute to the Australian officials who have been involved in the negotiations of this report, particularly my former colleagues at the Winemakers Federation of Australia and especially Mr Tony Battaglene—as well as officers of the Australian Wine and Brandy Corporation, the Department of Foreign Affairs and Trade, and the department of agriculture for their work in representing Australia’s interests most passionately during these negotiations and securing a good outcome for the Australian wine industry in the very critical market of Europe, which is so important to us.

This agreement will ensure that Australia’s leading winemaking practices and technologies are recognised and accepted in the European market, and this will allow us to continue to grow that key export environment. We have, as one of the ‘new world’ wine countries, led the way in modern winemaking technologies and practices against the countries of the so-called ‘old world’ of the wine industry in Europe. Those groundbreaking technologies will now be recognised in Europe, allowing Australian product access to that key market. In return—there is of course a quid pro quo on this—Australia agrees to recognise exclusive access for a number of traditional European wine names. Those names, many of which have been familiar to Australian consumers over the years, such as champagne, burgundy, sherry and tokay, will gradually be phased out. Some, of course, have been phasing out of existence for a good period already. For example, the Australian industry has largely left the name champagne behind already; marketing its product most effectively as sparkling wine throughout Australia and the rest of the world. The other names will gradually be replaced, allowing Australian wines to stand on their own merits rather than attempting to take the names of their European counterparts.

Australia has already made this transition extremely successfully over the years, ensuring that our wine is branded on an individual basis—recognising the winemaker and winery involved, the geographical indication involved, the region from which it stems, and ensuring that each wine has its unique, recognisable and understandable brand for the consumer. This stands in contrast to the more convoluted recognition of wines that has existed in Europe over the years.
So this is indeed a welcome step to ensure that Australia has access to that market. The Australian industry, I believe, is well placed to make this transition, having been doing so already for a number of years now. I recognise that the previous government provided some funding to assist in the transition, particularly around names like tokay and muscat, ensuring that those producers—especially, Mr Acting Deputy President McGauran, in your home state of Victoria, around the Rutherglen region and elsewhere—have the support to shift and change the recognition of their very historic products, like tokay, to new names that will be recognised and understood by consumers. These are important changes. I urge the new government to continue their support for the industry in ensuring those changes are appropriately applied and understood by consumers. I am pleased that the treaties committee in its report to the parliament today has endorsed it.

Question agreed to.

INTERNATIONAL MONETARY AGREEMENTS AMENDMENT (FINANCIAL ASSISTANCE) BILL 2009

SOCIAL SECURITY AMENDMENT (TRAINING INCENTIVES) BILL 2009

First Reading

Bills received from the House of Representatives.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.31 pm)—These bills are being introduced 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 WONG (South Australia—Minister for Climate Change and Water) (4.32 pm)—I move:

That these bills be now read a second time.

I seek leave to have Senator Ludwig’s second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—International Monetary Agreements Amendment (Financial Assistance) Bill 2009

The International Monetary Agreements Act 1947 (IMA Act) currently enables the Treasurer to lend money or enter into a currency swap with a country in support of an International Monetary Fund (IMF) program.

These arrangements were put in place by the former Government in 1998, through the IMA Amendment Act 1998, with the purpose to establish a framework for the provision of financial assistance by Australia in support of IMF programs.

The purpose of this Bill is to extend current arrangements to include support for World Bank and Asian Development Bank (ADB) programs.

This will also allow Australia to enter into a standby loan agreement with Indonesia, as announced by the Prime Minister on 10 December 2008.

The Indonesian Government has approached the World Bank, the ADB, as well as Australia and Japan, to seek assistance with its budget financing.

The global financial crisis is impacting on all countries, right around the world, and it is having a very significant impact on many emerging economies.
Australia’s standby loan, which will form part of a World Bank led package, is a support mechanism in case private capital markets become too costly or effectively closed to Indonesia in 2009 or 2010.

The World Bank has worked closely with Indonesia and other development partners as well as liaised with the IMF throughout the preparation of the loan arrangement.

The standby loan would only be drawn upon if certain triggers and criteria are met.

The loan, if activated, would be paid back in full and an appropriate interest rate will be charged on the loan.

There is no certainty that Indonesia will need to draw down on the loan.

However, it is in Australia’s national interest to be able to assist should the situation deteriorate.

If drawn on, the loan would be used to help support Indonesia’s budget and in so doing support economic growth and stability in Indonesia.

Continued growth in emerging and developing countries is important for global recovery and therefore recovery in the Australian economy.

Australia also has a substantial direct trade and investment relationship with Indonesia and ensuring Indonesia’s continued economic growth and stability will benefit Australian exporters and jobs.

Supporting stability and economic recovery, particularly in our region, is an issue on which there is an established history of bipartisanship.

When the former Government introduced the 1998 IMA Amendment Bill, it noted that:

The government’s decisions to provide support reflect the importance of economic and political stability in the region for Australia and the Australian economy.

It is important that governments are able to act swiftly in such circumstances to help mobilise international support to deal with a crisis and to provide commitments on our own participation.

Consistent with the 1998 IMA Amendment Bill, this Bill will allow Australia to continue to play its part in international cooperation efforts when necessary to safeguard and promote Australian national interests.

In extending current provisions in the IMA Act to World Bank and ADB programs, this Bill also extends the same important conditions currently contained in the IMA Act that apply to IMF programs.

There must be a request for assistance by the World Bank or ADB for Australia’s assistance.

The agreement must also allow Australia to require repayment if the World Bank or ADB program is suspended or prematurely terminated.

This is to ensure that assistance is provided only where a World Bank or ADB program is in place and continues to be adhered to by the recipient country.

The Treasurer must be satisfied that other countries or international organisations will also be providing support to the recipient country as part of the World Bank or ADB program.

This is to ensure that Australia’s assistance under the Bill is part of a multilateral effort.

Consistent with the IMA Act, the Bill provides for the Treasurer to release publicly and table in each House of Parliament a national interest statement relating to an agreement entered into under the Bill.

Statements will include a description of the nature and terms of an agreement and set out why it is in the national interest having regard, in particular, to foreign policy, trade and economic interests.

This Bill ensures that Australia will be able to contribute to World Bank and ADB financial assistance programs and the provisions I have just outlined will ensure that this assistance is only offered when it is in Australia’s national interest.

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

Social Security Amendment (Training Incentives) Bill 2009

The Social Security Amendment (Training Incentives) Bill 2009 introduces two significant changes to the social security law arising out of the 2009-10 Budget. These changes will encourage participation in study or training by job seek-
ers with limited formal education and young people who are early school leavers.

Early school leaving is of particular concern when we look at how this affects the transition of young people into further education and employment.

When we compare the experience of working age Australians without Year 12 or a vocational qualification to people with these qualifications we find that they are less likely to participate in the labour market and more likely to be unemployed. By age 24, only seven out of ten young people without a Year 12 or Certificate III or IV qualification were in further training or employment. Nine out of ten young people with such a qualification were in further training or employment. In other words, the lack of a qualification means a young person is almost three times as likely not to be in further training or employment.

There is also a demonstrated link between higher educational attainment and significantly better wages – around $100 a week for each extra year of education for full time workers. Education clearly delivers better opportunities for individuals, and for their families.

Early school leavers and people with low skills are likely to experience particular disadvantage both during the economic downturn and recovery. In times of economic downturn, we know that youth unemployment tends to rise rapidly and then fall back more slowly during the recovery. In the recession of the early 1990s, young people without Year 12 were around three times more likely than their counterparts with Year 12 to not be in further education and to be unemployed. In fact, around 1 in 3 early school leavers was unemployed.

This can result in youth unemployment remaining stubbornly high compared to the broader labour market.

We need to act decisively to prevent those with low formal qualifications or skills being left behind. This is why the Council of Australian Governments agreed that governments needed to work together, without delay, to improve young people’s connections to education and training.

The initiatives in this Bill support the Government’s commitment to improve the educational attainment level of Australians by encouraging completion of Year 12 or equivalent, and the commitment to unemployed Australians to provide improved access to education and training opportunities.

The first component of the Bill will give effect to the Government’s $83.1 million investment in a training supplement for certain recipients of Newstart Allowance and Parenting Payment. The supplement is for recipients who do not have a Year 12 or an equivalent qualification, or who have a trade or technical qualification that could be enhanced or upgraded. This measure will better equip recipients to find future employment.

Job seekers meeting these requirements will receive an extra $41.60 per fortnight if they undertake an approved training or further education course of less than 12 months duration at the Certificate Level II, III or IV Level.

The Training Supplement will be available for people commencing this training between 1 July 2009 and 30 June 2011. This is a temporary measure to respond to the global recession. The Training Supplement will be available until any approved training commenced in this period is completed. It is estimated that over 50,000 low skilled job seekers will be assisted over this period.

The second element of the Bill will introduce changes to the participation requirements for Youth Allowance. This will support the action agreed by the Council of Australian Governments on 30 April 2009 to increase and improve young people’s participation in education and training.

All governments signed up to a Compact with Young Australians. This is a commitment to give young people aged up to 25 years an entitlement to an education or training place for any government-subsidised qualification, subject to admission requirements and course availability. For 15-19 year olds, states and territories have agreed to fully implement this commitment by 1 July 2009.

Young people will access this education entitlement through schools, TAFE Colleges or Registered Training Organisations. In some cases, they may also be referred to do a course through the Productivity Places (PPP) program.
At the same time, COAG agreed to introduce a National Youth Participation Requirement, to commence on 1 January 2010. Under the National Youth Participation Requirement, it will be mandatory for young people to participate in school, or equivalent institution until they complete Year 10. It will also be mandatory for young people who have completed Year 10 to participate full-time (for 25 hours a week) in education, training or employment or combined activities until age 17.

Consistent with this, the Council of Australian Governments also agreed to bring forward the 90 per cent Year 12 or equivalent education attainment rate target from 2020 to 2015.

To support these initiatives, the Commonwealth Government committed to make education and training a precondition for young people without Year 12 or the equivalent to obtain Youth Allowance (Other) and Family Tax Benefit Part A. The Social Security Amendment (Training Incentives) Bill 2009 will give effect to this commitment for Youth Allowance. The changes to Family Tax Benefit will proceed by way of separate legislation later in 2009.

The changes in this Bill will apply to young people who do not have Year 12 or an equivalent qualification. This is currently agreed by all jurisdictions to be a Certificate Level II qualification under the Australian Qualifications Framework. To receive Youth Allowance, young people will need to ‘learn or earn’. If they have not completed Year 12 or an equivalent qualification, they will need to either participate in education and training full-time; or participate full-time (that is, generally for at least 25 hours a week) in part-time study or training, in combination with other approved activities. They will need to do so until they attain Year 12 or an equivalent Certificate Level II qualification.

The arrangements will be flexible for young people with complex needs. Young people with multiple barriers such as homelessness or substance abuse issues will have alternative ways in which to meet their participation and qualification requirements. Similarly, young people with a partial capacity to work or young parents will have their hours of participation tailored to their assessed capacity.

The present legislative exemptions that deal with any difficulties a young person may be having, for example alcohol or drug abuse issues or homelessness, will continue.

Also, young people or young parents with a partial capacity to undertake study or training will have their hours of participation tailored to their assessed capacity.

The amendments will apply to applicants for Youth Allowance from 1 July 2009. The new requirements will be progressively implemented for existing Youth Allowance recipients without Year 12 or the equivalent between January and July 2010.

Past economic downturns have taught us that young people and others with limited education and skills are particularly vulnerable to becoming unemployed over the longer term.

The Training Incentives Bill provides two much needed measures to encourage people to continue to train and learn during periods of downturn so they are skilled for the recovery ahead.

I commend the Bill to the senate.

Debate (on motion by Senator Wong) adjourned.

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

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

HEALTH INSURANCE AMENDMENT (EXTENDED MEDICARE SAFETY NET) BILL 2009

First Reading

Bill received from the House of Representatives.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.33 pm)—I move:

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

Question agreed to.

Bill read a first time.
Second Reading

Senator WONG (South Australia—Minister for Climate Change and Water) (4.33 pm)—I move:

That this bill be now read a second time.

I seek leave to have Senator Ludwig’s second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This Bill amends the Health Insurance Act 1973 (the HIA) to enable the Minister for Health and Ageing to determine, by legislative instrument, the maximum benefit payable under the Extended Medicare Safety Net (EMSN) for each Medicare Benefits Schedule (MBS) item.

This Bill will result in savings of more than $450 million over four years.

The EMSN provides individuals and families with an additional rebate for their out-of-hospital Medicare services once an annual threshold of out-of-pocket costs is reached.

Out-of-hospital services include GP and specialist attendances and services provided in private clinics and private emergency departments.

Once the relevant annual threshold has been met, Medicare will pay for 80% of any future out-of-pocket costs for out-of-hospital services for the remainder of the calendar year.

In 2009, the annual threshold for concession cardholders and people who receive Family Tax Benefits (Part A) is $555.70. For all other singles and families the annual threshold is $1,111.60. These threshold amounts are indexed each year by Consumer Price Index on 1 January each year.

This Bill makes an amendment to the EMSN program that was introduced through the Health Legislation Amendment (Medicare) Act 2004.

At the time that Act was introduced to Parliament, the stated purpose of the EMSN was to “protect all Australians from high out-of-pocket costs for medical services provided out-of-hospital”.

We now have evidence that the EMSN is not meeting this purpose in particular cases.

As required under the Health Legislation Amendment (Medicare) Act 2004, I have tabled the Extended Medicare Safety Net Review Report 2009, a review of the operation, effectiveness and implication of EMSN conducted by the Centre of Health Economics Research and Evaluation at the University of Technology, Sydney.

The report noted the EMSN has helped patients that have very high costs and has reduced the out-of-pocket costs for some patients with cancer. Nonetheless, the review showed there are some concerns in areas such as obstetrics, Assisted Reproductive Technology (ART), including IVF and other Medicare services.

The report noted that around 50% of EMSN benefits are paid for obstetrics and ART, and that Medicare benefits have more than doubled for both of these groups since the EMSN was introduced and a significant proportion of this increase in expenditure is because of increases in the fees charged.

The review noted that between 2003 and 2008, the fees charged by obstetricians for in-hospital services reduced by 6%, whilst the fees charged out-of-hospital increased by 267%.

Similarly, the fees charged for ART services fell by 9% for in-hospital services, whilst the fees charged for out-of-hospital services increased by 62%.

This indicates that some doctors are taking advantage of the EMSN as their fees for out-of-hospital services have increased far in excess of the fees that they are charging in-hospital patients.

Before the introduction of the EMSN in 2004 there was a limit on the amount of the Government contribution for Medicare services – that is the Medicare Schedule fee.

The EMSN fundamentally changed these arrangements by essentially removing this limit by covering 80% of out-of-pocket costs for out-of-hospital services, regardless of the fee charged by the doctor.

The unlimited nature of the benefits available through the EMSN has led to some doctors taking advantage of the EMSN to increase their fees with the knowledge that the majority of the cost will be funded by the Government.

This has had the effect of increasing the fees being charged to many people for some services,
thus increasing the cost for those people that have not qualified for EMSN benefits, as well as the cost to the Government.

The EMSN benefit is for the patient. It is not intended to subsidise the fee increases of doctors.

The review identified that for some Medicare services with high out-of-pocket costs, the EMSN benefit is not going to its intended purpose. For these services, the review found that for every EMSN dollar that is paid, 78 cents was spent on meeting doctors’ higher fees, rather than reducing patients’ out-of-pocket costs. Services in this category include one type of varicose vein treatment, one type of cataract surgery, injection of a therapeutic substance into an eye and some ART services.

This Bill will enable the Minister for Health and Ageing to determine the maximum benefit that will be paid under the EMSN.

The level of the EMSN benefit cap for each selected item will be set out in a legislative instrument. It is necessary for the level of the EMSN benefit cap to be set out in a legislative instrument to allow the Government to be responsive to changes in circumstances that impact on the EMSN. This instrument will be a disallowable instrument and therefore subject to parliamentary scrutiny.

For the benefit of the Parliament, I am tabling the draft legislative instrument and the draft explanatory statement that I intend to introduce as soon as the Bill is passed.

It is important to note that the EMSN benefit caps for artificial reproductive technology (ART) are based upon the current MBS item structure. These items will be restructured to align the Medicare items with the phases of treatment in an ART cycle and spread the cost for ART across the treatment cycle. Once this restructure is finalised, the new caps will be introduced through a second instrument.

The items that will be ‘capped’ under the measures announced in the 2009-10 Budget are obstetrics, ART services, hair transplantation, the injection of a therapeutic substance into an eye, one type of varicose vein treatment and one type of cataract surgery.

This measure also includes funding to increase the MBS rebates of 15 obstetrics services at a cost of $157.6 million over four years, which will assist patients with their out-of-pocket costs.

The Government will also be investing $120.5 million over four years through a maternity services reform package to provide greater choice for women and support the affordability of midwife services.

EMSN benefit caps will also apply to midwife services to ensure consistency in the treatment of Medicare funded maternity care.

The EMSN benefit cap will apply to the individual MBS items and would be payable in addition to the standard Medicare rebate.

Each person will be eligible to receive up to the EMSN benefit cap each time that they receive that service. A different level of EMSN benefit cap can apply to different MBS items. The EMSN benefit cap would be a dollar value, for example, an EMSN benefit cap of $100 may apply to one item, and an EMSN benefit cap of $500 may apply to a different item. The level of the EMSN benefit cap will be publicly available. This will ensure that doctors and patients will have certainty in relation to their Medicare entitlements.

Every person is still eligible for an EMSN benefit.

All services currently covered by the EMSN will remain covered by the EMSN.

The total out-of-pocket costs incurred by the person for these services will still count towards the EMSN threshold amount.

Once a person has reached the EMSN threshold, they will continue to be eligible to receive EMSN benefits equal to 80% of their out-of-pocket costs for all other EMSN eligible services.

This maintains the Government’s commitment to retain the EMSN for all out-of-hospital Medicare services.

In 2008, expenditure on EMSN was $414 million, 30% more than in 2007. Unless we make changes now, this expenditure will continue to grow rapidly.

This Bill creates a mechanism by which the Government can responsibly manage expenditure on EMSN. This is important for supporting the sus-
tainability of the EMSN so singles and families can continue to receive this additional assistance with their out-of-pocket costs.

Debate (on motion by Senator Wong) adjourned.

SOCIAL SECURITY LEGISLATION AMENDMENT (IMPROVED SUPPORT FOR CARERS) (CONSEQUENTIAL AND TRANSITIONAL) BILL 2009

First Reading

Bill received from the House of Representatives.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.34 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator WONG (South Australia—Minister for Climate Change and Water) (4.34 pm)—I move:

That this bill be now read a second time.

I seek leave to have Senator Ludwig’s second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

The Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 provides part of the Government’s response to the report of the Carer Payment (child) Review Taskforce, and gives effect to a number of measures aimed at improving assistance to carers from 1 July 2009. It has received wide-ranging support and been passed by the House of Representatives.

The bill being introduced today makes amendments as a consequence of the measures contained in the Improved Support for Carers Bill. That bill makes substantive changes to the qualification provisions for carer payment paid in respect of a child.

This companion bill makes minor amendments of a consequential and transitional nature.

The amendments include removal of references in the social security law that, from 1 July 2009, will be redundant and replaces those references with new terms and references necessary for the proper administration of the changes introduced in the Improved Support for Carers Bill. Amendments made by this bill will provide that carers who qualify for carer payment under the new qualification provisions will be able to take advantage of the 63 days (or the pro rata equivalent for carers qualified on a short term or episodic basis) on which carers can temporarily cease to provide constant care and remain qualified for carer payment.

The bill provides that nominated visa-holders who cannot qualify for carer payment as they do not meet the residence requirement can be granted an exemption from the activity test in relation to special benefit if they are providing care to a child or children who meet the criteria contained in the new qualification provisions.

The bill also amends the provisions that relate to the nomination of the principal beneficiary of a special disability trust, under the Social Security Act 1991 or the Veterans’ Entitlements Act 1986, to reflect the changes made by the introduction of the improved qualification criteria for carer payment.

Lastly, the bill provides for backdating of carer payment for people who apply for carer payment under one of the new qualification provisions. A person who makes an application before 1 October 2009 will be able to have their carer payment backdated until 1 July 2009 or to the date they became qualified for carer payment. The earliest they can become qualified is the date of implementation of the new qualification provision, which is 1 July 2009.

Debate (on motion by Senator Wong) adjourned.

BUSINESS

Consideration of Legislation

Senator WONG—by leave—I move:

That the Social Security Legislation Amendment (Improved Support for Carers) (Consequen-
tial and Transitional) Bill 2009 and the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 may be taken together for their remaining stages.

Question agreed to.

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

COMMITTEES

Membership

Messages received from the House of Representatives informing the Senate of members having been discharged from, and of the appointment of members to, the following joint committees:

Joint Committee of Public Accounts and Audit
Joint Standing Committee on Foreign Affairs, Defence and Trade
Parliamentary Standing Committee on Public Works
Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity

Economics Legislation Committee

Report

Senator McEWEN (South Australia) (4.36 pm)—On behalf of the Chair of the Senate Economics Legislation Committee, Senator Hurley, I present the report of the committee on the provisions of the Guarantee of State and Territory Borrowing Appropriation Bill 2009, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Community Affairs Legislation Committee

Reports

Senator McEWEN (South Australia) (4.37 pm)—On behalf of the Chair of the Senate Community Affairs Legislation Committee, Senator Moore, I present reports on the provisions of the Private Health Insurance (National Joint Replacement Register Levy) Bill 2009, Family Assistance Amendment (Further 2008 Budget Measures) Bill 2009, Private Health Insurance Legislation Amendment Bill 2009 and Health Workforce Australia Bill 2009 from the committee, together with the Hansard record of proceedings and documents presented to the committees.

Ordered that the reports be printed.

BUSINESS

Rearrangement

Senator WONG (South Australia—Minister for Climate Change and Water) (4.37 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 2 (the Australian Business Investment Partnership Bill 2009 and a related bill).

Question agreed to.

AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP BILL 2009

AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP (CONSEQUENTIAL AMENDMENT) BILL 2009

In Committee

Consideration resumed from 14 May.

(Quorum formed)

Senator WONG (South Australia—Minister for Climate Change and Water) (4.40 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to the Australian Business Investment Partnership Bill 2009. The memorandum was circulated in the chamber earlier today.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.41 pm)—I move Greens amendments (1) to (4)
We have been in discussion with the government over many weeks—and, indeed, effectively, beyond this bill, I have been moving in the Senate and in conversations variably with the Prime Minister and other ministers for some years—about the need to cap what the Prime Minister calls ‘obscene CEO payouts’. But the government seems completely transfixed with fear in taking on its public responsibility to ensure that if it cannot figure out how to put a cap on the multimillion-dollar, self-regulated payouts of CEOs of corporations that are not receiving so much direct public largesse as is embodied in this bill, at least it should do so for those corporations which are receiving that largesse.

The Prime Minister himself has referred to some of the multimillion-dollar, take-home pay packages of corporate executives in Australia as ‘obscene’. And on Lateline last night the Treasurer was referring to the banks—because of the Commonwealth Bank’s increase in interest rates without justification, and of course we know other banks are following suit—as ‘selfish’, but when pushed by Tony Jones was unable to name any action at all to protect the public interest here.

Where banks act in that way, the public pays for it—$18 a month for mortgage holders involved, for example, in the Commonwealth’s interest rate hike, which the Treasurer called ‘selfish’. And where you have CEOs on multimillion-dollar payouts, which the Prime Minister calls ‘obscene’, again, it is the public that pays for them. We might be dealing with the private sector here, but it is the punter, the battler, the mortgage payers, the interest payers—that is, the average Australian citizen—who are paying for these obscene CEO salaries. It is not as if they are coming out of some other bucket; the public pays for them through bank fees or through increased costs of the goods or services which the public purchases in the marketplace.

The Labor government is effectively saying, on the one hand, that it must not interfere in the marketplace; but, on the other hand, this very bill is centred on an intervention in the marketplace—not in the public interest, although I have no doubt that the government and the minister will twist it in that direction, but in the interest of the banks, particularly the big four banks, and the developers. This is effectively legislation to take $2 billion of public money, and potentially another $26 billion or $28 billion in guarantees, and place it at the disposal of the big banks for developers in Australia—for example, shopping centre or real estate developers—who have had foreign loans but
may have difficulty getting the foreign lenders to continue those loans at expiry date.

So we have a situation where the government says, ‘There’s a financial crisis. We will deal with it by offering public money to these big corporations, but we seek nothing in return. We will do nothing about the ‘obscene payments’, to quote the Prime Minister, or the ‘selfish behaviour’, to quote the Treasurer. They are saying, ‘We are a Labor government but we are in the thrall of these big corporations against the interests of the average Australian, including the much-vaunted and very real Australian working family.’ I don’t get it. Other countries have been able to move in this arena. President Obama has been able to put in a cap of half a million US dollars. There have been moves in Europe, for example—in Germany—to legislate. They have all run into the massive power of the big corporate lobbyists, but the public interest is very real.

I have made it clear publicly that the Greens have put to the government an amendment which would effectively cap the salaries of the CEOs of the big four banks, and anybody who borrowed through this potentially $28 billion or $30 billion largesse of the public being facilitated through this legislation, at $1 million a year. Let me put that in perspective: that is three times the salary package of the Prime Minister of this country. There is no-one in this chamber, including the minister, who is going to get up and argue that the work of the Prime Minister of this country is less than that of the CEO of any of these banks, let alone the CEOs of the development corporations who are going to be the recipients of the largesse of the public funding in this Ruddbank legislation.

The government have come back with some amendments, which the minister will no doubt talk about, which increase transparency and possibly enable shareholders in companies that are involved to look at the salary caps. In other words, it gives no facility that is not already available, effectively, or ought not be available in the transactions that the banks and the developers will be involved in. The public should know about them, and the shareholders, of course, ought to have a say. But we have asked that the shareholders of this money, held in guarantee by the government, have their rights looked after, and this government is manifestly failing. We appreciate that the government has, after quite strenuous lobbying by the Greens, put in place some extra measures. But it would not go where it should have gone. The Prime Minister of this country, the Hon. Kevin Rudd, has effectively backed down from his strong words about obscene payments and is failing the public interest by not using this opportunity to cap the CEOs’ salaries.

I wrote to the Treasurer in the last 48 hours and put to him that if we simply made the caps apply to the developers, not to the banks, that would be a huge concession in the government’s direction, and I would like to talk about that. I have had no request for further talks about that. The government is effectively saying, ‘We are not going to entertain any caps in this country of Australia. They can do it in other countries but not in this one.’ Not only is the free market a myth—because here we are making available billions of dollars of public money, which ought to be going to schools and hospitals, for big developers through this facility—but it is a myth that we will maintain where it is in the interests of the big corporations but, of course, not where it is in the interests of the wider public.

The move to find some common ground has not been met by the government. I have to say—and I am sure the minister will give a good account of this—there has been a change in the feeling of fear that foreign in-
vestment would not be available since this legislation was first mooted and brought before the House of Representatives. I detect that the urgency by the big corporations, their ardour to get their hands on the public billions to ensure their interests, has lessened somewhat, because there has been no round of defaults from foreign investors in terms of rolling over loans to Australian developers. So the urgency for this legislation is somewhat less than when it was first put forward. Ipso facto, the government’s ardour for passing this legislation is nowhere near as great. I can tell the Senate that if the situation arises where there is a default on a foreign loan to a work-rich enterprise in Australia which threatens the jobs of workers, we will look at that. But giving, through this legislation, a blank cheque—and with no further say by the parliament, I might add—through the banks to developers, with no quid pro quo and no restraint on these obscene multimillion-dollar payments, is something the Greens are not going to back off on. I told the government, in this committee, before the last parliamentary break that we wanted some action from the government on this or we would not be supporting this legislation. The test is now with the government. It should support these amendments. If not, the Greens will not be supporting the legislation.

Senator SHERRY (Tasmania—Assistant Treasurer) (4.53 pm)—I understand that Senator Conroy, when he was dealing with this in the previous debate, indicated that the government would not be supporting the Greens amendments. That is still the case. As Senator Bob Brown has indicated, we have provided some amendments, which I will touch on in the context of his comments. The government amendments concerning executive pay we will deal with in due course, but in the context of Senator Brown’s outline of the arguments I will present argument in respect of the government’s alternative approach.

There are a couple of points I will make. I think I can deal a little later with some of Senator Brown’s more generalised critique of what the legislation before the parliament means. But some of it I will deal with now. Firstly, Senator Brown, I do not accept, and I strongly reject, the accusation you have made that the government, the Treasurer and I—I did have some responsibility for executive pay prior to becoming Assistant Treasurer—are transfixed with fear, in the thrall of, and twisting in response to, this issue. I strongly reject that. I do not accept it. Speaking for myself, I am not in the thrall of anyone—absolutely no-one. I learned that a long time ago in life. You call issues as you see them. You deal with them based on the evidence and the circumstances you are presented with. I am in no-one’s thrall, except possibly my children’s. So I totally reject your somewhat over-the-top descriptors and adjectives.

The second general point I want to make is that—and you have done this on previous occasions, Senator Brown, when we have been debating this issue—you refer to the bank guarantee in this country and the big four. It is in fact a bank guarantee that is provided to all APRA regulated institutions, which is not just the big four banks; it is all banks, including regional banks, credit unions and building societies. So it is not correct to paint the bank guarantee as a measure introduced purely for the big four banks. I have spoken about this on previous occasions. The reasons we have a bank guarantee have been well argued, and I will not take up the time of the chamber to reiterate those arguments.

Senator Brown, unfortunately, you continue to refer to the United States in the context of executive pay. I say ‘unfortunately’
because the circumstances in the US are very, very different. It is true that the Obama administration has put restrictions on executive pay with respect to some financial institutions, but they are the financial institutions that are receiving a public bailout. They are being extended hundreds of billions of US dollars in loans, quite directly, because of poor judgments made on their part—for a whole mixture of reasons. Again, we have discussed this on numerous occasions in the Senate. There is a difference. In the US, the Obama administration has not—and I emphasise this—imposed executive restraint on financial institutions, including banks, that have not been bailed out. So you are just wrong, Senator Brown. If you are a financial institution in the US and you have not been bailed out, the government has not imposed restrictions on executive pay. If you have been bailed out, it has imposed restrictions. Further, the Obama administration has made it clear that it will not be introducing caps on executive pay in the United States anywhere beyond those financial institutions that have been bailed out directly by the taxpayer. That is a clear distinction.

Secondly, Senator Brown, in a somewhat generalised description you said that there have been moves on executive pay in Germany. What moves in Germany?

Senator Bob Brown—You don’t know?

Senator SHERRY—You don’t know, Senator Brown.


Senator SHERRY—What is the legislated change to impose caps on executive pay in Germany? I am advised there is none. You very generally said that there have been moves in Germany—off the back of what I would argue was a description of circumstances in the US that was just a touch misleading. Senator Brown, you name me any country—an advanced economy—in the last year that has introduced legislation to cap executive pay generally in the financial sector and in the broader company sector. You name me one. I do not think you can, other than that important but quite narrow example in the United States.

The government shares Senator Brown’s concerns to ensure that the regulation of executive remuneration does keep pace with community expectations. In that context, the government has undertaken a range of actions. It is not correct to infer that we have done nothing—it is simply not true. We cannot support the Greens’ approach to cap the salaries of officers that are parties to ABIP’s financial arrangements. I note that the Treasurer and Senator Brown have exchanged correspondence on possible executive remuneration arrangements to apply to ABIP and that Senator Brown is continuing a legislative cap on the salaries of officers of parties that receive financing from ABIP. But a salary cap is not acceptable to the government as it would undermine the policy intent of establishing ABIP in the first place and compromise its effectiveness.

A salary cap may significantly affect ABIP’s operations in terms of the range of parties to whom it may be able to lend, and it also raises some important legal issues regarding how such a cap would interrelate with the current contracts of officers of parties to ABIP’s financial arrangements, who would have to abrogate existing legal contracts. I do not believe that would be legally possible. Imposing a legislative salary cap is also inappropriate because the broader policy responses are being considered in the Productivity Commission’s review of this issue—in fact, I established this examination. We added Professor Fels, and the Productivity Commission will report by the end of the year.
Accordingly, it is not appropriate or prudent for the government to agree to the Greens’ salary cap proposal. In addition to the Allan Fels-PC examination of this issue I announced—and we have actually issued—draft legislation that deals, I think, very effectively with golden handshakes, or golden parachutes, as they are known. I do not have the time to go through the details, but, in that one-half of the executive pay equation where there was a level of abuse going on, this government—and, I might say, the first government in a long time—has publicly released the draft legislation, which does deal with this issue of executive pay, termination pay and golden handshakes. The government’s draft legislation has been widely welcomed by what would be termed the more sceptical in the investor community, in the research community. When I say ‘more sceptical’ I mean those who are more sceptical of some of the practices we have seen going on. It has been welcomed by that group—Regnan, for example. So it is not correct to say that we have done nothing.

If the ABIP bills are not passed in the Senate because of the executive remuneration issue, the government seeks the assurance of the Senate that it will move quickly to pass the ABIP bills if ABIP is required at some future time. We have attempted to meet the concerns of Senator Brown. We have presented amendments for later consideration, but in this context the government have decided that there are obligations regarding executive remuneration that we can impose on ABIP to continue to demonstrate leadership on this issue. The later amendments, which I hope will have the support of senators, will be presented and argued at that time. The Labor government will not support the amendments presented by the Australian Greens on this issue.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.04 pm)—I just want to respond to a few things that the minister said. Firstly, I made it clear that lobbyists had clobbered moves in Germany that Angela Merkel had put forward. What he is finding is exactly consistent with what I said.

When it comes to this being not about the four big banks but about a range of institutions in Australia, no, that is not so. The ABIP is being founded upon contributions from the four banks. I note that this legislation does not come from this minister; it comes from the Minister for Finance and Deregulation. This minister is simply handling it on that minister’s behalf in this place. I quote from the Minister for Finance and Deregulation, against the background of the international credit situation. He said:

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 12½ 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.

That means, of course, the Commonwealth. The minister continued:

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.

So the government may end up guaranteeing up to $30 billion in financing.

The move by the Greens here is to simply require some quid pro quo from the CEOs and, in particular, those taking more than $1 million a year were they to draw on this facility. We have said to the Treasurer that we would be happy to go so far as to limit this to the developers who are unnamed, faceless, not specified in here and who would want to be guaranteed by public moneys for their shopping developments, for example, and who we hear are doing very well at the moment, by the way. I simply put it to the chamber—I am not going to get into a further debate, because the government has no intention of having the internal fortitude to make a stand on this in the public interest—that those developers ought to have their salaries capped. The minister made the clear point that the Obama administration has been able to put caps on companies that have been bailed out by government loan injections.

We are saying that if that happens under this process where a developer does take government-guaranteed millions to keep finance going then let the cap come into play. There is nothing extraordinary about this. We are simply saying that, if the public largess—money that could be going to hospitals, for example—is going to be drawn upon to help developers who cannot get new financing when a foreign developer, for example, refuses to refinance a loan, let us make sure those developers are not taking home more than $1 million, three times the Prime Minister’s salary, while that loan facility of public money is being offered. The Rudd Labor government says, ‘Oh no, we cannot do that.’ Obama can but Rudd can’t. We are not going to simply say, ‘Oh well, we tried.’ We are making a stand on this issue.

I note, by the way, that the minister said he is seeking an assurance from the Senate that the Senate will move ABIP bills if they are required at some future time. Fair crack of the whip—to quote an authority. The government is now refusing to put any cap on the CEO salaries of developers in this country, many of whom are on the 200 richest list. 

Senator Sherry—Fair suck of the sauce bottle.

Senator BOB BROWN—Senator Sherry says it is a ‘fair suck of the sauce bottle’. I think that is another way of putting it. The government says it wants the Senate to come in here and pass these bills if some developer gets into trouble in the future but is not prepared to ask for some sort of restraint on that developer. Come off it! The Greens will deal with each situation on its merits. Let me forewarn the government that, if at some future time a developer gets into trouble and seeks a bailout important enough to rescue the workers who are employed by that development—and that is where we are concerned—but still wants to pocket multimil-
lion dollar salaries under those circumstances, it will need to bring in a CEO salary cap for those developers.

We will always act in the interests of working Australians in a matter like this, but we are simply not going to, as the government intends to, accede to any developer who comes along on a fat, inflated, unfair, unwarranted, multimillion dollar—and, in some cases, tens of millions of dollars—development taking an amount of money off the people of Australia in circumstances where that developer will have failed and is calling on the public largess. This is the exact circumstance that worried Obama, where CEOs were being rewarded for failure. The government is saying to the Greens and, presumably, the opposition, ‘We want to guarantee in advance that you will reward CEOs who have led a development corporation into failure with a public guaranteed loan and with no requirement of a salary cap.’ The Prime Minister, the Treasurer and the minister are going to have to rethink that. Sure, in those circumstances, we will move to help the workers who are involved, but we are simply not going to throw away, as this government wants us to do, our responsibility to ensure that CEOs also pull in their belts under those circumstances.

Senator SHERRY (Tasmania—Assistant Treasurer) (5.13 pm)—I have two very quick points. Firstly, we have significantly—not totally but significantly—dealt with the issue of reward for failure with our draft legislation publicly released on golden parachutes. Secondly, the cap in the United States, as I indicated, applies to financial institutions that have been bailed out. I would note that where that has happened, Senator Brown, there is no cap on the institutions or businesses that those capped financial institutions lend to in terms of executive pay.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.14 pm)—I want to respond to the minister and say: yes, there is a simple logic here. If we have developers who have led their companies into the situation where they need multimillion- or potentially multibillion-dollar loans diverted out of the public purse, away from hospitals, schools and so on, to continue their businesses, we expect that they are not going to be on multimillion-dollar take-home pay at the same time. If that circumstance arises, I am forewarning the government that, if it requires the Greens’ assistance on this, we will be seeking a fair go for the public. We will come to the aid of workers who are affected, but we expect a decent response from CEOs under those circumstances, and we expect that the government would expect that as well.

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

The committee divided. [5.19 pm]
(The Chairman—Senator the Hon. AB Ferguson)

Ayes.............   5
Noes.............   34
Majority.........   29

AYES

Brown, B.J.  Hanson-Young, S.C.
Milne, C.       Siewert, R. *
Xenophon, N.

NOES

Adams, J.   Back, C.J.
Barnett, G.  Bilyk, C.L.
Bishop, T.M.  Brown, C.L.
Bushby, D.C. * Cash, M.C.
Colbeck, R.   Collins, J.
Coonan, H.L.  Cormann, M.H.P.
Crossin, P.M.  Farrell, D.E.
Feeney, D.   Ferguson, A.B.
Fielding, S.  Fifield, M.P.
Hogg, J.J.   Humphries, G.
Senator FIELDING (Victoria—Leader of the Family First Party) (5.22 pm)—I move Family First amendment (6) on sheet 5785 revised to the Australian Business Investment Partnership Bill 2009:

(6) Clause 8, page 6 (lines 16 and 17), omit “or such longer period as is specified in the regulations”.

To go back through this, the proposal is for the government and the four leading banks to set up a company with $2 billion of our money and $500 million each from the banks to lend to commercial property ventures that may be hit by the withdrawal of foreign lenders from Australia. Ruddbank, or the Australian Business Investment Partnership, as the government prefers it to be called, would be the lender of last resort. The company would also be able to borrow up to $26 billion—and I am coming to my amendment now. The issue that I have had all the way along the line is about prudence, good governance and making sure that there is good accountability and lending criteria, and it is also about how long ABIP is going to be set up for and lending this money out.

We have covered a couple of amendments previously from Family First. They were about the lending criteria being no less prudent than the lending criteria of investment grade loans, to make sure that we were not lending for dodgy projects and to make sure that taxpayers’ money was not being invested in areas that might be considered as bad investments. Because of our previous amendment, the words in the current bill are that lending is only to be for commercial property and not for other areas. That amendment has actually gone through and been passed, and it makes sure that the money is for commercial property, not for some other sector that the government may wish to have this money for later on down the track. I think it is prudent that they come back to the parliament to seek approval to go into areas other than commercial property.

This final amendment, amendment (6) on sheet 5785 revised, is to make sure that this is short term and not something that is going to blow out to 20 or 30 years. The amendment is to make sure, as the government suggested, that ABIP is short term and to make sure that the length of any of the loans is no more than three years. It is a pretty simple amendment to make sure that this is short term and that there are not 20-year loans sitting around, with ABIP all of a sudden going on in perpetuity. This amendment is to make sure that cannot happen. I know that there are other restrictions, but this makes sure that they are short-term loans to get through the worst of the global financial crisis. This is just another prudential measure, and it strikes at the heart of the bill and not at secondary issues. I urge the committee to support this amendment, which will restrict loans to a maximum of three years.

Senator SHERRY (Tasmania—Assistant Treasurer) (5.26 pm)—The government will support this amendment, Senator Fielding, and thank you for your discussions and contribution in this area. As Senator Conroy indicated, the government will reluctantly support the amendment. Imposing a time limit on ABIP’s financial arrangements does have a certain appeal, in that it mandates an absolute end date for the finance ABIP can provide. However, it will limit the flexibility the
company will have to operate in the market. Nevertheless, we support your amendment.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.26 pm)—For the good reasons Senator Fielding has outlined, the Greens will also support the amendment.

Senator COONAN (New South Wales) (5.26 pm)—I have already indicated, when this bill was first being considered by the Senate, that the attitude of the coalition is that this is a fundamentally flawed bill. Whilst we accept that some of the amendments, this being one of them, may go some way to improving the bill, it is such a flawed process that we will not be supporting the amendment.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.27 pm)—by leave—I move Australian Greens amendments (5) to (8) on sheet 5757 to the Australian Business Investment Partnership Bill 2009:

(5) Clause 10, page 7 (line 9), omit “5”, substitute “6”.

(6) Clause 10, page 7 (lines 10 to 12), omit paragraph (1)(c), substitute:
   (c) a provision that each member of ABIP Limited (other than the Commonwealth) is to nominate one of the 6 directors and may remove the nominated director from office;

   (ca) a provision that the Commonwealth is to nominate 2 of the 6 directors and may remove either or both of those nominated directors from office;

(7) Clause 10, page 7 (line 13), omit “the director”, substitute “a director”.

(8) Clause 10, page 7 (lines 20 to 26), omit paragraph (1)(f), substitute:

(f) a provision requiring enforcement resolutions to be passed by a majority that includes:

   (i) at least 75% of the votes cast by directors who were entitled to vote on the resolution and were not nominated by the Commonwealth; and

   (ii) the vote of the Chairperson of the Board of ABIP Limited;

These amendments are to improve the structure of the proposed board of the Australian Business Investment Partnership. Briefly, because the big four banks would each be putting in $500 million and the Commonwealth would be putting in $2 billion on behalf of the taxpayers, we want to see the board represent that input, such that the banks would have a representative on the board each and the Commonwealth would supply four representatives. We recognise that in the legislation, as it stands, each member of the board would have veto power, but we also recognise that when you are arguing cases—and the Commonwealth would presumably be arguing in the public interest, if it came to a dispute in the board—you are much more effective in doing that if you have colleagues with you. The Greens amendment simply improves the public representation on the board to a level that is commensurate with the amount of public money that is put at risk.

Senator SHERRY (Tasmania—Assistant Treasurer) (5.29 pm)—I indicate the government will be supporting these amendments and I thank Senator Brown and the Greens for their constructive engagement on this issue. It is important to note a few issues regarding the operative effect and the implications of the amendments. The government considers that the single government board representative who is the chair and the unanimous voting arrangements provide an effective and robust framework for safe-
guarding taxpayer interests. In particular, the government has every confidence that its proposed sole representative on the ABIP board and chair designate, Mr David Borthwick, will capably represent the Commonwealth on the board. However, we accept the amendments in the spirit in which they are intended.

Question agreed to.

Senator SHERRY (Tasmania—Assistant Treasurer) (5.30 pm)—by leave—I move government amendments (1) to (6) on sheet BJ219 together to the Australian Business Investment Partnership Bill 2009.

(1) Clause 4, page 2 (before line 8), before the definition of ASIC, insert:

**ADI** (authorised deposit-taking institution) means a corporation that is an ADI for the purposes of the **Banking Act 1959**.

(2) Clause 4, page 2 (after line 18), after the definition of Deed of Guarantee, insert:

**disclosing entity** has the same meaning as in the Corporations Act.

(3) Clause 4, page 3 (before line 6), before the definition of Shareholders’ Agreement, insert:

**modifications** includes additions, omissions and substitutions.

(4) Clause 10, page 8 (after line 7), at the end of subclause (1), add:

: (j) a provision requiring ABIP Limited to comply, in relation to remuneration that it provides, with prudential standards determined under section 11A of the **Banking Act 1959**;

(i) to the extent that the standards relate to remuneration; and

(ii) with such modifications of the standards, as they apply to ABIP Limited, as are prescribed by the regulations;

as if ABIP Limited were an ADI.

(5) Page 8 (after line 19), after clause 10, insert:

10A **Remuneration information to be included in directors’ report for ABIP Limited**

(1) Subject to subsection (2) of this section, section 300A of the Corporations Act applies to the directors’ report for a financial year for ABIP Limited as if ABIP Limited were a disclosing entity that is a company registered under that Act.

(2) The regulations may prescribe modifications of section 300A of the Corporations Act as it applies under subsection (1) of this section.

(3) Regulations made for the purposes of subsection (2) must not:

(a) increase, or have the effect of increasing, the maximum penalty for any offence; or

(b) widen, or have the effect of widening, the scope of any offence.

(6) Page 8 (before line 20), before clause 11, insert:

10B **Termination payments**

(1) Subject to subsection (2) of this section, Division 2 of Part 2D.2 of the Corporations Act applies in relation to ABIP Limited as if ABIP Limited were a disclosing entity that is a company registered under that Act.

(2) The regulations may prescribe modifications of Division 2 of Part 2D.2 of the Corporations Act as it applies under subsection (1) of this section.

(3) Regulations made for the purposes of subsection (2) must not:

(a) increase, or have the effect of increasing, the maximum penalty for any offence; or

(b) widen, or have the effect of widening, the scope of any offence.

Earlier in the debate I did refer to amendments that the government had circulated and intended to move. They deal with the issue of executive remuneration. I am moving amendments to the ABIP Bill to improve
the disclosure and incentive arrangements in place for ABIP executive remuneration. These arrangements will ensure ABIP executives receive appropriate reward for good performance but equally are not rewarded for poor performance and that the remuneration of the executives is consistent with the interests of shareholders, including taxpayers. They impose higher obligations on ABIP than it would normally be subject to, with particular heightened transparency and rigour in the manner in which ABIP’s executive remuneration arrangements are determined.

There are three elements. Firstly, they ensure ABIP’s remuneration arrangements are consistent with the principles relating to executive remuneration to be issued by APRA, the Australian Prudential Regulation Authority, for all authorised deposit-taking institutions. APRA’s draft standards include proposed requirements that APRA regulated entities have a remuneration policy that aligns remuneration arrangements with the long-term financial soundness of the institution and its risk management framework and establish a board remuneration committee to review their remuneration policy periodically and make recommendations to the board on the policy on the remuneration of executives. Subject to consultation on this discussion paper and accompanying documents, it is expected that the final prudential standards and associated prudential practice guide will be released in September 2009 and effective from 1 January 2010.

Secondly, the arrangements impose an enhanced disclosure regime on ABIP’s executive remuneration arrangements similar to the requirements of a listed company. They will provide substantially more information to shareholders and parliament than would otherwise be the case. Without this amendment ABIP would only be required to disclose some aggregate information on executive remuneration which would not be discernible to any particular individual. These amendments will ensure that ABIP is required to provide comprehensive remuneration details for each member of the key management personnel as well as a range of comprehensive disclosures on director and executive remuneration. Applying this regime to ABIP will enhance the accountability of the ABIP management in setting remuneration and increasing transparency for shareholders and the broader community.

Thirdly, the arrangements subject ABIP’s executives to the government’s proposed reforms relating to termination benefits. In March 2009 the government announced reforms aimed at curbing excessive termination pay to company executives—the so-called golden parachutes. I have outlined those on a number of occasions previously in debates in the Senate. In the interests of time, I will not go through those details now. As ABIP is not a disclosing entity for the purposes of the Corporations Act, its executives may not be subject to the proposed reforms relating to termination benefits in the ordinary course. However, the government is proposing to extend the application of these reforms to ABIP as if it were a disclosing entity to make sure it is included in the government’s reform agenda in this area.

The government is keen to ensure that the regulation of executive remuneration keeps pace with community expectations. The government’s proposed amendments that we are now dealing with demonstrate leadership by promoting improved executive remuneration practices for ABIP both through improved disclosure and strict adherence to sound principles. The government has already taken a range of actions. I referred to those earlier and on previous occasions. While these amendments are ABIP specific, they complement the government’s broader actions in this area. They will provide a high standard of transparency, rigour and public account-
ability in ABIP’s executive remuneration arrangements.

Question agreed to.

Senator XENOPHON (South Australia) (5.35 pm)—I move the amendment on sheet 5793 to the Australian Business Investment Partnership Bill 2009.

(1) Page 10 (after line 3), before clause 16, insert:

15A Additional functions of EFIC

(1) The functions of the Export Finance and Insurance Corporation (EFIC) include assisting ABIP Limited, as agreed between EFIC and ABIP Limited, in relation to:

(a) ABIP Limited entering into financing arrangements in accordance with section 8; or
(b) ABIP Limited borrowing money in accordance with section 9; or
(c) ABIP Limited doing such other things as are incidental to the matters mentioned in paragraphs (a) and (b).

(2) Without limiting subsection (1), the assistance may include all or any of the following:

(a) services relating to the management of financing arrangements;
(b) services relating to the administration of payments and repayments in relation to financing arrangements;
(c) services relating to accounting, financial management or asset management.

(3) EFIC may charge a fee for assistance that it provides in performing any of its functions provided for by this section or exercising any of its powers in connection with those functions.

(4) A fee under subsection (3) must not be such as to amount to taxation.

(5) Section 8 (other than paragraph 8(2)(a)) of the Export Finance and Insurance Corporation Act 1991 does not apply to EFIC’s performance of the functions provided for by this section.

The amendment relates to additional functions for the Export Finance and Insurance Corporation. I referred to this during my speech in the second reading stage. Following discussions I had with Mr Fahour, the interim CEO of ABIP, it was put to me, and I agree, that EFIC would be the most suited organisation to undertake a number of the key functions of ABIP rather than it being outsourced with potential conflicts of interest. Given the sort of work that EFIC does currently, it would be quite suited to undertake the role that is foreshadowed with ABIP. I commend the amendment to the chamber.

Senator SHERRY (Tasmania—Assistant Treasurer) (5.36 pm)—The government will support this amendment. I thank Senator Xenophon for his constructive suggestion. It would be up to ABIP to determine how it organises itself and performs its functions. However, drawing on EFIC’s skills and experiences in financial arrangements could present a useful value-for-money proposition for ABIP, so it is a worthy suggestion. As ABIP will be able to enter into financing arrangements only for two years it is particularly important that it be fully operational as soon as possible after the bill passes. In that context, EFIC could assist in achieving that goal.

Question agreed to.

Bill, as amended, agreed to.

Australian Business Investment Partnership (Consequential Amendment) Bill 2009—by leave—taken as a whole.

Bill agreed to.

Australian Business Investment Partnership Bill 2009 reported with amendments, Australian Business Investment Partnership (Consequential Amendment) Bill 2009 reported without amendment; report adopted.
Third Reading

Senator SHERRY (Tasmania—Assistant Treasurer) (5.38 pm)—I move:

That these bills be now read a third time.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.39 pm)—The Greens have made it very clear to the Prime Minister, to the Treasurer and to the government that we expected a cap to be placed on what the Prime Minister described as obscene salaries, at least for developers who potentially were going to receive largesse from this multibillion-dollar fund being established at risk to the public dollar. We have made it very clear for many weeks now that we would not support this legislation unless there were a reasonable cap—we were prepared to negotiate that—placed by the government. That came in the wake of a number of public statements of very great strength by the Prime Minister about his disapproval and the government’s disapproval of what he termed obscene, multimillion-dollar take-home packages that we have seen in recent years. However, when it came to the crunch, the government had no such intention.

I want to make clear again that I have written to the Treasurer in the last 48 hours and said we wanted the cap of $1 million to be placed on executives of development corporations who were going to receive public largesse and guarantee. That guarantee begins with $2 billion, but it could extend up to, in effect, $28 billion of public moneys; they are vast sums we are looking at here. The Treasurer has declined to see if a higher cap could be placed and has not requested further negotiations in the last 48 hours. You will know that the Greens have in the past moved variously for a cap of $5 million to be placed on the take-home pay of CEOs. What Obama is prepared to do in the United States has placed a cap on the take-home pay of executives of failed corporations that are being bailed out by public largesse. That is what the Greens ask for here. That is what the Prime Minister of Australia has refused to go through with.

We do not know who these developers are. What we do know is that we are only dealing with situations where a company is in deep trouble, it has been unable to refinance loans it has taken out to get a development underway and it is about to fail and is calling on the public purse. Those are circumstances where CEOs ought to be required to take a cheque which is not the open cheque of the past. A million dollars, three times the prime ministerial salary and effectively double where Obama has placed the limit in the United States, is eminently reasonable, but there is no defence of any figure by this government. We are talking about a Labor government. We are talking about public funds—billions in public funds—being injected into the private sector when an as-yet-unknown but potentially very large failure happens in the corporate sector. The government is not prepared to put a check on the CEOs who have overseen the development to the point of that failure. We disagree. We are not simply going to tick off on this. We are not simply going to say, ‘Oh well, the government gets its way.’ No, it does not. There is a very important public principle and a hugely important public interest here.

You will not find the CEOs of public hospitals that may need this money demurring at a limit of $1 million on their pay. You will not find educators in the public system anywhere in Australia, including the Prime Minister and the heads of the states, who are getting anywhere near $1 million a year, yet this Labor government says, ‘But we’re not prepared to put such a cap on the captains of a development corporation which is failing...
and which requires the diversion of public funds away from education, health and other essential services to bail them out as a result of their failure to renew loans.

We have indicated that, and I repeat this, if those circumstances arise, we will look at that because we would be concerned about workers who may lose their jobs as a result of the failed judgments and decisions of the CEOs. When that moment comes, we are not going to give the blank cheque the government has now asked for in this chamber. We will require the government to put a cap on the salaries of the CEOs of that development corporation, whatever it might be, if it is going to get hundreds of millions or billions of dollars of public funding to bail it out.

I note that there is not the urgency in the air for this legislation that there was when it was first mooted by the government. I do not think the government particularly cares if this legislation gets through at the moment. It is looking at a much less likely event now than may have been the situation in March. All that aside, I say to the government: do not take us for granted on this. We are standing here in the public interest on a matter of very important procedure and fairness to the Australian public, who are going to fund a future potential bailout. We will expect the government to write into any future bailout a reasonable expectation that the CEOs do not get rewarded for that failure. If Obama can do it, Rudd should do it. Obama has done it; Rudd has not done it. The Prime Minister of Australia has not accepted a reasonable public interest point of view, which the Greens are putting here today. We will not support this legislation without that cap and that reasonable public interest being built into it.

Senator SHERRY (Tasmania—Assistant Treasurer) (5.46 pm)—I will make a contribution because it is apparent the legislation will be defeated. I have already engaged Senator Brown not just on this occasion but on other occasions about the different circumstances in respect of salary caps and bailouts in the US and some other places compared to Australia, so I will not repeat that argument again today. It is disappointing these important bills will not pass and, as a result of that, ABIP will not be up and running to provide a source of liquidity to viable commercial property firms should the need arise. Australia is more exposed to the potential fallout from the global financial and economic crisis as a result of opposition to the bills. Naturally, the government hopes that the possible funding gap that might arise in the commercial property sector that gave rise to the ABIP initiative does not materialise and that liquidity problems do not result in the failure of good Australian firms and the loss of Australian jobs.

The bills have faced extensive scrutiny in the Senate and through the Senate Standing Committee on Economics, and there have been a number of amendments to the legislation which we have accepted, including in the area of executive pay. But those amendments in that area did not meet the concerns of the Greens. The overwhelming evidence has been that ABIP would be a valuable and effective measure with sound governance and financial arrangements to safeguard the interests of taxpayers while helping support Australian business and jobs in what are quite extraordinary times, given international financial and economic events. Obviously, the government will continue to closely monitor market conditions and will take action if necessary to support the financing of commercially viable firms in the commercial property sector. It has been the approach of this government to be prepared and to intervene where there are issues of market failure in the current circumstances. I do hope that, if this legislation is re-presented, Senator Brown will have cause to reconsider on be-
half of the Greens. But we will see if that eventuality occurs.

The only other point I want to make is that the crossbenchers—the Greens, Senator Xenophon and Senator Fielding from Family First—constructively engaged with the government. There was significant discussion I know and I do thank them for that. The Liberal opposition just said ‘no’ out of an ideological approach, as they have said ‘no’ to anything in terms of intervention in these very serious financial and economic times. Just sitting on your hands and doing nothing is the way to see a much worse recession eventuate. That was the approach taken in the Great Depression, as I recall—not directly, of course; I was not alive then but certainly what I know from stories of that period. You cannot let banks fail. Governments do have to intervene proactively in terms of stimulus packages to cushion the economy and to prevent the collapse of consumer demand and property prices. We make no apologies for this type of approach. We believe in being prepared to cushion the economy in these very, very serious economic times.

Question put:
That these bills be now read a third time.
The Senate divided. [5.55 pm]
(The Acting Deputy President—Senator G Barnett)

Ayes…………… 29
Noes…………… 37
Majority……… 8

AYES
Arbib, M.V. Bilyk, C.L.
Bishop, T.M. Brown, C.L.
Cameron, D.N. Carr, K.J.
Collins, J. Conroy, S.M.
Crossin, P.M. Farrell, D.E.
Faulkner, J.P. Feeney, D.
Fielding, S. Forshaw, M.G.
Furner, M.L. Hurley, A.

Hutchins, S.P. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Moore, C. O’Brien, K.W.K.
Pratt, L.C. Sherry, N.J.
Sterle, G. Wortley, D.
Xenophon, N.

NOES
Abetz, E. Adams, J.
Back, C.J. Barnett, G.
Bernardi, C. Birmingham, S.
Boswell, R.L.D. Boyce, S.
Brown, B.J. Bushby, D.C.
Cash, M.C. Colbeck, R.
Coonan, H.L. Cormann, M.H.P.
Eggleston, A. Fierravanti-Wells, C.
Fifield, M.P. Fisher, M.J.
Hanson-Young, S.C. Heffernan, W.
Humphries, G. Johnston, D.
Joyce, B. Kroger, H.
Macdonald, I. Mason, B.J.
McGuigan, J.J. Milne, C.
Minchin, N.H. Nash, F.
Parry, S. * Ronaldson, M.
Ryan, S.M. Scullion, N.G.
Siewert, R. Troeth, J.M.
Williams, J.R.

PAIRS
Polley, H. Payne, M.A.
Evans, C.V. Ferguson, A.B.
Stephens, U. Trood, R.B.
Wong, P. Ludlam, S.
Hogg, J.J. Brandis, G.H.
* denotes teller

Question negatived.

BUSINESS

Rearrangement

Senator SHERRY (Tasmania—Assistant Treasurer) (5.58 pm)—by leave—I move:
That, on Tuesday, 16 June 2009:
(a) the hours of meeting shall be 12.30 pm to adjournment;
(b) the routine of business after the consideration of government documents shall be government business only;
(c) the question for the adjournment of the Senate shall be proposed at 9.50 pm or after the
Senate has finally considered the following bills, whichever is the earlier:

- Fair Work (State Referral and Consequential and Other Amendments) Bill 2009 and the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009; and

(d) the time limit for the adjournment debate is 40 minutes.

Senator FIELDING (Victoria—Leader of the Family First Party) (5.59 pm)—I certainly do not want to labour the point, but are we getting a meal break? Staff work around here as well. It would be good to get a break for at least half an hour. I have made this point many times before in this chamber. Having a half-hour meal break within those changed hours would make sense. I am sorry that I have picked this up late, but it is a point that I constantly raise and I think it is a fair point.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.59 pm)—Senator Fielding is absolutely right, and the break should be an hour. I have told the Leader of the Government in the Senate that we will not agree to hours like this being set again without a decent meal break. This is the end of it. Senator Fielding is right: there should be a meal break when there are extended sitting hours like these. We will not allow this to happen again unless the Senate votes otherwise.

Senator SHERRY (Tasmania—Assistant Treasurer) (6.00 pm)—I would like to indicate that I think there is an opportunity to strategically plan a meal break around the documents period from 6.50 pm. I do not want to upset senators’ meal plans. I think there is an opportunity. I understand your warning, Senator Brown, but I also know that senators are keen to be in here for the committee documents, and there is a possible opportunity to partake of some food.

Question agreed to.

Rearrangement

Senator SHERRY (Tasmania—Assistant Treasurer) (6.01 pm)—I move:

That intervening business be postponed until after the consideration of government business order of the day no. 4, Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 and a related bill.

Question agreed to.

SOCIAL SECURITY LEGISLATION AMENDMENT (IMPROVED SUPPORT FOR CARERS) BILL 2009

SOCIAL SECURITY LEGISLATION AMENDMENT (IMPROVED SUPPORT FOR CARERS) (CONSEQUENTIAL AND TRANSITIONAL) BILL 2009

Second Reading

Debate resumed from 15 June and 16 June, on motions by Senator Faulkner and Senator Wong:

That these bills be now read a second time.

Senator FIFIELD (Victoria) (6.01 pm)—I rise today to speak on the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 and the Social Security Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Bill 2009. These bills make significant amendments, giving more support to carers who receive carer payment in respect of a child. These bills, I anticipate, have the support of all sides of the chamber. A change of disability terminology and wider and fairer eligibility criteria significantly move us forward in the way we support carers of children with a disability and the children who have a disability or severe medical condition. The new assessment for eligibility, moving away from the existing method based on
rigid medical criteria to the level of care required, will see carers involved in short-term and episodic care in receipt of the carer payment, including times when a child is in hospital, easing some of the financial burden that comes with caring for a child in such circumstances.

In recent months, following my appointment as the coalition spokesperson for carers, I have had the opportunity to meet and speak to many Australians who dedicate their lives to caring for others. These Australians are unpaid; they give their time, often 24 hours a day, seven days a week, to provide care, love and support, often at a financial, emotional and social cost to themselves. They are parents, grandparents, siblings, partners, relatives and friends. And every day they assist with personal care, health care, transport and other activities. Every day they find themselves the giver of first aid, counselling and pharmacology. Every day they are balancing the competing demands on their time. And every day they carry out a role which otherwise would inevitably fall to our public systems, our public hospitals and professional carers to do, which is a cost that society would otherwise have to pick up. Every day many of these people come close to breaking point—emotionally, physically, socially and financially. Every day, despite the tough times that caring can bring, many carers will tell you that there is nothing more rewarding than giving unconditional love and care to a loved one.

These carers are often quite extraordinary. But most take the view that it is just what you do as a partner, a parent, a relative or a friend. I must say that I welcome the introduction, albeit belatedly, of this legislation to the Senate. This legislation brings some further assistance to those carers who, through no fault of their own, find themselves in circumstances that have changed their lives. This legislation builds upon the former coalition government’s recognition that there was a gap in the level of assistance for families caring for children with a disability and is a further step in considerable progress in providing support to carers which began under the coalition. I must say it is disappointing that there has been such a delay in this legislation reaching the parliament. But I have no doubt that we in this place will at least unite in supporting the expansion of financial support for carers of children with a disability or severe medical condition.

The genesis of this expansion in financial support was under the former coalition government, with a review being initiated in March 2007 into the carer payment (child) to examine the ability to expand support for carers of children with profound disability or severe medical conditions. The review, which recommended a fairer assessment process and less red tape, was handed to the incoming Rudd government in November 2007. It took the Rudd government until March 2009—nearly a year and a half—to take action. Although I welcome the government’s belated action to support carers, it must be noted that it is unfortunate that it has taken so long to implement and that many families deserving of this support have had to wait unnecessarily.

For carers of children with a disability, there was a step up in support when in 1998 the coalition government extended support to carers of children with a profound disability and in 2006 further extended support to children with severe intellectual, psychiatric or behavioural disabilities. Also under the coalition, every year from 2004 to 2007, carers received a one-off carer bonus payment of $1,000 to each person in receipt of the carer payment and $600 to each recipient of the carer allowance for each person in their care. This was in recognition of the vital role that carers play in our society and the tremendous financial burden they carry.
At this point it should be noted that, in 2008, the Rudd government failed to recognise this and in fact wanted to remove support from carers by stopping the payment of the carer bonus. The Rudd government did not recognise at that time the value of our carers, and it was only after community outrage and opposition from the coalition that they belatedly backed down. Whether or not it was to smooth over that mistake of 2008, I welcome the news in this year’s budget that carers will continue to receive a bonus annually, which has been renamed the ‘carer supplement’. It is an annual payment welcomed by carers. Many carers spend it on much-needed items in relation to their caring role or on the care recipient. Knowing this payment will be received certainly helps this most vulnerable group in our community with their forward planning. I am pleased that the coalition initiated the review into carer payment (child) which has brought us to where we are today.

Mr Acting Deputy President Ryan, I understand this is your first time in the chair. It is good to see you there. I have enormous respect for carers and today pay particular attention to those carers of children under 16. To care for a child with a disability requires enormous commitment and patience—qualities for which I have huge admiration. Yes, as parents you undertake to care for your children until they are sufficiently independent to look after themselves—which, nowadays, usually seems to extend to well in their 30s—and, yes, part of being a parent is being there for your child in sickness and in health and through the ups and downs, achievement and mishaps. And that is no different for a parent of a child with a disability or a severe medical condition. Indeed, they share the same hope for their child to achieve.

However, a child with a disability or a severe medical condition does need that additional care and attention. Even with our occasional extended parliamentary sitting hours—which we were talking about a moment ago—we could never come close to understanding the continuous commitment to long hours by thousands of Australians who are providing a high level of support and care to loved ones each and every day. We all know—or should know—that carers of a child with a disability or a severe medical condition carry a huge emotional and financial burden above and beyond that of other parents. And when there is support, like the carer payment, that can give to carers of children under 16 the income support that they need, none of us should begrudge them that. After all, the savings that carers provided to the community vastly outweigh any cost to the budget of this sort of support.

It can be a huge challenge to adjust initially to the needs of a child who has a disability or a severe medical condition. The caring requirements of a child with a disability or a severe medical condition often go much further than that of day-to-day parenting. Their child, who is as loving as any other, may well be unable to independently undertake basic personal care and will require additional attention and support each day. To be cared for in the familiar surroundings and the loving environment of the family is often—and you would hope—the preferred option. But this can come at a cost. In these circumstances families often find themselves sacrificing their health, work opportunities and a regular social life to meet the demanding role.

Many parents also have the needs of other siblings to consider, and the carer payment is there to support carers in these circumstances. The carer payment provides income support to people who, because of the demands of their caring role, are unable to support themselves through substantial workforce participation. It is a payment in recog-
nition of their full-time commitment to that caring role. Carers may not be on the payroll of a corporation and are far from receiving an income to match a private sector salary, but that does not mean that they are not making a significant contribution to our society. According to the ABS in 2008, a primary carer’s role is equivalent to a traditional full-time paid job of 40 hours or more per week in the labour market.

Even when providing this high level of support, carers want to be part of the workforce, and many are juggling their own commitments to work and family as well as their demanding caring role. While we acknowledge that many carers choose to do this for the love of their child, there are some who are required to quit work and access the carer payment because the support services are simply not there. Even when that child becomes an adult, many carers of these children remain their carers as support services to live independently are not always there. Easing the financial burden is just one way that we can show our support for carers.

I have a great deal of respect for carers. Many struggle from day to day but have such strong feelings that what they are doing is their duty and—because it is their duty; it is just something that you should do—many in fact do not make a claim for the carer payment or carer allowance. Others, finding it hard in tough times, do make claims—and, as an entitlement, so they should—but even then things are not easy. There are also many others who have been unable to access these payments but now, through these changes, will have the opportunity to do so.

Another matter which this legislation addresses is the situation of a sick child in hospital. It is never an easy time for a parent when a child is in hospital, and it is even harder when the parent knows that their child’s time may be short. It is never easy when a traumatic injury or the diagnosis of a condition turns the lives of a child, their siblings and their family upside down. The extension of eligibility in this legislation goes some way to assisting those families who have unfortunately found themselves in that situation. For a parent to know they will receive some support whilst staying by their child’s side in hospital and then to be able to remain at home with them to give the love, care and warmth that a parent brings will give enormous relief to many parents faced with such a life-changing circumstance.

One payment that the coalition government introduced which I do have some concern about, which is not directly touched upon by this legislation, is the carer adjustment payment. It was introduced as a one-off, immediate, non-taxable payment of up to $10,000 to assist families to adjust following a catastrophic event where a child aged nought to six is diagnosed with a severe illness, medical condition or a major disability. As a parent you always want to do the best thing for your child, and that can mean providing a great deal of care 24 hours a day. Choosing to do so at home, where the child feels comfortable, is often preferable. The government has not at this stage outlined what, if anything, will take the place of the carer adjustment payment when it expires in December this year. I raised my concerns during the Senate Standing Committee on Community Affairs public hearing in April and more recently during Senate estimates, as I do not want to see this group of people, who we have strived to assist, disadvantaged in any way.

Assisting families to adjust to their new caring arrangements is important. Certainly the new carer payment (child) with wider eligibility will be welcomed, and some families will have access to short-term and episodic payments following the changes. But I urge the government to ensure that, beyond
December 2009, families who find themselves in such circumstances and who do not have access to short-term and episodic payments are not disadvantaged in any way.

In recent months we have seen both the House of Representatives and the Senate inquire into the needs of carers and it has brought the plight of carers to the forefront of people’s attention. In a sense, we are all carers in our own way and in our own lives; it is just that some have a more demanding role than others. This particular legislation was referred to the Senate Standing Committee on Community Affairs in March of this year. I attended those hearings, and it was a good opportunity to hear first-hand how the implementation of this legislation will affect carers. It was unfortunate that we could not have heard from more witnesses to gain a better understanding of how best to support carers of a child with a disability. What we do know is that each situation is individual and each child’s care needs are individual. So the opportunity for peak bodies like Carers Australia and the Association for Children with a Disability to give evidence did give carers a public voice. It gave carers an opportunity to speak directly with senators about the key issues they face in relation to carer payment (child) and how assistance should be provided.

One issue that was raised at the hearings was the new assessment, known as the disability care load assessment (child). It is widely accepted that the new concept of assessment will improve the overall efficiency and effectiveness of assessments, bringing improved administration, better claims processing and the capacity for more complex claims to be handled by a dedicated team. However, the design of the test, which comprises a carer questionnaire and a treating health practitioner questionnaire, was highlighted as a key area to making the new assessment successful. If the questionnaires do not address the issues that carers face and if they do not ask the right questions then the implementation of the new assessment may not achieve what it has set out to do. Consulting with carers, the people we regard as experts in this area, about the questionnaires is very important if we are to get the assessment process right. It is important that dialogue with carers continues in order to ensure that the new assessment tool is written in the best way, is in the best format, asks the right questions and addresses the concerns of the people applying.

Clearly, no government or parliament could ever replace the thousands of Australian carers and the contribution they make to the lives of the people they care for. These carers are critical to enabling children with a disability to remain at home, where they would prefer to be, and to have the opportunity to thrive and develop surrounded by their family. Whether these carers choose to identify themselves as carers or not, it is our responsibility to support them in whatever way we can. As members of parliament, we can help to get the support framework right, but we can never seek to transform lives like those who are carers can. It is important that we recognise carers and support them in their valuable role. Although this legislation does not by a long way solve all the issues that carers in Australia face, it is a step in the right direction. The support and passing of these bills in a smooth, cross-party way marks a significant and welcome move forward for our Australian carers. I am pleased to see these bills moving through the Senate chamber at last. The opposition will support this legislation.

Senator SIEWERT (Western Australia) (6.22 pm)—The Australian Greens believe that the carers of Australia need and deserve much more support than they are currently getting, and we are pleased to see the introduction of this legislation. Carers provide
more than care to their loved ones. They also support our community in a vital way that is irreplaceable. When you consider that the Access Economics report that was produced a number of years ago estimated the cost of care at about $30 billion a year, you can see the level of support that carers provide to our community. They provide quality of life for those living with a disability, for the sick and for the elderly. They provide quality of life and improved outcomes for people far beyond any monetary value. But that care comes at a personal cost. I am sure every member of the Senate, and, in fact, every member of parliament, has at some time worked with carers.

The Greens support the intent of the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 and the Social Security Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Bill 2009. However, we do remain concerned that there are a number of issues that came up during the Senate committee inquiry that have not been addressed, and I will be talking about them shortly. We are putting forward what we believe are sensible and practical amendments to the bills that address the shortcomings that were raised during the inquiry. We believe these will enable the legislation to achieve better outcomes. In fact, they will enable it to achieve its intent, which, as the name of the bills suggests, is improved support for carers. I note that all these concerns were acknowledged and discussed in the report by the Senate Standing Committee on Community Affairs. There was strong consensus amongst the carers, advocates and experts we took evidence from. They welcomed and supported the intent of this legislation but also called for a number of the problems to be addressed. These include, for example, issues that were raised about the child disability care load assessment tool, episodic care, exchange care and hospitalisation.

I would like to talk, firstly, about the disability care load assessment tool for children. I note a quote that I thought expressed rather well the thoughts of a lot of people who gave evidence to the committee. It said that the care load ‘should be conceptualised as broader than physical or personal care’ because it entails ‘constant vigilance, supervision, encouragement, nurturing, and the ensuring of medication compliance’. The Greens were concerned that when the care load assessment tool was first put out the government did not consult carers and peak organisations in the development of the tool. A draft of the proposed disability care load assessment tool for children was not available to stakeholders prior to the inquiry. In fact, some of the witnesses who appeared before the inquiry had not yet seen the tool. That meant that, unfortunately, there was not sufficient opportunity for carers and experts to assess the proposed tool and provide detailed input to the committee inquiry. The Department of Families, Housing, Community Services and Indigenous Affairs, FaHCSIA, told the committee that it considered the introduction of this tool to be ‘the most significant reform’ involved in the bill. While the development process was based on a questionnaire involving 1,200 carers, paediatric specialists and allied health professionals, there was no opportunity given to those carers and experts to consider and provide feedback on the actual assessment tool. Given the importance of this issue and the significant role of the assessment tool and these reforms, we do not consider that that was good enough. We believe that there needs to be a robust process to ensure that we get the details of the assessment process right.

Carer organisations and care experts raised a number of concerns about the con-
cept of the assessment tool, including whether or not the tool takes into account the geographic disadvantage of those living in rural, regional and remote locations; access to support services and networks, both formal and informal; the provision of appropriate aids and equipment, such as wheelchairs and lifting equipment; the psychological impacts and factors beyond a simple assessment of hours of care; the changing care needs as children grow, including episodic care needs and longer term changes; the impact of challenging behaviours and mental health issues on the level of care required; and whether the tool adequately differentiates which parent or family member actually provides the care.

We listened very carefully to the responses given by FaHCSIA when a number of committee members raised these concerns in the inquiry. We do not believe that all of these issues were effectively and explicitly addressed. Some of them have been. We have heard from many stakeholders who do not believe that their concerns were addressed either. FaHCSIA admitted during the inquiry process that the tool did not look at psychological and emotional impact on the carer or assess the access the carer has to support services, networks and structures. This, we believe, impacts on their ability to care. We do not believe that giving carers the opportunity to comment on the disability care instrument after it had been developed was sufficient. We would have preferred them to have been included in the process a lot earlier on. We do not believe that the process was appropriate, given the importance of this tool.

We are also concerned that some of the answers we received during the committee inquiry did not adequately address the issues facing carers in rural, regional and remote areas. We believe this requires much more attention. Take, for example, the response that we got about travel time to appointments. Carers in rural, regional and remote areas in particular have to deal with myriad issues beyond just travel time to appointments. They have reduced access to support services, increased costs of living, increased costs of accessing services, restrictions on the availability of respite and support, and many further issues. We are also concerned about the issues surrounding psychological care and psychological impacts on carers. We do not believe that that has been adequately taken into account.

We believe that consideration of the impacts on carers of the lack of availability of aids and equipment is not captured in the simple assessment of an increased care load. For example, if a person with a larger child with a disability is taking longer to care for that child because they do not have a lift to get them in and out of bed or to lift them in other situations, we do not believe simply providing and taking into account extra time is the solution. If the carer, for example, ends up with chronic back pain, is hospitalised or becomes unable to provide care where a simple aid has not been provided—or if the child is dropped and ends up suffering, for example, serious injury—then the cost to the carer, the child and the whole health system is much greater. The focus has to be on assessing care needs properly so we can provide both the right level and the right kind of support. Better assessment should result in much better targeting of care.

Exactly the same issues apply to the assessment of changing care needs and the impacts of challenging behaviour on the demands of care. It is not enough to simply rely on ad hoc measures, as was argued in evidence to the committee, and we hope that changing needs will incidentally trigger a change in assessment and that mental health issues will be picked up in measures for the extent of care required. We need to be more
explicit in our use of the assessment tool so that we can take a stronger, evidenced based approach to the provision of services and support to carers and their loved ones. To be clear, while we do believe this legislation’s proposals are much improved, we believe that there do need to be some other improvements.

We understand that FaHCSIA gave an undertaking to the committee inquiry that they would meet with stakeholders to discuss the operation of the disability load assessment tool for children, that it was released during the inquiry process and that at that stage FaHCSIA undertook to consult and continue to work on improvements to the tool. As I said, to be clear, we do think it is a significant improvement, but we think that there could be further improvements. We note that the assessment tool will be a disallowable instrument. This gives the Senate the power to disallow the tool, so we are hoping that stakeholders’ concerns will be addressed prior to it being introduced.

An additional concern expressed by a number of witnesses at the committee inquiry relates to the transition from carer payment (child) to carer payment (adult) and the alignment of the two assessment tools. The Australian Greens support calls made to the committee inquiry for better consistency and a smoother transition between the two payments and support systems. We made that point in our additional comments to the committee inquiry. We believe that further alignment between the tools is essential. There was a commitment made during the inquiry that further work would be done on this issue, and I am keen to get assurance from government that this work is continuing and also a time frame for when we can expect some further work on the adult tool.

Another issue raised during the inquiry was episodic care. The proposed legislation includes provisions that take into account episodic care for those providing care to someone under 16 who requires care for a period of three to six months. We very strongly welcome this change as a much needed reform to what has proved in the past to be a significant challenge to carers and support services. We believe these are sensible changes, but the need for episodic care is not limited to people under the age of 16. Their care needs do not dissipate when they hit this age. Those with episodic mental illnesses are just as likely to have occasional episodes where they require care as adults, and with many other episodic and degenerative diseases there is a likelihood of still requiring episodic care. In fact, this likelihood may increase with age.

The Australian Greens remain concerned by the gap that exists in the provision of care for those with episodic disability or illness. Episodic care can occur not only for those with mental illness but for those with degenerative disease as well. To this end we are seeking to extend these much needed and sensible changes so that they apply to carers of adults with episodic care needs as well. While the changes in the current legislation are predominantly about children with a disability, I note that the title of the bill indicates that it is about support for carers. We think that should be for all carers and that, where issues can be fixed now for those adults requiring care, they should, rather than them being left to a later stage. We are not trying to prioritise one set of carers over another. To this end, I will be moving an amendment to include a provision allowing carers for adults to be eligible for carer payment when caring for a person with episodic care needs. This provision that I am proposing essentially mirrors the provision in the bill relating to the episodic care needs of children.
One issue that I have raised in this place a number of times relates to separated partners sharing the care of children. I was pleased to see that the exchange care provisions were put in place for those carers sharing care of two or more children. However, we are concerned that these provisions do not apply to those parents who are sharing the care of a single child with a disability. The division that is made in the legislation between parents caring for a single child and those caring for two or more children is a nonsense that has no evidence base. This division does not seem to recognise the actual care loads and changing circumstances of separated families with one or more children with a disability. It seems instead to create an artificial ideal of separated parents juggling the care of two or more children with a disability to maintain a continuing and constant care load. This seems to me to be a bureaucratic invention whose sole aim is to simplify the administration of carer payments rather than seeking to fix the way in which carer payments are made to recognise the reality of shared care of a child with a disability.

The argument presented to the committee inquiry was that there is currently no provision to receive partial payment of carer payment. This reflects a problem with the current legislative payment system that has nothing to do with the requirements of a real family. For many parents caring for a child or children with disability, the stresses and demands of providing that care have been a complicating and sometimes, unfortunately, a contributing factor in relationship breakdown. Where there is a single child with a disability who requires constant parental care, that need for care does not disappear when the parents separate. Shared care of a child in need of significant care will adversely impact on the ability of both parents to maintain employment, something that I would have thought was fairly obvious.

Our family law system has changed to enshrine a presumption of shared care. Unless these changes are also unrecognised in our social security and disability support systems, there will be a significant risk of serious injustice being done to those caught in the middle—those single children with a disability and their carer or carers. It is unfortunate that I have had to address this issue a number of times. We have changed our family law but we have not changed our support systems and our social security systems to ensure that both parents who provide shared care are not missing out. That is now a requirement under law; but it is not reflected in any other laws, so unfortunately parents who are sharing parenting are missing out significantly. This was caused by the Welfare to Work changes.

The system as currently proposed extends to separated parents of a single child with a disability the injustice that continues under the existing Welfare to Work legislation. Our social security system only recognises one parent as the primary carer, despite the emphasis on equal shared care in child support and family law. As FaHCSIA admitted in evidence to the Senate inquiry, if there was actually 50-50 shared care for one child, neither parent would qualify under the proposed arrangements because neither of them would be providing continuous personal care or meet the qualifications. This effectively means that the presumption of shared care under the family law system will push the separated parents of a child with a disability into shared care arrangements where neither parent is in a situation where they will be able to provide the care the child requires and neither will be able to take on full-time work. This is a ridiculous situation. We have one law saying one thing and another law saying another thing.

There is a real risk that the unintended consequences of this change are that it will
disadvantage separated parents. The statistics show that this is probably fathers. When fathers have a single child with a disability, that will stop them from providing shared care. That means the burden of care will fall wholly onto the other parent, and the statistics show that this is predominantly the mother. This is not a good outcome for the child who requires care or for either of the parents. We should be encouraging shared care through carer support payments in our social security system in exactly the same fashion as we encourage it under family law.

Are we really suggesting to parents of a child with a disability that they need to have a second child with a disability if they want support?

To this end, the Greens will be moving an amendment to allow both parents of a single child with a disability to receive the carers payment. I will be moving an amendment to include a provision in the bill to allow parents with shared care of a single child to be eligible for carers payment. The provision I will propose follows the same format as the provisions in the bill for the exchanged care of children but extends the eligibility to parents of a single child.

The Greens welcome the move to enable carers of a child to continue to receive the carers payment while the child is hospitalised. This recognises that a child in hospital still requires care. It recognises that the demands on the primary carer to provide support are not diminished and the carer often spends a significant amount of time—if not all their time—helping the sick child to navigate the hospital system and cope with the stresses and demands of a strange, alien and often frightening environment. The proposed changes to the carers payment in this bill allow carers to continue to receive the carers payment while the child is hospitalised, as long as they continue to care for the child. This is a major improvement on the current situation, whereby the carers payment is suspended or cancelled if the child is hospitalised for more than 63 days. The Australian Greens welcome this recognition of the possibility of continuing demand for care during hospitalisation. As I said, we think it is a very significant improvement. We do remain concerned, however, that this provision only applies to children below 16 years of age, when clearly there will be many circumstances where the carers of adults will also face similar situations. In fact, I have had many constituents raise this issue with me.

(Time expired)

**Senator CAROL BROWN** (Tasmania) (6.42 pm)—I rise to speak on the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 and a related bill, the Social Security Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Bill 2009. The primary bill seeks to implement a number of measures to improve the financial support given to carers by the government. Carers Australia, in their submission to the recently concluded Senate Standing Committee on Community Affairs inquiry into this bill, noted that there are almost 2.6 million carers in Australia, with nearly half a million of them being primary carers—the people who provide the most care. Further, they noted that one-third of the more than four million Australians with a reported disability had a profound or severe limitation. However, importantly, 1.07 million of these people continue to live in private households—undoubtedly, many of them do so with the assistance of a dedicated carer.

Australia has a significant number of carers and they form a vital part of our community. The daily challenges faced by carers are familiar to many in my home state of Tasmania, where there are more carers per head of population than in the rest of Australia. When compared to the rest of Australia,
Tasmania faces its own unique challenges. Tasmania has the oldest population of any state or territory. The Tasmanian population is far more dispersed than the rest of Australia. Around 36 per cent of Tasmania’s carers live in rural and remote areas of the state, compared to 12 per cent nationwide. There are an estimated 69½ thousand carers aged more than 15 years, of which 14,600 are primary carers. This represents around 15 per cent of the total population of Tasmania, which is higher than the national average of 13 per cent of the population.

Like their mainland counterparts, Tasmanian carers face difficulties when it comes to supporting those in their care. A recent report released by the House of Representatives Standing Committee on Family, Community, Housing and Youth recognised the financial needs of carers. As my Tasmanian federal parliamentary colleague the member for Franklin, Julie Collins MP, highlighted in her contribution when the report was tabled:

This report highlights the role carers play in detail. Just as importantly, it highlights the juggling they do and stress they are under as they go about their daily lives.

The committee received 1,300 submissions, 1,200 of which were individual submissions, and the report provided 50 recommendations. The government, in this year’s budget, increased the support for carers. The budget introduced a $600 a year carer supplement for all carer payment recipients, on top of an increase in their pension. Recipients of the carer allowance will also receive an additional $600 a year for each eligible person in their care.

When announcing these measures, the Treasurer described Australian carers as the unsung heroes of our community. Indeed, it is important to acknowledge the vital role that carers around this country play in assisting people with disabilities to carry out their daily lives. Their job is undoubtedly not always an easy one. As most of us know, caring for others, especially those who have particular needs, requires a certain degree of dedication, patience, persistence and lots of love. Nevertheless, countless Australians around the country spend thousands of hours each year caring for others who have a disability. The acts of such people deserve to be recognised and valued.

Specifically, however, the primary bill being debated represents part of the government’s response to the report of the Carer Payment (child) Review Taskforce. As the Senate Standing Committee on Community Affairs report into this bill details, the task force, chaired by Mr Tony Blunn AO, examined the eligibility criteria for carer payment (child) and considered the effectiveness of the payment in providing a safety net for carers of children with severe disabilities or medical conditions.

The review was commissioned in response to concerns raised by carers in the community that the current eligibility requirements for payments were too stringent and therefore financial support was not reaching all of the people who provide care and were the most in need. Indeed, Carers Australia, in their submission to the Senate inquiry, noted that in 2003 there were 390,000 children under the age of 14 with a disability and, of these, 166,700 had a profound or severe limitation. Further, 23 per cent of primary carers were parents caring for a child. As these figures highlight, there are a significant number of children around the country living with a disability who require carer assistance and support.

The task force found that many carers were ineligible for carer payment (child) because the qualification criteria for receiving the payment were overly complex and too restrictive. As such, the task force’s primary
recommendation was that the criteria should be reviewed and the eligibility should be assessed based on the care need and care provided, where the care precluded carers from substantial workforce participation. The primary bill forms an essential part of the government’s response to the finding of the report.

As the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon. Jenny Macklin MP, pointed out in her second reading contribution, since taking office the government has made a firm commitment to improve the level of assistance offered to carers of children with a disability or severe medical conditions. Indeed, the changes contained in this legislation are the latest in a series of support measures announced by the government designed to assist carers. These measures are part of a $122 million package, announced as part of the 2008 budget, designed to support and recognise carers. As well as the amendments included in the primary bill, which amount to $273 million over the next five years, and the 2008 one-off payments of $1,000 that were delivered to carers and certain pension recipients, the government has also set aside a further $100 million to be spent on supported accommodation facilities for people with disabilities whose ageing parents can no longer care for them at home and $20 million for carers who experience a catastrophic event involving a child.

The primary bill acts on the recommendation of the carer payment (child) review. It does so by making a series of amendments to the social security legislation in relation to carer payments made in respect of a child. The carer payment is an income support payment made to carers who, because of the demands of their caring role, are unable to support themselves through participation in the workforce. Based on the recommendations of the review, the amendments will deliver a new, fairer set of qualification criteria for the carer payments made. The new criteria will be based on the level of care required by the child rather than the rigid medical criteria currently used to assess a person’s qualification for the payment.

As the minister pointed out, these changes will see the number of carers and families eligible for the payment noticeably increase from 1 July this year. Due to the narrow medically based selection criteria currently in place, only 7,000 carers are deemed eligible for the payment. The department estimates that, as a result of the amendments contained in this legislation, up to 19,000 carers will be eligible to receive the payment from 1 July. That is roughly an extra 11,000 potential carers that will receive financial assistance under the government’s new eligibility criteria. By way of detail, the new assessment used to determine carers’ eligibility for the payment will now be known as the disability care load assessment (child) and will involve a test—

Debate interrupted.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Ryan)—Order! It being 6.50 pm, the Senate will proceed to consideration of government documents.

Australian Competition and Consumer Commission

Senator BARNETT (Tasmania) (6.51 pm)—I move:

That the Senate take note of the document.

I particularly wish to highlight the issue of the telecommunications industry in Tasmania and the importance of ensuring that competition remains and that the safeguards remain with respect to broadband services, in particular in the state of Tasmania. There is a very great fear in Tasmania that the internet service providers that are currently there may
not have a level playing field following the implementation of the rollout of the National Broadband Network, a rollout that is expected to start in just a few weeks. It was announced in April that the start date would be July, so we are talking about less than two weeks now until the rollout of the National Broadband Network in Tasmania. I have received feedback, and I am concerned that our local councils are being sidelined, whether it is on the planning issues or other issues. I would like to know whether the government will be consulting local councils or not. In fact, I will be writing to the Tasmanian local councils alerting them to the federal and state governments’ rollout of this broadband network, which is expected to start, as I say, in a couple of weeks time.

One of the key questions will be how much of the Tasmanian broadband rollout will use cables strung from power poles and how much will be underground. The broadband cables are 50 per cent thicker, it is said, than those used for cable TV, which could add significant pressure to existing infrastructure and make the rollout an eyesore. Councils need to be involved in decisions that will affect their municipalities. Senator Minchin raised these issues and put a question to Senator Conroy during question time. In fact, he made a statement this afternoon—and I commend Senator Minchin for highlighting such important issues—regarding the cables that are, as he puts it in his headline, ‘coming to a street near you’. He says that Optus believes that the National Broadband Network would cost $60 billion if cables were deployed underground or $33 billion if 70 per cent of the cabling was deployed underground. So there you are.

There are many other questions regarding the rollout of the broadband network in Tasmania. Certainly councils are being kept in the dark. They have not been informed and they do not know what is happening. The people in the councils—the councillors, aldermen and mayors—to whom I have spoken have not heard a thing. And this is all starting in a couple of weeks time. So what are the issues in terms of planning and what is going to happen? Who will be receiving the improved services and when will these services be available? This is the big question. Mr Aird, the Treasurer in Tasmania, said just recently that households will not be able to not afford it. Goodness me! Is he going to impose a levy on homeowners and families, saying, ‘You must have this broadband service’ and saying what the cost will be? That is absolutely ridiculous. Will the government impose a levy or will they not? We know what the average family currently pays: $50, $40 or $30 per month or less. But we do not know what it is going to cost. The industry experts say that it will cost about $100 a month at minimum, and that it is $200 per month or more that will likely be needed to make the government’s rollout viable. These are some of the key questions that have not been answered.

It has been reported that the estimated cost of the rollout in Tasmania is in excess of $700 million, yet we do not know exactly how much the state will be paying and how much the federal government will be paying. In last week’s state budget in Tasmania it was said that the project was yet to be finalised. There has been an initial allocation of over $10 million but we do not know the exact amounts in the months and years ahead. We in Tasmania certainly welcome the rollout. Tasmania is very much behind the times in comparison with the rest of the country and we have been disadvantaged with low-speed internet speed for too long. But the concern is what will be in the detail. The lack of detail is a big concern for the local community and we need to know. If this is going to be happening in a few weeks time, how will it impact the local commu-
nity? Telecommunications competitive safeguards are very important. But what rights and what safeguards will the current ISPs have with respect to the rollout and their access to it? These are questions that need answering.

Question agreed to.

Consideration

Government business orders of the day Nos 59 to 62 relating to government documents were called on but no motion was moved.

Senator Barnett—Mr Acting Deputy President, I wish to speak to document No. 63, which relates to agency appointments and so on. I think you may not have called it on.

The ACTING DEPUTY PRESIDENT (Senator Ryan)—I am informed, Senator Barnett, that that will come up again on Thursday.

Senator Barnett—It is listed on the Notice Paper at page 9 and I am keen to make a contribution as I will not be here on Thursday. It is listed as No. 63.

The ACTING DEPUTY PRESIDENT—
I am informed that it is a new item and that it was taken note of yesterday. It is on the Notice Paper because it is a new item. It will arise again, and you will be able to discuss it, on Thursday.

Senator Barnett—Yes, but it is on the Notice Paper. It is on the red, and it is on the Notice Paper at page 9. I draw the Senate’s attention to the reports that are set out on page 9. Last night our acting whip, Senator Williams, moved to take note of the reports and got leave to continue his remarks later.

The ACTING DEPUTY PRESIDENT—
The motion was moved yesterday, so it is not available to be debated today. It is on page 10 and will be available to be debated on Thursday.

SOCIAL SECURITY LEGISLATION AMENDMENT (IMPROVED SUPPORT FOR CARERS) BILL 2009
SOCIAL SECURITY AMENDMENT (TRAINING INCENTIVES) BILL 2009

Second Reading

Debate resumed.

Senator CAROL BROWN (Tasmania)
(6.59 pm)—To continue: that will involve a test, including a carer questionnaire and a treating health professional questionnaire, which will be used to assess the functional ability behaviour and special care needs of children under 16 and the level of care provided by their carers. The government’s amendments contained in the primary bill have been supported by a number of key stakeholders, including Carers Australia, who told the Senate Standing Committee on Community Affairs inquiry that they saw:

… the introduction of the bill as an important step in addressing many of the unfair and inequitable rules and provisions that currently exist in the carer payment system and the broader income support system.

The National Disability Services representative stated:

I strongly think that the direction of this bill is the right one and in a number of ways it will allow more people to receive carer payment (child), and streamline the receipt of carer allowance for those who are not already receiving carer allowance as well.

It is significant that the amendments have been largely endorsed by key advocacy groups such as Carers Australia and National Disability Services as a step in the right direction when it comes to providing better support to carers of children with disability. Importantly, under these amendments, for the very first time eligibility for the payment will be extended to carers in respect of a child who requires care on a short-term, episodic basis. There will also be more generous ar-
rangements for carers of children who are in hospital so the carers can keep their carer payment and, if payable, their carer allowance while their child is in hospital. This means that the current limit on payment in these circumstances of 63 days in a calendar year will no longer apply and will be replaced by a 12-week review cycle. These amendments will also see the qualification rules relaxed in the tragic situation where a carer is caring for a child with a terminal illness.

Overall, the changes contained in the primary bill build on the government’s firm commitment to better support and assist carers of children with a disability. By introducing these changes the government is extending financial assistance to more carers around the country, something that I am sure everyone in this place would support. The bill has the support of the Senate community affairs committee, which unanimously recommended that the bill be passed. These bills illustrate the government’s genuine commitment to ensuring that adequate financial assistance is granted to Australian carers. Before I commend the bills to the chamber, I would like to say that in his contribution Senator Fifield did quite a deal of rewriting of history regarding the Liberal Party’s contribution in this area. But I do welcome their support for this legislation. I commend these bills to the chamber.

Senator BOYCE (Queensland) (7.02 pm)—I would also like to speak tonight on the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 and related bill. Firstly, I would like to recognise the many organisations and individuals who made submissions not just to the Who Cares …? inquiry conducted by the House of Representatives but also to the inquiry of our Senate Standing Committee on Community Affairs. I am not sure that we appreciate or fully acknowledge the effort that is required by carers to come to a Senate committee hearing. If you are a carer under this legislation, you require someone else to do the looking after so that you can come along. Even writing a submission to the inquiry was difficult both in the time involved—just finding those spaces of time in which to write it—and emotionally for people to talk about their problems. As a number of other speakers have mentioned, carer support is an area of policy that touches thousands—millions—of families across Australia. These bills, which I am pleased to say are about ‘improved support’, are part of a continuum of changes since the 1970s and most recently in the late 1990s trying to improve the situation for people in Australia caring for people with disabilities.

Currently, to receive carer payment for a child the child needs to be found to be profoundly disabled. Whether you get access to support is based on that finding. I noted that the Parliamentary Secretary for Disabilities and Children’s Services, Mr Shorten, in the House of Representatives commented that the current tests were too restrictive and inflexible. I would agree with that. One of the first meetings I attended after I joined the Senate in May 2007 involved other senators and officials from Centrelink and FaHCSIA talking about the Adult Disability Assessment Tool and the Child Disability Assessment Tool. These changes in the assessment tools—and the changes in thinking that have come behind them—have probably been four to five years in the making. Aligning the carer payment with the type of care rather than using the strict medical definition of a disability is a major step forward and one that has been worked on and developed over at least the past four years. I do not think this is an issue where either party should claim superiority. It has been a gradually evolving area of thinking and assessment. I think it is
an area that has an awfully long way yet to go.

The old disability assessment tools were based very much on the medical model—that is, if you had a disability, you were sick. We could look carefully and find this sickness, measure this sickness and therefore decide whether you were worthy of receiving help. Some of the problems with the old disability assessment tools included things like asking whether a child was able to feed itself. If you ticked that box, you would obviously come down the scale a bit. It did not ask you where the child would get the food to eat from. Obviously, a child feeding itself is one thing, but a child preparing a meal—sourcing food for itself—is something entirely different. That element of the care was not there. On the same basis, it might have asked you if a child could do up three buttons on a jacket. It did not ask whether the child was able to find a jacket by itself or whether the child would know by itself that it was hot or cold. In the old tool there was certainly a recognition of physical inability but not of developmental delay, intellectual disability or any of the many other aspects of disability.

As I said, we have moved forward, but we still have a long way to go. I note that we have at least extended the definition of a treating health professional. The previous system considered a treating health professional to be a doctor. When we thought that all disability was an illness, it was assumed that the parent of a child with a disability would be very closely in touch with their treating doctor and that their treating doctor would know them and their child very well. This, of course, was not the case with all disabilities. Certainly there are many well children who have disabilities. So people were forced to go to the local doctor to get the right boxes ticked on the assessment tool and often had to fill it in themselves and then ask the doctor to sign it because the doctor did not have a clue about the abilities or capabilities of the child being assessed.

I think probably one area where we have not yet grappled with the changes that need to be made is this sense of ambit claim that parents and other carers are forced into by filling in these forms. I think most people in the disability community would make a real effort to put their child’s abilities ahead of their child’s disabilities. But if you are going to pass this test you must set out to make your child out to be as bad as possible; you are setting out to fail as well as you possibly can so that you can become eligible for the funding. I am not sure how we address that issue, but I certainly think it is one we need to recognise in the sense that we are asking people to talk down their loved ones when they fill in these forms and not talk them up, which is what they very much try to do in the rest of their lives. I think that is something that we would welcome not just in the area of disability but across the board.

There are probably several other areas that we need to look at carefully here. We have talked about how in the past the medical model of disability was that it was sickness, but I think we also need to keep in mind that there is obviously a tension between the needs of people with disabilities and the needs of their carers. Their needs are obviously inextricably linked but they are not always the same. There is the potential for a conflict of interest between the needs of carers and the needs of people with disabilities. We must remember this and recognise it, whether we are talking about children or adults.

I saw an interview recently with a much loved Australian actor, the late Bud Tingwell, talking about the fact that he took, I think, 10 years out of his career to care for his wife and was a little surprised when one day someone, no doubt from a disability services
background, referred to him as a carer. He said, ‘I did not think of myself as a carer. I was a husband doing what a husband should do for my much loved wife of more than 40 years.’ I think that is how all carers would like to see themselves, whether they be parents, foster parents or siblings—and the list goes on. But they have been forced into a position of having to become advocates not just for their children but for themselves by the way our society has quite happily used their free labour since the end of institutions without compensating them for—or even recognising, in many cases—what they have done. But I do not think that we should on that basis see the very genuine, very necessary and now very well-developed advocacy skills that carers have developed as competition to or as overshadowing the needs of people with disability, who in many cases do not have the same advocacy ability as carers.

I would like to think that we can continue down this track until we get to the stage where there is a genuine choice for parents and others who care for children with a disability. I noticed that Senator Siewert—and I certainly support her view—spoke about the fact that we now have for the first time a recognition that children with disabilities are just like other children. Some of them live in split, shared care between parents and some of them live at home with both their parents. Some of them live in all sorts of situations that, to them, represent family. So we need to continue the recognition of shared care. I find it somewhat bizarre to suggest that it would not be possible to change the rules around parenting payments so that they too could be split on the same basis that has made child support now a far more flexible payment and far more based on who does the caring. This would not seem to be a particularly difficult thing to do.

Of course, the assumption is still that having a child with a severe disability will mean that a parent cannot work. In my view, if we are going to do this properly, we need to get to the situation where parents have the same choices as anybody else irrespective of whether their child has a disability or not. I want to get the situation of saying that having a parent who wants to work and cannot because they have a child with a disability is a failure of our system and not a necessary requirement that we are putting onto them because we do not have sufficient paid support services to allow them to undertake work in the same way as other people can.

This, I think, is where we need to be heading. I think we are on the way. I am hoping that we can continue down this track far more vigorously than we are currently. Just as an example of how far we still have to go, I would like to share with you, finally, an email which I received today from a disability group talking about a consultation paper on women’s health being developed by the federal Department of Health and Ageing. This discussion paper was launched on March 12, but this organisation writes that they have now been given an extension for their response to the discussion paper until July 31. I will quote part of the email. It says:

... as the Department was unable to provide an accessible version of the Discussion paper (until today).

We are talking about just over three months that it has taken a federal government department to produce a paper that is accessible to people with disabilities so that they can comment on an issue that is of extreme relevance to people with disabilities. We are on the way but we are not there yet; and I would like to support the legislation.

Senator BILYK (Tasmania) (7.16 pm)—I also rise to speak on the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 and the Social Security
Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Bill 2009. These very important bills arose from a review by the Carer Payment (child) Review Taskforce, which was instigated by the previous government in March 2007. The Rudd government has studied that review and agreed that carers deserve a greater level of support and, along with that acknowledgement, that the definition of carer needed to be changed. These bills reflect the government’s determination to support carers in the most difficult and demanding circumstances. The legislation gives effect to a number of measures aimed at improving assistance to carers from 1 July 2009 and has received wide-ranging support.

Carers play a vital role in Australian society and the Rudd government is committed to supporting them. Carers make huge sacrifices every day to look after their loved ones and this can place huge emotional and financial burdens on them. Carers deserve all the support they can get to help them in their efforts to make the life of someone they care about easier and to help make their own lives a little easier as well. It is the government’s role to provide this support to ensure that people can continue on in their roles as carers. Creating security and certainty for the carers in our society, who work tirelessly to provide both emotional and practical assistance to the person in their care, is a key part of the reform. Carers often face considerable financial burdens and the government has recognised this in the budget changes.

I could speak for my full allotted time just about young carers—those wonderful young people who give up so much of their lives to care for people they love—the sacrifices they make, and the trials and tribulations that they go through. But my time is limited so I will keep this speech a bit more general and save that for another day. Carers come from all walks of Australian life and enter into the caring journey at various stages throughout their own life. We just heard Senator Boyce mention the recently deceased fine Australian actor Bud Tingwell. I had the pleasure of meeting Bud Tingwell at a carers launch a few months ago. It just shows the background that these people can come from. There is no prescribed background for people who become carers. It can hit people at any time in their lives. It is not something you can necessarily really prepare for.

The Australian Bureau of Statistics has identified that there are 350,000 Australians under the age of 25 who provide care to a family member who has a disability or a mental or chronic illness, with about 170,000 carers under the age of 18. But there are also over 454,000 carers over the age of 65 who undertake similar duties day to day—and quite often it is 24 hours a day and seven days a week. Nearly two million carers are of workforce age; but many have had to leave the workforce, reduce the hours they work or work below their skill capacity because of their caring responsibilities. Let us not forget that carers are the foundation of our aged and community care system. As part of the recent budget announcements, carer payment recipients will receive an increase as well as a new permanent carer supplement. Some $600 will be paid annually to people receiving the carers payment and there will be an extra $600 a year for people receiving the carers allowance. The $600 for the carers allowance will be given for each person in care. In addition to this the child disability assistance payment, worth $1,000 annually, will continue.

The illness, and especially the impending death, of a child is an experience I would not wish on anybody; but sadly many people suffer this traumatic loss as they watch their child battle illness. The Rudd government is doing everything possible to make life a little easier for people in this situation. We can
make the suffering easier for those parents, dealing with the knowledge that their child is soon to die, and that is what we have done. Where children have a terminal illness there is a relaxation of the qualification rules. This will help ease the burden of working your way through the red tape of entitlements while at the same time trying to cope with the child’s illness. The current situation where the doctor must certify that the child has a terminal condition and is not expected to live considerably longer than a year will be replaced with a more general approach. The doctor will be able to assess the child’s illness based on the average life expectancy of children with the same or similar illness. This area has long been due for reform and I am pleased that the Rudd government has moved on this.

These bills also allow for carers to keep the carer payment or carer allowance when a child is in hospital. This is important as caring does not stop just because a child is in hospital receiving additional care, and neither do the costs. These changes should help ease some of the financial stress that carers go through and I welcome them. The reform will also make it easier for people to receive the carer payment (child). This will mean that people previously not eligible will have access to some valuable financial support.

The qualification criteria for payment under this legislation are fairer when it comes to determining who is a carer or not and so who is eligible for payment or not. Eligibility requirements will now focus on how much care the child needs rather than the limited set of medical and behavioural criteria that are currently in place. The measures contained in this legislation are included in the $822 million package made available in the 2008 budget to offer assistance to carers. As mentioned previously, these measures are being put in place in response to the report handed down by the Carer Payment (child) Review Taskforce. The task force found that the assessment process, which did not allow for flexibility, was resulting in inequitable outcomes.

The carer payment is available to people who are unable to undertake a substantial role in the workforce due to their commitments. As a result of these changes, an additional 19,000 carers will be eligible, taking the number of people receiving the payment to more than 26,000 from 1 July this year. The assessment will now be known as the disability care load assessment (child) and will improve both efficiency and effectiveness in even the most involved cases. This includes those situations where children have multiple carers, where carers have more than one person in their care and where carers are looking after both a child and an adult at the same time.

As well as the additional financial support, this legislation will see an improvement in the administration process, with easier claims processing and a dedicated team to deal with complex claims. The disability care load assessment will include a carer questionnaire as well as a medical practitioner questionnaire. The assessment will look at the functional ability, behaviour and special care needs for people under 16, as well as the level of care provided. The legislation will also allow for temporary situations where care is needed for recurring conditions lasting for at least three months but not exceeding six months. This provision will be able to be used for mental illness, cancer and brain injuries, just to give some examples. Short-term care will also apply for one-off incidents where care is needed for more than three months but less than six. As I have said, the government has also included a provision in the legislation to allow carers, in situations where the child in their care is hospitalised, to keep the carer payment and, in some cases, the carer allowance. Currently
payment in these situations is limited to 63 days per calendar year. The new system will see the introduction of a 12-week review cycle.

This legislation also makes changes to some elements of the carer allowance in social security law. The carer allowance provides financial support to people who provide daily at-home care to a person who suffers from a physical, intellectual or psychiatric disability that is lasting and will affect the person for a lengthy period. The carer allowance is not means-tested and may be paid along with carer payments. People in receipt of the carer payment (child) will now be automatically eligible for the carer allowance.

Before I conclude I would like to mention that Senator Carol Brown, who spoke previously, talked about the unique issues with regard to Tasmanian carers, including our ageing population and the higher numbers of carers compared with other states. Once again, as there is a shortage of time this evening I will not repeat what Senator Carol Brown said, but I support all the things she mentioned.

In conclusion, I would like to reiterate that the Rudd government values the work of all Australian carers. To me, this is what being a politician is about—actually being able to make a difference to the day-to-day lives of those who really need our help. Even though parts of the bill are quite technical, it will put into action the provisions of the legislation. I am proud that the benefits will flow through to those who take on the caring role in our community. I know that the many challenges faced by carers will not end because of the changes we are making, but I do hope our actions help to make day-to-day life easier.

I would also like to acknowledge the work done by the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon. Jenny Macklin, and the Parliamentary Secretary for Disabilities, Mr Bill Shorten. Both Ms Macklin and Mr Shorten have worked hard to make long overdue changes in an effort to make life easier for carers. I have had the pleasure of attending various carer disability meetings with Mr Shorten when he has been in Tasmania and I know his commitment is deep and honestly felt. Carers have a demanding job and their lives are significantly changed when they undertake to look after a loved one. They need and deserve all the support they can get, both financially and emotionally. The Rudd government is committed to ensuring that the assistance required is provided and will remain committed to this.

I am pleased the Rudd government has made considerable progress in this area. I believe that this legislation, along with other measures that the Rudd government is implementing, will help ease the longstanding disadvantage that these wonderful people have experienced. I commend the legislation to the chamber.

Senator HUMPHRIES (Australian Capital Territory) (7.27 pm)—I want to briefly contribute to this debate, particularly in a role that I have now taken on as co-chair of the Parliamentary Friends of Carers. I took part in the inquiry into this legislation and was very pleased to see that in the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 and related legislation there is quite a significant step taken to deal with a number of anomalies and hurdles which previously faced those caring for children with a disability. It needs to be stated at the outset that anyone who undertakes such care does so in circumstances where the challenges facing them will be very significant, much more significant than in caring for a child without a disability, and such people deserve as much support as the community can throw in their
direction. I hope that these bills represent a small, incremental step towards a higher level of support over time as the Australian community is able to afford to do that, because that care, in a purely economic sense, represents a burden lifted from the shoulders of other Australians as taxpayers and taken on by those individuals who provide that care, particularly to loved ones.

The opposition, as has been said already, does not object to these bills. It believes that they are an important step towards improving the framework for the provision of support to carers. It is also worth making the point that this legislation does not complete the architecture of support for carers in this country. That will indeed be a work in progress for many years to come. I also note that these reforms do build on the many changes made by the Howard government to support for carers, which were described, I think very well, by Senator Fifield in his remarks. There was some suggestion that perhaps the level of re-engineering of support for carers was exaggerated, but I have to say that I think Senator Fifield quite accurately described the many improvements that were made to this level of support and I think his comments were spot-on.

Essentially, the bills expand on the availability of support for carers in the community in a variety of ways, particularly by removing a number of barriers which existed because of difficulties and hurdles faced in accessing payments on the basis of the need that could be demonstrated by the person making an application. For example, the bills improve the qualification provisions allowing for carers to qualify on the basis of short-term and episodic care; remove limitations on the support available for children undertaking hospital stays; deal with issues of automatic qualification for carer allowance with the carer payment (child); contain some new provisions with regard to combined care for adults and children and also contain new provisions for qualification in the case of terminal illness. This has been well described by other speakers in this debate and I will not traverse those points again.

I will comment, however, about that need to look forward to further changes that can be made. It remains a challenge to develop a way of ensuring that people who need to obtain support or to change the nature of the support that they receive, face the minimum amount of bureaucratic process in order to be able to move to the appropriate level of support. The taskforce, which was chaired very ably by Mr Tony Blunn, reported in 2007 and recommended a simplification of this process. That has led to the instrument which this legislation facilitates: the Disability Care Load Assessment Tool. At the time of the committee inquiry the tool was not available so we did not have a chance to look at it in detail. I have not yet had the opportunity to examine the tool, which has now been made available, and I have not seen the comments of stakeholder groups such as Carers Australia, so I am not sure what their opinion of this mechanism is. But it is very important to acknowledge that this needs to be a simple and effective means of being able to make an assessment of a person’s need and then have appropriate care or support provided.

Carers are, of course, time poor and very often information poor and so the simpler the access process, the better off they will be. It would be distressing to imagine—but it is almost certainly true—that there are many, many carers in Australia who do not access their entitlement because of a lack of knowledge about what they are entitled to or because of a sense of frustration or anxiety about how they actually access those arrangements for support. Sensible procedures need to be adopted to update the validation process here. Senator Boyce made the point that all too often our system still treats dis-
ability as a kind of illness, with the implication that at some point the person concerned might grow out of it or get better. That, of course, is a quite erroneous assumption. It is very likely that a person with disability will only have greater needs in the future rather than lesser needs. We should build the system around application for support appropriately.

The other point I want to touch on is the question of exchange care. It is true that there are large numbers of families where mother and father, or two sets of carers, are no longer living with each other. We need to have a sensitive set of arrangements to deal with the question of how to appropriately support parents or carers when they live apart but share the care of their disabled child. It is very difficult to say whether we have quite got that formula right in these arrangements. They are an improvement, but Senator Siewert’s amendments here deserve some further consideration in the future. At this point I am not sure that the coalition will support these amendments but it is an issue to which I believe the parliament needs to return, to make sure that people do not miss out on support which is appropriate when parents are living apart—particularly when there is a single child who is in need of that care and both parents choose, notwithstanding their separation, to provide that care.

In summary, it is impossible not to view the situation of carers in this country, particularly carers of children with disabilities, and not feel a great sense of admiration for the commitment that they make to our social fabric as this is placed in their laps. Payments to these people will only ever constitute a tiny amount of the actual economic value of the care that they supply. We should be mindful of that and generous and forthright in our preparedness to assist them. I am very confident, therefore, that this legislation we consider tonight is on an upwards trajectory of support that will improve, be refined and get more generous as time goes by, subject to the capacity of the Australian community to help share the load that so many people with disabled people in their care shoulder on behalf of the whole Australian community.

Senator FIELDING (Victoria—Leader of the Family First Party) (7.35 pm)—Firstly, I will declare an interest in the Social Security Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Bill 2009 and the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009: I have an intellectually disabled sister, and my parents are carers 24/7 still. I am sure there are many other members in this parliament that could probably claim the same thing too, so I am not trying to say anything special about that. But certainly, anyone who is a carer is doing a tremendous job and mostly under very strenuous and difficult circumstances.

Australians love their sporting heroes. Our children revere them and idolise their every move, while as adults we pin the hopes of the nation on them and share in all their successes. In fact, we love them so much that out of the 49 times that the Australian of the Year award has been bestowed on an individual, on 11 occasions it has gone to a sports star. As I glanced at the list of recipients of this award, I also saw scientists, entertainers, environmentalists and business people, each one a role model for all Australians. But one thing that did stand out from among this list was the absence of a group of ordinary Australians whose contribution to society has touched so many. By this I mean those people who act as carers for those in need. They are the unsung heroes. Maybe they are not given the Australian of the Year award but they are, in every way, deserving. They do not get any glory or tickertape parades. In many cases, they have more reasons
to cry than to celebrate. They do not ask for rewards or grand recognition; what they do ask for, however, is a fair go.

That is what this Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 is about. It is about making life easier for those who have enough on their mind as it is. It is about going some small way towards helping those people who spend their days helping others. Family First supports the amendments to the Social Security Act and the Social Security (Administration) Act put forward in this bill and sees them as a positive first step to improving support for carers. Family First is particularly pleased that this bill deals specifically with carers who look after children, given that almost one quarter of all primary carers help children with a disability, and almost two thirds of these carers spend at least 40 hours per week in their caring role. The changes proposed will mean that more people will become eligible for carer payments. These income support payments are by no means adequate compensation for the care provided in many cases but they do go some way towards alleviating the financial burden imposed on those who are unable to support themselves through participation in the workforce.

I want to highlight the changes to the qualification rules for those caring for children with a terminal illness as something which particularly pleases me. Under the current laws, carers—in many cases a parent—are required to get a medical professional to certify that the child with a terminal illness will not live substantially longer than 12 months. For a highly civilised society, this is a highly uncivilised way of doing business. It is hard to even begin to imagine the trauma of having to care for a child with a terminal illness. I have three children of my own and being in such a situation would, no doubt, be my biggest nightmare. I welcome the new changes to the qualification rules, which are far less intrusive and demonstrate far greater compassion.

Family First also welcomes the changes that will see carer payments being granted to those looking after children under the age of 16 who require care on an episodic basis. Having a child who requires care for a period of at least three months can be an incredible burden on a family member and it is important that carer payments be extended to include these situations. Family First supports this bill and will continue to support all future endeavours by the government to improve the conditions of carers in our community.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (7.40 pm)—I thank all senators for their contributions and their broad support around the chamber for this legislation. The Social Security Legislation Amendment (Improved Support for Carers) Bill 2009 will extend the qualification for carer payment to around 19,000 more carers from 1 July. It will deliver a new, fairer set of qualifications and criteria for carer payment paid in respect of a child based on the level of care required rather than the rigid medical criteria currently used to assess qualifications for the payment. I think we have all dealt with people—I know I certainly did when I was the shadow spokesman—who are very unfairly affected by the current methods of calculation.

The report of the Carer Payment (child) Review Taskforce: A New Approach was released last year finding primarily that the qualification criteria for carer payment paid in respect of a child were too restrictive and the assessment process overly rigid, producing inequitable outcomes. This bill is part of the government’s response to the report of the taskforce and highlights the govern-
ment’s commitment to improving the level of assistance for carers of children with a disability or medical conditions. The new measures are part of an $822 million package from the 2008 budget to support and recognise carers, as well as the 2008 one-off payments and the amendments to the carer legislation included in this bill, which is worth about $273 million over five years. The government set aside $100 million for supported accommodation facilities for people with disability whose aging parents can no longer care for them at home and $20 million for carers who have experienced a catastrophic event involving a young child. This bill makes amendments in relation to carer payment (child) assessment to carer payment (child) assessment, the minister has indicated that she is committed to further consultation with relevant bodies and to conducting further research in how we can best improve the carer experience and access to appropriate payments and allowances. Further research is currently being undertaken by FaHCSIA around further alignment of assessment tools and this should lead to further improvements to the carer process from 2010. An example of this focus will be to look at further improving the experience of transition for carers and care receivers moving from child to adult recognition.

The future reform agenda for carers will be informed by the recently tabled House of Representatives Standing Committee on Family, Community, Housing and Youth report, *Who cares...?*, which detailed the inquiry into better support for carers. The recommendations of that report have been examined and considered at this time.

I conclude by thanking senators for their contributions and I look forward, following the committee stage, to this legislation being carried and to us seeing these improved conditions for carers applied from 1 July 2009.

Question agreed to.

**Bills read a second time.**

**In Committee**

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

**Senator SIEWERT** (Western Australia) (7.45 pm)—Before moving the amendments that I am proposing, I would like to ask a couple of general questions of the Minister for Immigration and Citizenship. I thank the minister for the response around the assessment tool. I am just wondering if you could please clarify the nature of the research that is being done and the timeline. If that is the intent, if you could just clarify that in a little bit more detail then that would be appreciated.

**Senator CHRIS EVANS** (Western Australia—Minister for Immigration and Citizenship) (7.46 pm)—I am informed that further work will follow the House of Representatives report, but I am unable to give you detail of exactly what sort of research by FaHCSIA will occur. But it is going to be a process involving the House of...
Representatives report and FaHCSIA work. The minister is looking at 2010 for further improvements to the processes. In general, in terms of some of the amendments you are looking to move, it seems to me—and obviously we will get to this—that you want us to go a little bit further in the process now. What the minister is saying is that this is a major reform but that we are not finished. There are a range of other things we are looking at. The issue you identified here is one she is focused on as well and, if I know anything about Ms Macklin, there will be more reform coming.

Senator SIEWERT (Western Australia) (7.47 pm)—I thank the minister for his response. While I do accept that the government is proposing to make, I am hoping, a comprehensive response to the House of Representatives report—that is certainly, as I understand, the intent of both the minister and the government—there are some things which I highlighted in my speech on the second reading which I think could be done straightaway. We do not need to wait, and they will make a real difference to people’s lives. I did accept at the time the minister’s explanation for why we should not be amending the assessment tool for adults now. I accepted that, which is why I did not proceed with amendments, as I had originally indicated I would in the Greens’ minority report. So I do accept the explanation of the need for further work around the adult assessment tool. I am looking for some clarification for carers so that they can actually see a point where the government will be making further amendments, particularly as they relate to carers of adults, because with this legislation, although it is not as perfect as I would like, there has been very significant progress and we do acknowledge that. I am basically trying to get some time lines around when we can expect to see the next lot of comprehensive amendments.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (7.48 pm)—I am not sure I can add anything further, Senator. I know you are being genuine in your inquiries, but I do not want to mislead you either. The advice I have is that the minister is looking at making progress in 2010. As I said, this is a substantial set of reforms, as you have acknowledged, and the minister has been successful in getting quite a deal of money dedicated to support these reforms out of the budget. I have to confess the immigration minister did not do nearly as well out of the budget process! I have complained to her about that, but not because I have any concern about carers receiving much better support than they have in the past. I think it is fair to say that the minister is focused on the same sort of issue as you are. The question about the alignment of the assessment tools is one she is focused on. We have the House of Representatives report and the minister’s commitment to look at further reform in 2010. I have no further or more specific information, but no doubt at the next estimates round you will hold me to account for the assurances I gave in the Senate today.

Senator FIFIELD (Victoria) (7.49 pm)—Minister, you would be aware of the questionnaires in relation to the disability care load assessment (child) and that there was a great desire for there to be ongoing consultation. You may have touched on that already, but I would appreciate it if you are able to outline what the consultation process is for carer groups in relation to the questionnaires that form part of the disability care load assessment (child).

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (7.50 pm)—I am informed by the officials that the first meeting with carers is scheduled for next week. In the next three months there will be a series of consultations
about what is required, so that process will start almost immediately and there will be wide consultation with those groups.

**Senator FIFIELD** (Victoria) (7.50 pm)—Thank you, Minister. I have a question which relates to one of the Greens’ amendments and to an issue which was included in the additional comments of the Greens in the Senate committee’s report. It relates to exchange care provisions being made available for carers of a single child. I understand that there may have been some advice provided from the government to the effect that it is not possible, for some technical reason, to actually split the payment between two parents and that if an amendment were to be moved to this effect—to make the payment available for individuals who care for a single child—then both adults would have to receive a full payment. I am just wondering if that is the case. In my view, you should theoretically be able to legislate anything, but I ask whether that is the advice that has been tendered—that it is, in fact, not possible to split that payment on a proportional basis between two adults.

**Senator CHRIS EVANS** (Western Australia—Minister for Immigration and Citizenship) (7.52 pm)—On my reading of the advice to me—and obviously I am not on top of the day-to-day detail—it is not that it is not possible but that it is complex. As you know, with the Child Support Agency reforms, dealing with shared care was a very complex process. Not all of us agreed with the final landing point but everyone accepted the complexities. As I understand it, there are broad policy, administrative arrangement and other systems implications of the proposal. Carer payment requires the carer to provide care and attention on a daily basis. Obviously in shared care arrangements that is not going to be the case, because it is going to be shared.

The proposal implies that a person who does not provide constant care for a child with a disability or medical condition should not be able to qualify to receive carer payment as well. As I say, we are basically saying it is not currently possible, and considering changes of this nature to carer payment (child) would have significant implications for eligibility not just for this but for other social security payments and for the participation requirements for payments such as parenting payment and Newstart allowance.

We are not saying it is impossible but we are saying it is a huge and complex job, and we are certainly not at the point where we could do that sort of thing on the run. As you remember with the child support changes, everything has a flow-on impact to eligibility for everything else. So the response is really that this is a big issue. It is complex and has lots of implications. It is not something that has been taken up in this legislation and it is not something where we could say: let’s have an amendment and fix it. Obviously it is an issue that can be pursued, but the government is not inclined to consider it as part of this, because of those complexities.

**Senator SIEWERT** (Western Australia) (7.54 pm)—I want to follow up on a question that Senator Fifield asked about the disability tool and the consultation process. Minister, I understand that you said it will be undertaken very shortly. What is the time frame for the finalisation of the consultation process—that is, when the disallowable instrument will be introduced?

**Senator CHRIS EVANS** (Western Australia—Minister for Immigration and Citizenship) (7.54 pm)—The best estimate at the moment is around November. As I say, it starts next week and there will be broad consultation about how it will all work. Currently they are looking to have that finalised by November.
Senator SIEWERT (Western Australia) (7.54 pm)—Has the draft been changed from that which was shown to the committee during the last process, as was released as we were having the inquiry, or are you now leaving it until the consultation process has been finished?

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (7.55 pm)—I am informed—and I do not pretend to have thought of the answer myself at this level of detail—that it will be largely the same and that that will carry through the consultation process as the starting point. It is largely the same.

Senator SIEWERT (Western Australia) (7.55 pm)—I move Australian Greens amendment (1) on sheet 5796 to the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009:

That the House of Representatives be requested to make the following amendment:

(1) Schedule 1, item 10, page 10 (after line 14), after section 197E, insert:

197EA Qualification—exchanged care of children

Purpose of section

(1) The purpose of this section is to allow a person to qualify under section 197B, 197D, 197E, 197G or 197H, or a combination of them, for a carer payment for caring for a person who is aged under 16, or for 2 or more persons who include a person aged under 16, despite the fact that the person is not personally providing constant care for that person.

When section applies

(2) This section applies if:

(a) the person is a parent of a person aged under 16; and

(b) the person (the carer) is personally providing care for that person (the care receiver); and

(c) the care receiver would qualify the carer for a carer payment under section 197B, 197D, 197E, 197G or 197H, apart from:

(i) the fact that the carer is not personally providing constant care for the care receiver; and

(ii) the fact that the care receiver has or may have more than one home; and

(d) the circumstances in subsection (3) apply in relation to the care receiver.

Circumstances—family law arrangements

(3) The circumstances are:

(a) under one or more registered parenting plans, parenting plans or parenting orders that are in force, the care receiver is to live with, or spend time with the carer and the care receiver’s other parent (whether or not the care receiver is to live with, or spend time with, someone else); and

(b) the length or percentage of time (however described) that the care receiver is to live with, or spend time with, the carer and the other parent is specified in, or worked out in accordance with, the plans or orders; and

(c) the carer personally provides constant care for the care receiver when the care receiver is living with, or spending time with, the carer; and

(d) the carer does not personally provide constant care for the care receiver only because the terms of the plans or orders require the care receiver to live with, or spend time with, the other parent or someone else.

Qualification for a carer payment

(4) If this section applies, the carer is taken to be qualified for a carer payment under section 197B, 197D, 197E, 197G or 197H, or a combination of them, for caring for the care receiver or for per-
sons who include the care receiver, as the case requires.

Example: The parents of a child with a disability or medical condition are divorced or separated. Under a registered parenting plan, one parent (the first parent) personally provides care to the child in week 1.

In week 2, under the plan, the parents swap care arrangements for the child.

The first parent would not qualify for a carer payment under section 197B because he or she is not providing constant care for the same children. However, this section allows the first parent to qualify for a carer payment for providing care for the child.

Statement pursuant to the order of the Senate of 26 June 2000

Amendments (1) and (3)
The effect of each amendment would be to expand the class of people who would be eligible for a benefit – the carer payment – under the Social Security Act. Amendment (1) directly provides for an additional class of people to qualify for the payment. Amendment (3) removes a provision which restricts the length of time a class of people can claim the payment.

In each case the amendment would increase expenditure under the standing appropriation in section 242 of the Social Security Administration Act 1999.

Amendments (1) and (3) should therefore be moved as requests.

Amendment (2)
This amendment inserts a provision which allows the Secretary to determine that an additional class of people qualify for the carer payment. The amendment confers a discretion on the Secretary to decide whether any person qualifies under the provision and therefore does not directly require increased expenditure under the relevant Act.

Amendment (2) should therefore be moved as an amendment.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

The Senate has long followed the practice that it should treat as requests amendments which would result in increased expenditure under a standing appropriation.

On the basis that amendments (1) and (3) would result in increased expenditure under the standing appropriation in section 242 of the Social Security Administration Act 1999, it is in accordance with the precedents of the Senate that those amendments be moved as requests.

It is also in accordance with the precedents of the Senate that amendment (2) not be moved as a request. The provision inserted by that amendment merely confers a discretion on an official to authorise additional expenditure under the standing appropriation, rather than itself increasing expenditure under that appropriation.

These amendments relate to qualification for exchanged care of children. Senator Fifield asked a question around whether you could split the payments. This issue is one that this chamber has been trying to come to grips with. Certainly I have been trying to come to grips with it, sometimes dragging the rest of the chamber along kicking and screaming. Shared care is an issue that continually comes up.

As I articulated in my comments in the debate on the second reading, we have a number of pieces of legislation in this country that are now contradictory. There is now a presumption of equal shared care in family law, so we now have a lot parenting plans that have shared care. Some are not always fifty-fifty shared care, but a lot of arrangements are now fifty-fifty shared care. We accept that in family law, but our social security law does not provide for it. The changes made under Welfare to Work only recognise one parent as a primary carer, despite the fact that the family law says fifty-fifty shared care. These amendments basically mirror
that. While I am pleased to see that there are provisions made for those that are looking after two children with a disability that need care, those parents that are looking after one child with a disability are not covered under these arrangements.

This is very complicated. I accept that. However, it is acknowledged that, if two parents are sharing the care of a child with a disability, they have that child full time for the 50 per cent of the time that they have them. But they cannot get full-time employment, because they are sharing the care of the child, and they cannot get access to parenting payment. I recognise that it is difficult to fix this legislatively, but here you have a group of people that are significantly disadvantaged. We are making changes in this place which are providing increased and better support for carers—which every member of this Senate accepts and which, I am sure, every member of the House of Representatives accepted when they dealt with this legislation—yet there is a group of carers which we are leaving out. We are disadvantaging separated parents, and I do not think that is fair. For the child of the separated parents it is not fair either. So, yes, it is hard, but can’t we come up with a solution?

The solution the Greens have come up with mirrors the changes that have been made for separated parents who are looking after two or more children with disabilities to be looked after as carers under the shared care arrangements that have been made under family law, the law of this land. It cannot be beyond the wit of this country to be able to do that. If the government does not like these amendments, please come up with some others. Tell us how you are going to look after this group of parents, of whom there will be increasing numbers, because under family law there will be an increasing number of orders made for shared care. It is not as if we have a diminishing group here. Potentially and probably we have an increasing group. What are we going to do about this group of parents? Yes, it is hard, but it is not beyond the wit of this country—it certainly should not be—to provide support for these carers. How are they supposed to maintain employment? If it is part-time employment and their income-generating capacity is reduced, they cannot get access to carers payment. For goodness sake, we can come up with a solution. If you do not like these amendments, come up with something else. So my question is: if the government is rejecting and does not support these amendments, what is it going to do about this group of parents who are looking after children with disabilities? Remember that we are talking about carers here. What is it going to do about this group of carers? If it is not going to accept these amendments, I would like to know what it is going to do about it and the time line for doing it.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (8.01 pm)—Senator Siewert, I am afraid I am again going to have to disappoint you. I am not going to give you the answer and the time line for amending it, because I do not have it. We are saying very clearly that this is highly complex and we do not have a solution at the moment to the issue you have raised. I take your point: you have placed it on the agenda as an issue, and that is a perfectly appropriate thing for you to do. Quite frankly, our view is that the amendments you have proposed are unworkable. That is not a criticism. This is really complex and we do not have a solution at the moment to the issue you have raised. I take your point: you have placed it on the agenda as an issue, and that is a perfectly appropriate thing for you to do. Quite frankly, our view is that the amendments you have proposed are unworkable.

Senator SIEWERT (New South Wales—Leader of the Government in the Senate) (8.04 pm)—I am not going to give you the answer and the time line for amending it, because I do not have it. We are saying very clearly that this is highly complex and we do not have a solution at the moment to the issue you have raised. I take your point: you have placed it on the agenda as an issue, and that is a perfectly appropriate thing for you to do. Quite frankly, our view is that the amendments you have proposed are unworkable. That is not a criticism. This is really complex and we do not think your amendments deal with all those complexities and are workable. We are saying to you that this is not something we can deal with in this part of the legislation. There are very complex implications, in addition to the normal budgetary and systems complications, which go to impacts on a whole range of payments not only
in the FaHCSIA portfolio but also in the employment portfolio et cetera.

Just as we have with child support issues, where someone might have care for only two days a month, there is a complexity of decisions about arrangements. As you know, you went through the child support debates where we had those issues about how you deal with the costs and all those sorts of things. It is very complex and issues of equity are very hard to resolve. As I say, the government’s view is that we are not able to resolve the issue you raised today. We accept that it is appropriate for you to place it on the agenda, but we are not able to give you an assurance that we have the solution or that we have a timeframe for the solution. We have made a major set of reforms here that go a long way towards improving the lot of carers, and this is a really important package, but the issue you highlight in these amendments is not one we think we can address as part of this legislation and it is not one for which we think we have the answer at this moment. That is part of the public policy debate that can continue after we have dealt with this legislation.

As a personal reflection I might say that, while there are tremendous male carers out there in the community, one of the things that has always struck me as a bloke is how many children with disabilities are cared for by women singly, and I have always found it quite confronting as a bloke when one goes to the meetings and sees how many single parent women are coping with managing the care of children with disabilities. In general terms, it does not do the male gender much credit, from what I have seen, but it does highlight the really difficult issues, the pressures it places on families coping with a child and the ability to maintain the relationship between the parents with those pressures. I am generalising because I have met a lot of great male carers, but there are a lot of women who are left caring for children with disabilities and other children in a family situation without a partner, and they do a tremendous job under enormous pressures.

I mention that because it is something that struck me, but it directly goes to your question about shared care and whether or not we can facilitate better arrangements for shared care that would help deal with some of those family break-ups and try to ensure that both partners can play a role in caring. I know these are very difficult issues. I am not trying to be dismissive, but the answer is, yes, it is an issue; yes, it is highly complex; no, we do not have the answer at this stage; and, no, I cannot give you a timeframe. However, I concede it is your right to raise what is a real issue.

Senator SIEWERT (Western Australia) (8.05 pm)—I thank the Minister for Immigration and Citizenship for his honest answer. He is right: I am not happy. I have a couple of questions as a result of the answer. Yes, he is right. We did go through the child support debate and the legislation is still not perfect. There was an improvement on most things in child support last time, and that legislation does deal with shared care. It is still not perfect. I will put that on the record, but there were improvements. So it is not beyond the wit of the government to deal with some of these areas. As to the issues that the minister raises about implications for other pieces of legislation, I accept that—he is right. He is aware that I have been on about the changes in family law and shared care that have not been properly addressed for ages and what they mean for other legislation. So there are injustices in a number of other pieces of legislation. That does not mean that we should not deal with them here. One of the implications I acknowledge, which is why this is a request, is that it has budgetary implications.
I thank the minister for saying he does not have the solution and therefore does not have a time line. I wonder if there is a process the government is undertaking to look into this to see how it can be dealt with or if it is just a too-big, too-hard issue that is out there on the pin board and that no one has been game to deal with. Is the government actually starting to tackle this? I would appreciate it if the minister could give me an indication that there is a process that they are starting up to look at it. Is it part of what the government is doing to look at the response to the House of Representatives report—because it should be. It is potentially one of those issues that is just going to be left because it is too hard—‘We’ll deal with the other issues, but we’ll continue to leave that group of carers behind.’ It is a group that we should not be leaving behind, particularly as they have been left behind all the time because it has always been too hard. Is the government looking at putting in place a process to start trying to address this? An answer to that would be appreciated.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (8.08 pm)—This is a huge package that seeks to address a large number of issues. You have correctly identified a range of other issues that remain. This is one of them, but there are the mental illness issues et cetera. I am not in a position to say to you that the minister is focused on dealing with this next year. I certainly can raise the issue with her. She is a minister who will look to tackle all the issues in her portfolio with a reforming zeal; but, equally, you cannot do everything at once. As you have acknowledged, this is an important and big package. You have identified a number of issues which are issues in this space that require solutions or require us to look at whether better public policy can be applied, but I am not in a position to be able to say to you that there is a time line or how the minister intends to handle that, because I just do not have that advice. We acknowledge that there is a problem there that you have rightly raised, but I am not authorised to give you an assurance of the sort you are looking for other than that it is on the agenda, you will be able to pursue it and the government has acknowledged that it is one of those issues that are thrown up as part of this carer payment issue.

Senator FIFIELD (Victoria) (8.10 pm)—The opposition certainly welcomes the intention behind the Greens’ amendment, as Senator Humphries indicated in his contribution about the payment for exchange-care arrangements for a single child, and I commend the Greens for placing this on the agenda. I noted that the minister mentioned the complexity of doing something in this area. He also mentioned the budgetary implications, and I cannot help but feel that the mention of complexity—although I appreciate that these are technical matters—is actually to hide what the real issue is here: budgetary implications. I am very aware of the fact that, when a government is heading towards a deficit of $315 billion, that severely circumscribes a government’s capacity to do a lot of the good things which all of us in this chamber hope that government can do. Although this side of the chamber has often been criticised for being a bit obsessed and overly keen on balanced budgets, one of the reasons we on this side of the chamber are so keen on balanced budgets is not that it is some sort of fiscal fetish; it is because if you have balanced budgets then you are more able to spend money on the sorts of things that the community wants such as making things easier for carers. I cannot help but feel that when the government talks about complexity they are hiding behind the real issue, which is the budgetary problems they have created.
Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (8.11 pm)—I do not want to delay this any longer, but I thought that was a fairly churlish contribution. This is an $822 million package for carers. The Howard government had 12 years to achieve these reforms, but it did not. To suggest that the budgetary situation is stymieing reform in this area is, I think, directly countered by the fact that, despite a difficult budget and the economic situation, this government committed $822 million to try to improve the lot of carers. I do not want to get into a partisan argument about the previous 12 years of policy and/or commitment in this area, but this is a very significant package in terms of both policy and finance.

Senator Siewert knows, as I do, having gone through the child support arrangement reforms—I do not mean to harp on about this—that this is a classic case where there was a really complex set of public policy issues and entitlements from shared care that the previous government did a very good job on in commissioning the report on the child support reforms. It then went through a very serious process with community debate and then went through this parliament. It went through, sponsored by the previous government, with the Labor Party’s support as a good piece of public policy for a really difficult issue. I am not at all hiding behind the complexity, but it would be foolish not to recognise just how complex this is. We are saying that we are not in a position to move to try to resolve this as part of this legislation. I think that if you were to get reform in this area you would probably have to go through the same sort of process we went through with the child support reforms.

Senator Siewert—Parkinson.

Senator CHRIS EVANS—That is right; it was the Parkinson report, which had a community group who worked very hard at working through all those issues, complexities, effects on other payments, and the different rates of care and how those impacted on people’s entitlements. It was hugely complex.

It is not a matter of us hiding behind purely financial concerns. In fact, as I say, this is a massive commitment to carers of $822 million. We have certainly put our money where our mouths are, but we have also tried to do what is good public policy, and I think we have achieved that outcome. This is a task beyond this piece of legislation. It is a task that would require a large amount of dedicated work before we would be in a position to deal with that. It has been put on the agenda, and we acknowledge that, but it is not part of this bill. It is not something that can be done on the run. It would take a very serious commitment to a reform process to make progress in that area.

Senator FIFIELD (Victoria) (8.15 pm)—I certainly accept and recognise that there are technical issues to be navigated in this area. As someone, I know, who cares very deeply about these matters, particularly from his former shadow responsibilities, I would urge the minister to argue within his cabinet for pause and thought when proposals such as pink batts come forward and that such monies could be much better spent in areas perhaps such as this.

Question negatived.

Senator SIEWERT (Western Australia) (8.16 pm)—I move Greens amendment (2) on sheet 5796:

(2) Schedule 1, item 10, page 16 (after line 30), after section 197K, insert:
197L Qualification—short term or episodic care of disabled adult

Secretary’s determination

(1) The Secretary may determine that a person is qualified for a carer payment for a period if:

(a) the person is personally providing constant care for a person (the care receiver) with:

(i) a severe disability or severe medical condition; or

(ii) a disability or medical condition; and

(b) a treating health professional has certified in writing that, because of the severe disability or severe medical condition or because of the disability or medical condition:

(i) the care receiver will need personal care for at least 3 months but less than 6 months; and

(ii) the care is required to be provided by a specified number of persons; and

(c) apart from the fact that the care receiver will need personal care for less than 6 months, the person would qualify for a carer payment under section 198.

Limits on period determined

(2) The period determined by the Secretary:

(a) must be 3 months or more and less than 6 months; and

(b) must not begin before the person’s start day.

197M Qualification—extension of short term or episodic care of disabled adult

Extension of qualification under section 197L

(1) This section applies if:

(a) a person is qualified for a carer payment for caring for a person (the care receiver) for a period (the preceding period):

(i) under section 197L; or

(ii) if this section has previously applied to the person and the care receiver—under the most recent application of this section; and

(b) before the end of the preceding period, the person gives the Secretary a certificate from a treating health professional certifying that:

(i) because of a severe disability or severe medical condition, or a disability or medical condition, the care receiver will need personal care for a further period of less than 3 months starting immediately after the end of the preceding period; and

(ii) the severe disability or severe medical condition, or the disability or medical condition, is the same as, or related to, the severe disability or severe medical condition, or the disability or medical condition, that necessitated the care for the preceding period; and

(iii) the care is required to be provided by a specified number of persons.

Person qualified for further period determined by Secretary

(2) The person is qualified for a carer payment for a further period if:

(a) apart from the fact that the care receiver will need personal care for less than 6 months, the person would qualify for a carer payment under section 198; and

(b) the Secretary determines that a carer payment should be granted to the person for the period.

(3) The period determined must end not later than 6 months after the first day on which the person started to receive a carer payment under section 197L.

Amendment (2) relates to the qualification for short-term or episodic care for an adult
with a disability. As I articulated in my second reading contribution, the Greens are strongly supportive of the amendments in this bill to deal with episodic care. It is very important to provide support for carers of children who require episodic care.

During the Senate inquiry, it was apparent that there are adults who require episodic care as well, particularly around mental illness. People with a mental illness may have episodes where they require care. I understand that this bill is predominantly about carers of a child with a disability. The point I raised in my second reading contribution, and I also made to the minister earlier, is that we know there is a deficiency in the current legislation as it relates to adult carers and we could fix it now rather than having to wait for the next round of amendments. I appreciate the government’s commitment to the next round of amendments—I do not doubt that for a minute—but I think that where we have a problem and we know how to fix it, we should do something about it and do it now. The Greens want to extend the provisions to provide care for adults who require episodic care, with a particular focus on those with a mental illness. But I am also aware that there are some degenerative diseases that also require episodic care.

Does the government recognise that there is potential in the current legislation? Also, during the inquiry the issue was raised about the provision of qualification for episodic care being extended for two years. I seek confirmation from the government that that is in fact the case. As I understand it, there will be a significantly reduced requirement after the six months—if episodic care is required again within two years that there would be a reduced requirement for application for those episodic care provisions. I would appreciate it if the government could answer those questions, as well as supporting the amendments.

**Senator CHRIS EVANS** (Western Australia—Minister for Immigration and Citizenship) (8.19 pm)—Senator Siewert, what can I say? You are nothing if not pugnacious and determined, and looking always to push the government further. But my instructions tonight are that I am not to fall over and agree with a massive extension of arrangements for adults, which would be in addition to the arrangements in this legislation dealing with children. Effectively, you are looking to introduce carer (adult) provisions into this legislation, which deals with children. There are obviously a range of very significant implications in terms of that move. It is not work that is being done currently and it would require considerable work around the characteristics and needs of those with mental illness, and of course would also require significant additional funding.

Again, I realise why you are putting it on the agenda, and that is a perfectly appropriate thing to do. But it is not an amendment that the government can support. It is a significant extension beyond what is envisaged in this legislation and would require the sort of work around the needs and characteristics of those with mental illness which has not yet been done. As I say, I think it fits again into the category of placing on the agenda and making the case for movement, but I am unable to agree with you this evening that we ought to include that in this bill.

**Senator SIEWERT** (Western Australia) (8.21 pm)—I find it curious that the government has acknowledged the need for episodic care for children but does not acknowledge it is an issue for adults. Clearly it is an issue for adults. It has been raised a number of times. It is obvious that there is a requirement for adults. Is this issue being considered in the next round of research? If it is not, can adults be considered when developing amendments for the next round?
I point out that the name of the bill includes ‘improved support for carers’. I know it is generally about children, but it is about improved support for carers. This is a group of people who strongly need support. That has been clearly and repeatedly identified as an issue, particularly around mental illness, and the carers of those with mental illness would greatly appreciate this form of support.

I appreciate that I am asking two questions at once, but I would also like confirmation from the government that the episodic care qualification period has been extended for two years with reduced requirements for application.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (8.23 pm)—I think the answer to the second bit is ‘yes’. I am looking for reassurance. There is a particular adviser of Ms Macklin who will be looking for a job if that is not right. I will have committed the government to it, so I hope for her sake she is right. In terms of your main point about carers of adults with mental illness, I think this parliament is very well aware of the increasing need of support for people with mental illness and those who care for them. I know a small number of members of this parliament who have had to care for adults with a mental illness. Its strains are felt by families all around Australia. As I said, I have had personal exposure to it through at least two members of the parliament who have been trying to cope with the stresses and demands that they are placed under and through a number of my colleagues in the Western Australian state parliament as well. This problem is much more common than many people think.

The key point to make to you is that, while I understand why you look to extend this provision to carers of adults with a mental illness, the government is not clear that that is actually the best thing to do—that is, that if you had the money to commit to the needs of carers of adults with a mental illness it would be your first choice. Not only do we not think it should be part of this bill and not only do we think we are a long way from having done the work to do it but we are not actually convinced. My advice is that we are not at the point of saying that it would be how you get the best bang for your buck or that it is the most appropriate policy response. So for a range of reasons we will not be agreeing to that amendment. They include the reasons I gave earlier, but equally I want to make the point that the minister is not clear at this stage whether, if you had the money, the capacity to deliver and all the policy issues sorted out, it would necessarily be the best thing to do. I think there would need to be more work done and more examination of the issues before this government would accept that that was necessarily the first thing you would do.

Senator SIEWERT (Western Australia) (8.25 pm)—I am hoping that this will be my last question on this issue. I acknowledge the minister’s response and understand the framework he has put it in, although I do not necessarily agree with the government. Is this something that will be considered in the next round of work—that is, whether the government can be convinced that this is the appropriate route and the appropriate form of support for carers of adults with a mental illness? It is about need for other forms of episodic care as well, but with a focus on mental illness. It was carers of people with mental illness who particularly raised this with us. Is this in the framework of what the government will be looking at for the next round of changes?

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (8.26 pm)—I concur with Senator
Siewert in hoping it is the last of her questions, because they are a bit tough for a representing minister. I think the answer to that is that the House of Representatives report puts on the agenda the whole question of care for adults. The minister has indicated that she will be looking to respond to that report in the totality of the issues around adults. I am not in a position to respond to specific issues now, but the government will be doing work in response to issues around carers of adults, and obviously this will be part of that consideration.

Question negatived.

Senator SIEWERT (Western Australia) (8.27 pm)—I move Australian Greens amendment (3) on sheet 5796 to the Social Security Legislation Amendment (Improved Support for Carers) Bill 2009:

That the House of Representatives be requested to make the following amendment:

(3) Schedule 1, item 16, page 18 (lines 13 to 18), omit subsection 198AA(3).

This amendment relates to the provisions around hospitalisation and seeks to extend the government’s amendments that remove the 63-day limit relating to care of children in hospital. Obviously, we support this bill. This provision is a very good one and we seek to extend it to adults. The same issues apply to carers of adults as apply to carers of children. Care does not stop just because the person you are giving care to is in hospital. As I articulated in my speech in the second reading debate, this is an issue that has been brought up with me repeatedly—that is, the concern that the limit for a person in hospital is 63 days.

I will pre-empt some comments that I know the government will make. The government will talk about respite care, but the point is that having someone cared for in hospital is not necessarily respite for the person doing the caring. They are still travelling to hospital, still caring for that person and looking after their needs. It is an extremely traumatic and stressful time for the person doing the caring as well. As I said, I can pre-empt what the government is going to say so that we can get to the debate a little bit quicker. I do not wear the argument that respite, just because it is offered, actually deals with the issues, because when a person is in hospital the carer is still caring for that person. We believe that, for the same reasons this amendment has provisions for the carer of a child, the process should be extended to the carer of an adult.

I also want to pre-empt the government by saying: yes, I know that you are going to be considering people caring for adults during the review. The same argument applies: we know this is an issue, so why not deal with it now? Why not provide that relief for carers now rather than next year, which is at least 12-18 months away? We can actually be helping carers now rather than waiting, because we know it is an issue. We know it is an issue, because it was brought up again during the Senate inquiry. As I said, it has been brought up repeatedly with me, particularly, I must say, by carers of older people and by older carers. It is very stressful when the person they are caring for is in hospital and they are still providing care. So the Greens strongly believe that the provisions could be and should be extended to those providing care for adults.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (8.30 pm)—I will only advance one of the arguments anticipated by Senator Siewert, which is the one I advanced to her previous proposition, which is that we will be dealing with the question of the response to the House of Representatives committee report in terms of the treatment of adults, and that consideration will be occurring. We are not seeking to respond to that as part of this
legislation. There are obviously huge implications in all of this. The populations are different and the characteristics are different. We are not intending to respond in this legislation to all those issues around carers of adults. That will be part of the consideration in responding to the House of Representatives committee report.

I am not going to advance the argument about respite. It may well be the government argument, as Senator Siewert said, but having cared for my dying father a little bit in the last month or so—although I must say my sister did most of the care—I certainly have lived the experience of that sort of support when people are in hospital et cetera. I know the pressures it places on people and I know my experience is minuscule compared to those who are caring full time and under much worse conditions than we had to deal with. There is no doubt that the demands of caring for an adult—whether it is someone with a disability or someone who is terminally ill or what have you—are enormous. As Senator Siewert rightly points out, those obligations in caring do not disappear when people are in hospital or other care. There do not seem to be enough hours in a day to meet all those obligations, let alone to do a full-time job as well.

If I needed any reminding, my recent experiences have reminded me of the actual burden that carers face and the tremendous sacrifice that people who do that long term make. I am not sure what the official government policy is in terms of the respite argument, but I am not advancing it tonight. I may be whipped into line on some further occasion, but I will certainly be making the argument internally that we have to consider the fact that carers continue to have a role when people are hospitalised or in other forms of care. I will leave it to the minister how that public policy is responded to. Before I have another slash outside the office, I had better stop before Ms Macklin comes down to deal with me. The basic answer is that the issue you raise is one that ought to be on the agenda, and it is on the agenda. The government will look to respond to that with other issues surrounding carers of adults in responding to the House of Representatives committee report.

Question negatived.
Bills agreed to.
Bills reported without amendment; report adopted.

Third Reading
Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (8.35 pm)—I move:
That these bills be now read a third time.
Question agreed to.
Bills read a third time.

FAIR WORK (STATE REFERRAL AND CONSEQUENTIAL AND OTHER AMENDMENTS) BILL 2009
FAIR WORK (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2009

Consideration resumed from 15 June.

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

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (8.37 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009. The memorandum was circulated in the chamber on 15 June 2009. I seek leave to move government amendments (1) to (7), (9) to (15) and (17) to (20) on sheet BJ215 together to the Fair
Work (Transitional Provisions and Consequential Amendments) Bill 2009:
Leave granted.

Senator ARBIB—i move:

(1) Clause 2, page 2 (table item 9, column 1), omit “and 2”, substitute “to 2E”.

(2) Clause 2, page 2 (after table item 13), insert:

13A. Immediately after the commencement of Part 3-1 of the Fair Work Act 2009.

(3) Clause 2, page 2 (after table item 15), insert:

15A. Immediately after the commencement of Part 6-1 of the Fair Work Act 2009.

15B. Immediately after the commencement of Part 6-4 of the Fair Work Act 2009.

(4) Page 165 (before line 1), before Schedule 13, insert:

Schedule 12A—Unfair dismissal

1 Meanings of employee and employer

In this Schedule, employee and employer have their ordinary meanings.

2 Meaning of small business employer, for unfair dismissal purposes, prior to 1 January 2011

(1) For the purposes of the application of Part 3-2 of the FW Act in relation to the dismissal of a person before 1 January 2011, a national system employer is a small business employer if, and only if, the employer’s number of full-time equivalent employees, worked out under this item, is less than 15 at the earlier of the following times (the notice or dismissal time):

(a) the time when the person is given notice of the dismissal;
(b) immediately before the dismissal.

(2) The employer’s number of full-time equivalent employees at the notice or dismissal time is worked out as follows:

Method statement

Step 1. For each person who was an employee of the employer at any time during the period of 4 weeks immediately preceding the day on which the notice or dismissal time occurs, work out the number of ordinary hours (including parts of hours) of the person as the employer’s employee during the period.

Note: Subitem (3) sets out what are a person’s ordinary hours.

Step 2. If, during the period, the person took leave to which subitem (4) applies, work out the number of hours of leave to which that subitem applies that the person took during the period.

Step 3. Add together all of the numbers of ordinary hours worked out under step 1, and subtract all of the number of hours of leave worked out under step 2.

Step 4. Divide by 152 the number worked out under step 3. The result is the employer’s number of full-time equivalent employees at the notice or dismissal time.

Note: The number 152 is based on the maximum number of hours that a full-time employee would work in 4 weeks (being 38 hours per week) excluding reasonable additional hours.

(3) For the purposes of step 1 of the method statement in subitem (2), the ordinary hours of work of a person as the employer’s employee are:

(a) to the extent that a modern award, enterprise agreement or workplace determination applied to the person, and the person was not a casual employee—the ordinary hours of work
specified or provided for in that award, agreement or determination; or

(b) to the extent that a transitional instrument applied to the person, and the person was not a casual employee—the person’s ordinary hours of work under item 33 of Schedule 3; or

c) to the extent that:

(i) a State industrial instrument applied to the person as a non-national system employee; and

(ii) the instrument specified, or provided for the determination of, the person’s ordinary hours of work, and

(iii) the person was not a casual employee;

the ordinary hours of work as specified in, or determined in accordance with, that instrument; or

(d) to the extent that no such award, agreement, determination or instrument applied to the person, and the person was not a casual employee:

(i) if the person was a national system employee—the person’s ordinary hours of work under section 20 of the FW Act; or

(ii) if the person was a non-national system employee—what would have been the person’s ordinary hours of work under that section if the person had been a national system employee; or

(e) to the extent that the person was a casual employee—the lesser of:

(i) 152 hours; and

(ii) the number of hours actually worked by the person.

(4) This subitem applies to leave, whether paid or unpaid, that the person took if:

(a) the person was entitled to the leave in connection with:

(i) the birth of a child of the person or the person’s spouse or de facto partner; or

(ii) the placement of a child with the person for adoption; and

(b) the duration of the period of leave has been at least 4 weeks;

whether or not the person took any other kind of paid leave while taking that leave.

(5) For the purposes of this item, a national system employer and the employer’s associated entities are taken to be one entity.

(6) This item has effect despite section 23 of the FW Act.

(5) Schedule 13, item 13, page 172 (line 16), omit “item 15”, substitute “items 14A and 15”.

(6) Schedule 13, page 172 (after line 27), after item 14, insert:

14A FWA may order that industrial action is taken to be authorised by a protected action ballot

(1) A person who is a bargaining representative for a proposed enterprise agreement may apply to FWA for an order under this item if, before the WR Act repeal day, the person was an applicant specified in an order for a protected action ballot in relation to a proposed collective agreement.

(2) The application must be made within 28 days after the WR Act repeal day.

(3) FWA may order that industrial action that was authorised under section 478 of the WR Act in relation to the proposed collective agreement is taken to be authorised, in relation to the proposed enterprise agreement, by a protected action ballot under subsection 459(1) of the FW Act, if FWA is satisfied that:
(a) on or after 1 March 2009, the person organised or engaged in industrial action, for the purpose of supporting or advancing claims in relation to the proposed collective agreement; and

(b) all such industrial action organised or engaged in by the person was:
   (i) authorised by a protected action ballot under section 478 of the WR Act; and
   (ii) protected action within the meaning of the WR Act; and

(c) the person did not first organise or engage in such industrial action on or after the WR Act repeal day; and

(d) no collective agreement covering the employees whose employment would have been subject to the proposed collective agreement was approved by those employees before the WR Act repeal day; and

(e) the proposed enterprise agreement will cover those employees; and

(f) the person is genuinely trying to reach agreement in relation to the proposed enterprise agreement; and

(g) it is reasonable in all the circumstances to make the order.

(4) Industrial action that is taken to be authorised because of the operation of subitem (3) is only taken to be authorised in relation to employees who:

(a) will be covered by the proposed enterprise agreement; and

(b) were relevant employees (within the meaning of section 450 of the WR Act) in relation to the proposed collective agreement.

(5) For the purposes of subsection 414(3) of the FW Act, the results of the protected action ballot under that Act are taken to have been declared on the day of the order.

(7) Schedule 22, page 246 (after line 28), after item 62, insert:

62A Subsection 158(1) of Schedule 1
Repeal the subsection, substitute:

(1) A change in the name of an organisation, or an alteration of the eligibility rules of an organisation, does not take effect unless:

(a) in the case of a change in the name of the organisation—FWA consents to the change under this section; or

(b) in the case of an alteration of the eligibility rules of the organisation:
   (i) FWA consents to the alteration under this section; or
   (ii) the General Manager consents to the alteration under section 158A.

(9) Schedule 22, page 247 (before line 25), before item 64, insert:

63A After section 158 of Schedule 1
Insert:

158A Alteration of eligibility rules of organisation by General Manager

(1) The General Manager must, on application by an organisation in accordance with subsection (2), consent to an alteration of the eligibility rules of the organisation to extend them to apply to persons within the eligibility rules of an association of employers or employees that is registered under a State or Territory industrial law, if the General Manager is satisfied:

(a) that the alteration has been made under the rules of the organisation; and

(b) that the organisation is a federal counterpart of the association; and

(c) that the alteration will not extend the eligibility rules of the organisation beyond those of the association; and

(d) that the alteration will not apply outside the limits of the State or Territory for which the association is registered; and

(e) as to such other matters (if any) as are prescribed by the regulations.
Note: If the General Manager consents to the alteration, FWA may make orders that reflect State representation orders (see section 137F).

(2) The application must not be made before 1 January 2011, or such later day as the Minister declares in writing.

(3) A declaration made under subsection (2) is a legislative instrument, but section 42 (disallowance) of the "Legislative Instruments Act 2003" does not apply to the declaration.

(4) If the General Manager consents, under subsection (1), to an alteration, the alteration takes effect on:

(a) if a day is specified in the consent—that day; or

(b) in any other case—the day of the consent.

(10) Schedule 22, item 82, page 249 (lines 18 to 21), omit subparagraph 6(c)(i), substitute:

(i) unless subparagraph (ii) or (iii) applies—the fifth anniversary of the earliest day on which an organisation can make an application in accordance with subsection 158A(2); or

(11) Schedule 22, item 82, page 249 (line 25), omit "commencement", substitute "day".

(12) Schedule 22, item 82, page 249 (line 28), omit "commencement", substitute "day".

(13) Schedule 22, item 89, page 257 (line 23), omit "employee organisations", substitute "organisations of employees".

(14) Schedule 22, item 89, page 258 (after line 12), at the end of section 137B, add:

(3) If:

(a) the eligibility rules of an organisation of employees have been altered with the consent of the General Manager under section 158A; and

(b) because of the alteration, members of an association of employees registered under a State or Territory industrial law have become eligible for membership of the organisation; a reference in this section to the organisation includes a reference to the association referred to in paragraph (b) of this subsection.

(15) Schedule 22, item 89, page 258 (after line 30), after the heading to Part 4, insert:

137F FWA may make orders reflecting State representation orders

(1) If:

(a) the eligibility rules of an organisation of employees have been altered with the consent of the General Manager under section 158A; and

(b) because of the alteration, members of an association of employees that is registered under a State or Territory industrial law (a "State registered association") have become eligible for membership of the organisation; and

(c) immediately before the alteration took effect, an order (a "State representation order") was in force that:

(i) was made by a State industrial authority in relation to the State registered association; and

(ii) was an order of the same kind as, or of a similar kind to, an order that FWA could make under this Chapter in relation to an organisation;

FWA, on application by the organisation or by a party to the State representation order, make an order in relation to the organisation that is to the same effect, or substantially the same effect, as the State representation order.

(2) The order under subsection (1) applies to each organisation that is:

(a) a federal counterpart of the State registered association; or

(b) a federal counterpart of any other association of employees:
(i) that is registered under a State or Territory industrial law; and
(ii) to which the State representation order applied.

(17) Schedule 22, page 286 (after line 9), after item 359, insert:

359A Subsection 158(5) of Schedule 1
Omit “the Commission” (wherever occurring), substitute “FWA”.

(18) Schedule 23, page 315 (after line 10), after item 2, insert:

2A At the end of subsection 22(2)
Add:
; (c) any other period of a kind prescribed by the regulations.

2B After subsection 22(3)
Insert:

(3A) Regulations made for the purposes of paragraph (2)(c) may prescribe different kinds of periods for the purposes of different provisions of this Act (other than provisions to which subsection (4) applies). If they do so, subsection (3) applies accordingly.

2C Paragraph 22(4)(a)
Repeal the paragraph, substitute:

(a) a period of service by a national system employee with his or her national system employer is a period during which the employee is employed by the employer, but does not include:
(i) any period of unauthorised absence; or
(ii) any other period of a kind prescribed by the regulations; and

2D Paragraph 22(4)(b)
Omit “of unauthorised absence”, substitute “referred to in subparagraph (a)(i) or (ii)”.

2E After subsection 22(4)
Insert:

(4A) Regulations made for the purposes of subparagraph (4)(a)(ii) may prescribe different kinds of periods for the purposes of different provisions to which subsection (4) applies. If they do so, paragraph (4)(b) applies accordingly.

(19) Schedule 23, page 316 (after line 26), after item 9, insert:

9A At the end of subsection 371(2)
Add “, or within such period as a court allows on an application made during or after those 14 days”.

9B At the end of section 371
Add:


(20) Schedule 23, page 319 (after line 29), after item 21, insert:

21A Paragraph 722(a)
Omit “5 of Part 6-1”, substitute “3 of Part 6-4”.

21B At the end of subsection 779(2)
Add “, or within such period as a court allows on an application made during or after those 14 days”.

21C At the end of section 779
Add:


We also oppose schedule 22 in the following terms:

(8) Schedule 22, item 63, page 246 (line 29) to page 247 (line 24), to be opposed.

(16) Schedule 22, item 353, page 285 (lines 24 and 25), to be opposed.
These amendments were outlined in my speech yesterday.

Senator ABETZ (Tasmania) (8.39 pm)—As I understand it, the government are moving all their amendments in globo. I indicate on behalf of the opposition that we will not be opposing those amendments—suffice to observe that the government, not satisfied with having moved 120 amendments to their own legislation in the other place, are now in this place moving a further 20 amendments. One observation I will make—and I made comment about this in my speech on the second reading—is the shameless deal that was done at the end of the Fair Work Bill when the Senate had moved and agreed to a number of amendments and Ms Gillard refused to accept the Senate’s wish.

Unfortunately, Senator Fielding and Ms Gillard revisited the grave of Work Choices, re-dug the grave, threw in small business and jobs and then covered it over again. Senator Fielding and Ms Gillard at the time said, ‘What a wonderful deal we’ve done,’ and Senator Fielding said, ‘What a great deal we’ve done for small business.’ He had got out of the minister this cast-iron guarantee in relation to the definition of ‘small business’. So strong was the deal, so strong was the commitment of Ms Gillard, so in sync were Senator Fielding and Ms Gillard, that the definition of ‘small business’ for the purpose of unfair dismissal was not even thought about when they dealt with the transition bill in the House in the first draft and they did not think about it when they moved their 120 amendments in the House.

Then the transition bill finally finds its way into the Senate and they go: ‘Oopsie, we might need Senator Fielding’s vote again. Didn’t we make some deal with him on the night when we visited the graveyard and made that decision in the middle of the night?’ So all of a sudden, amongst all these amendments, is the amendment which will put into legislative form the deal that was undertaken with Senator Fielding. The fact that it has come at the eleventh hour into this place would suggest—and I would not want this to befall to anybody—that chances are, if Senator Fielding had a more serious injury than his crook ankle from playing soccer and was not able to get into this chamber at all, the Labor Party would not have even bothered to honour that agreement. That is the reality. That is the sort of contempt with which Family First and Senator Fielding have been treated.

The Senate is under time pressure. A lot of these amendments I in fact foreshadowed in my speech on the second reading as being vitally important for the government to move, and in fact the government have moved those amendments—a lot of them consequential. I just note that here, at this very late stage, allegedly with a very clear election policy et cetera, Labor are still bringing in amendments and explanatory memoranda on the run—and, of course, we now have a legislative framework that is bigger and more employment damaging than any other previous regime. Having made that comment in relation to one particular bracket of amendments, I will leave it at that and indicate that the coalition will not be opposing the amendments.

Senator SIEWERT (Western Australia) (8.43 pm)—The Greens will not be opposing the amendments either, but I do want to comment and put on record concerns around three of those amendments. One, of course, relates to the issues around unfair dismissal, item 4—about which Senator Abetz has just been speaking and on which we have a completely contrary view, of course.

Senator Abetz—Of course you have; you are anti small business.


Senator SIEWERT—I am not even going to go there. The Greens have consistently held the position that small business employees should not have inferior unfair dismissal rights on the basis of who their employer is. As a matter of principle, the Greens believe there should be no distinction between workers in relation to their unfair dismissal rights.

Unfair dismissal rights are very important for job security and for being treated with respect and dignity. We did accept, in the debate on the Fair Work Bill, the government’s policy on unfair dismissal rights for employees of small businesses defined as 15 employees. It is a significant improvement on Work Choices, which exempted employees employed in businesses which employ up to 100 workers. The amendments moved today provide for the definition of a small business to be calculated as 15 full-time equivalent employees. It provides a complicated formula for determining whether a business is a small business, and it is likely to be difficult and time consuming for small business owners to apply the formula—not necessarily replacing what they think is one complication with another complication; it is also likely that the full-time equivalent formula will mean that businesses of significantly more than 15 employees will be considered small businesses—particularly businesses with high levels of part-time and casual work, which are, coincidentally, also workplaces with high levels of female employees. So once again we have an amendment which we believe will detrimentally affect more vulnerable workers. However, we note that the formula is in operation for only 18 months; at that time the definition reverts to the 15 determined by a simple headcount. As I said, we will not be opposing this amendment but it is obviously not our preferred position. We made that distinctly clear at the time of the previous debate. We also said that if there was to be a definition of ‘small business employees’—which we do not like anyway—then a simple headcount is preferred. As I said, we will not be opposing the amendment but we wanted to put on record our continuing concern around treating one set of workers differently from another.

The other issues that the Greens have some concerns about are items 5 and 6, around protected industrial action authorisations. This allows the FWA to authorise industrial action taken to be authorised by a protected action ballot after 1 July in an industrial action. The Australian Greens welcome this amendment from the government. The treatment of industrial action authorised by the bill was noticeably inconsistent and, as I said in my speech in the second reading debate, we did have concerns about that. We had concerns with the way that was being treated and we believed that it was inconsistent with other processes undertaken pursuant to the Workplace Relations Act. I addressed this in my speech and I urged the government to address the issue where employees would have to repeat the entire authorisation process, including secret ballots for taking industrial action again, even where current authorisation were still valid and the parties were engaged in bargaining. We believe this amendment goes some way to addressing this issue, although there would still be a period after 1 July when employees will be unable to take protected industrial action. As I had raised in my speech on the second reading that we had a concern, this does go at least most of the way to addressing it, so I wanted to highlight that particular issue. As I said, we will be supporting the amendments but we have concerns around unfair dismissal.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (8.49 pm)—
thank senators for their contributions. In relation to something raised by Senator Abetz in relation to Senator Fielding, could I reaffirm. During the Senate debate on the Fair Work Act, the government made a commitment to Senator Fielding that until 1 January 2011 the threshold used to define a small business for the purpose of applying the unfair dismissal arrangements would be fewer than 15 full-time equivalent employees. Amendment (4) reflects that commitment. It provides that the number of full-time equivalent employees is calculated by dividing up the ordinary hours of all employees in a four-week period and dividing those hours by 152. Of course, the number 152 is based on the maximum number of ordinary hours of a full-time employee being 38 hours per week, excluding reasonable additional hours.

Could I also say that we totally reject what Senator Abetz has claimed in relation to our dealings and negotiations with Senator Fielding.

The TEMPORARY CHAIRMAN (Senator Ryan)—The question is that government amendments (1) to (7), (9) to (15) and (17) to (20) on sheet B1215 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question is that items 63 and 353 of schedule 22 stand as printed.

Question negatived.

Senator ABETZ (Tasmania) (8.50 pm)—by leave—I move opposition amendments (1) and (2) on sheet 5817:

(1) Schedule 3, item 23, page 34 (lines 5 to 11), omit subitem (1) and note 1, substitute:

(1) Where a transitional instrument deals with a matter that is dealt with under the National Employment Standards, the transitional instrument is of no effect to the extent that the overall entitlements of the transitional instrument in relation to the matter are detrimental to the employee when compared to the overall entitlements of the National Employment Standards in relation to the matter.

(2) Schedule 3, item 23, page 34 (line 23), omit “in any respect”.

I do not seek to delay the Senate too long, but it is noteworthy that, whilst the minister rejected my assertions in relation to the previous matter, he did not deny that the deal with Senator Fielding was incorporated in the original legislation or that it was incorporated in all the amendments moved in the House that have only come in at this very late stage, which I think makes my point.

I move on to the two amendments that I have moved on behalf of the coalition dealing with the no detriment rule. These amendments seek to remove the line-by-line approach to the concept of detriment as it relates to the interaction of the National Employment Standards with transitional instruments. The amendments will ensure that the interaction between the National Employment Standards and transitional instruments is such that it is now assessed on an overall basis when a comparison occurs.

Those of us who were privileged to be part of the Senate inquiry into this heard some very compelling evidence from the WA Chamber of Commerce and Industry. They provided us with some examples of adopting a line-by-line approach in relation to the National Employment Standards. Here is a very good one. It involves, for example, one national employment standard, being the right to be absent on a public holiday, being traded off for an increased national employment standard in another area, being an additional two weeks annual leave. When compared overall to the National Employment Standards in their standard form—for example, an ability to not work on public holidays and only four weeks leave—the employees suffer...
no detriment. However, approaching the same situation with a line-by-line approach in the bill, the below situation would result in the employees still receiving the benefit of six weeks leave by also receiving the benefit of the public holiday national employment standard that would see them not obliged to work on public holidays. This means that the interaction of the national employment standard would retrospectively undo the agreement previously reached within that sector as approved by the courts and, very tellingly, by the unions and the employer.

These amendments only seek to deal—and I stress this—with the retrospective interaction of the National Employment Standards with existing instruments and do not have any application to any new or future instruments that may be made. They are merely to deal with the National Employment Standards interaction with existing settled arrangements. These amendments seek to ensure that the NES can apply universally in a manner that ensures no employees are worse off and that they enjoy the same conditions as the NES but on an overall basis that avoids unintended double-dipping. There is no doubt that double-dipping will occur with the excellent example supplied by the Western Australian Chamber of Commerce and Industry.

I could talk at some length on the no-detriment rule and its impact on annual leave and public holidays in the health industry. In fact, it might be worth while giving that as a quick example. The WA Chamber of Commerce and Industry submission states:

In the health industry, union and employee collective agreements often contain terms that provide an employee 6 weeks annual leave whereby 2 weeks constitute leave in lieu of public holidays. It is interesting to note that those agreements were arrived at with the agreement of the trade union movement in the first place. That is a very important consideration to keep in mind here. The submission continues:

This provision is included because as a 24 hour operation it is necessary that staffing levels continue during public holidays and as such employees are expected as part of their contract of employment to be available to work on public holidays.

The following excerpts are taken from a union collective agreement made in 2008 and also replicate the provisions of the Private Hospital and Residential Aged Care (Nursing Homes) Award 2002 (clauses 26 and 27), which would have been used to determine whether the agreement passed the no-disadvantage test …

The Western Australian Chamber of Commerce and Industry have set that out in some detail in their submission. Given the time constraints, I will not read all the detail out. Suffice to say that the case was made exceptionally well. It runs counter to what the union movement agreed and consented to as a reasonable circumstance. All we are saying is that the NES should not be applied retrospectively in the circumstances that I have outlined. I commend the amendments to the Senate.

**Senator SIEWERT (Western Australia)**

(8.56 pm)—It will probably come as no surprise to the opposition that the Greens will not be supporting these amendments. We oppose these amendments because the National Employment Standards are a vital part of the safety net. We support the National Employment Standards applying to all employees from 1 January 2010, including employees on transitional instruments. We believe a global test, rather than a line-by-line test, weakens and undermines the application of the NES for employees employed on transitional instruments, so we will not be supporting these amendments.

**Senator ARBIB (New South Wales—Minister for Employment Participation and**
Minister Assisting the Prime Minister for Government Service Delivery) (8.56 pm)—I think it is no surprise that we also will not be supporting these amendments. Can I just say briefly, because obviously there are time constraints, that the government are committed to ensuring that all employees have the full benefit of the National Employment Standards from 1 January 2010. These amendments are inconsistent with that commitment and would undermine the safety net. The NES contain the basic conditions that every Australian employee should have the benefit of—conditions like personal leave, annual leave, compassionate leave and parental leave.

A global approach to the implementation of the NES would deny many employees access to the full benefit of the NES, as this would allow the NES to be displaced by an existing instrument. It would allow an employer to raise arguments like this: that a pay rate that is 20c per hour above the award should allow them to not provide parental leave or the right for parents to request flexible work when they have young children. An employer could try and argue that a pay rate that is 20c per hour above the award means that they should not have to provide for leave to attend a funeral.

We say that the NES set out the most basic of employment conditions that should never be allowed to be stripped away or traded off. Unlike the Liberals, who only provided five basic conditions, the NES provide for 10. The NES were the subject of extensive consultation with employers, employees and the public. A public exposure draft process was provided. There was a committee on the industrial legislation process also. The balance in the NES is fair and it is right. Employers and employees have known the content of the NES since mid-2008 and have had a very long time to plan for their introduction on 1 January 2010.

The bill seeks to minimise the disruption of existing arrangements. Existing terms are able to continue, provided they are not detrimental in any respect. It is only in the case of detriment that the NES prevail. This is a simple rule. Where there is any doubt about how they apply in a particular case, Fair Work Australia will be able to resolve this difficulty. By comparison, the global approach proposed by the Liberals would be complex and disruptive to employers and employees. It would obviously create uncertainty. It would require, for example, a mechanism for third-party assessment of whether the global value of entitlements passes the test.

In relation to a number of Senator Abetz’s criticisms, can I raise the fact that, through subitem 26(1) of schedule 3, the bill already enables a person covered by a transitional instrument to apply to Fair Work Australia for a variation to resolve an uncertainty or difficulty relating to the interaction between the transitional instrument and the NES or to make the transitional instrument operate effectively with the NES.

One situation in which an application could be made to vary an agreement-based transitional instrument is where parties have agreed to an additional number of days of annual leave in substitution for public holidays, but where the agreement does not clearly state that the additional days reflect an agreement that the additional days are provided in substitution for the public holidays. An application could be made to Fair Work Australia to vary the instrument to make it clear that those additional days of leave are substituting for public holidays. This is already available in subitem 26(1).

Subitem 26(1) is intended to be a flexible power. In this case it would be open for Fair Work Australia to vary an agreement-based transitional instrument to reflect an agree-
ment between the parties that additional days of leave are substituted for public holidays. Therefore we cannot support the amendments.

Question negatived.

Senator XENOPHON (South Australia) (9.00 pm)—by leave—I move amendment (1) on sheet 5871:

(1) Schedule 3, item 23, page 34 (after line 17), after subitem (1), insert:

(1A) If there is a dispute about the application of this item which must be resolved by FWA in accordance with item 26, FWA may compare the entitlements which are in dispute:

(a) on a ‘line-by-line’ basis, comparing individual terms; or

(b) on a ‘like-by-like’ basis, comparing entitlements according to particular subject areas; or

(c) using any combination of the above approaches FWA sees fit.

This is an alternative approach to the amendment moved by Senator Abetz in relation to the no-detriment rule. I could not support that amendment because taking a global approach would seem to be too broad and could lead to consequences where workers would be worse off.

The first amendment is an approach giving Fair Work Australia the power to compare entitlements in dispute on a line-by-line basis—which compares individual terms, and is the approach of the government—or, alternatively, on a like-by-like basis, comparing entitlements according to particular subject areas or, thirdly, using any combination of the above approaches that Fair Work Australia sees fit. This amendment seeks to enable Fair Work Australia to use its discretion to ensure that the rights of both employers and employees are protected when entitlements are in dispute.

Whilst I do not support the coalition’s amendment, I believe that the coalition did highlight an area of uncertainty. I think the example given by Senator Abetz related to public holidays and situations like the instance given by Mr Keenan in a very useful briefing I had with him: there is a hospital in Perth where the nursing staff traded their public holiday entitlements for something like two weeks additional leave. That was something that the workforce in that particular workplace was quite happy with, and it gave a degree of flexibility for both the employer and the employees. So there is a concern in relation to the doubling up that may occur on a line-by-line approach.

This is a particular area of uncertainty in relation to leave. I believe that having a like-by-like approach gives that degree of flexibility to avoid those sorts of circumstances. As I understand it, the coalition has pointed to a Chamber of Commerce and Industry Western Australia submission to the Senate inquiry which details how this situation could occur if a line-by-line approach were adopted by the Western Australian health sector. I believe the global approach is the wrong approach—it is simply too broad. A like-by-like approach, in essence, groups similar subjects, such as leave, and enables comparisons to be made to ensure that employees are either equal to or better off under the NES so that there is still a firm no-detriment approach.

This would not undermine the foundation of the NES. There is flexibility to ensure that packages of conditions are maintained with a like-by-like approach. This adopts the legislation’s better off overall tests across the entirety of one’s entitlements, but applies it to ensure that someone is better off within a set of entitlements. Further, should there be any difficulty in taking this approach then Fair Work Australia is empowered to use the best approach for the particular situation. It has
that flexibility and, far from telling the independent umpire how it should act, this amendment guides Fair Work Australia and provides it with greater flexibility to achieve outcomes that balance employer/employee entitlements without any detriment to the employees.

That is the essence of it. I am grateful for the discussions I have had with both the coalition and with the government this evening in relation to that. I look forward to the response of my colleagues, including my cross-bench colleagues, in relation to this. I hope my colleagues can understand the basis upon which I have moved this: I am concerned that there could be anomalies under the current line-by-line approach. Like-for-like gives a greater degree of flexibility without undermining the essence of what is intended in the legislation for a no-detriment rule.

Senator SIEWERT (Western Australia) (9.05 pm)—I think I am about to disappoint my cross-bench colleague. The Greens are not moved to support this amendment. I can understand where Senator Xenophon is coming from. It is another way of addressing supposed issues around the National Employment Standards as they are applied to transitional instruments. Admittedly, between the approach the opposition is taking, which is the global test, and the government’s approach, which is the line-by-line test, we are not convinced that there is a problem in the provisions in these bills as they relate to transitional instruments. The bill does provide a mechanism for resolving disputes and allows for regulations to be made in relation to comparing entitlements. Therefore, we are not inclined to support these amendments, I am sorry to disappoint Senator Xenophon.

Senator ABETZ (Tasmania) (9.07 pm)—There never seems to be that sort of regret by Senator Siewert when she opposes coalition amendments. I just wonder why. I am a sensitive character so I pick up on some of these things from time to time. Can I say to Senator Xenophon, with the greatest respect, what we are dealing with are the National Employment Standards. Under what we were suggesting, no worker could be worse off. They would have been in the same position, but we would have outlawed double dipping. We believe our initial amendments were better and more far reaching.

Just keep in mind that, as we debate this matter, there are employers right around the country—and let us not forget the reason they are called employers is that they actually employ people—and one of the considerations they have to take into account is the cost of employment. If in the circumstances I outlined where somebody has, with union approval, traded off public holidays for an extra two weeks annual leave then we believe that that should be allowed to continue only to the extent—and this is a very important point—that it deals with the retrospective interaction with the transition legislation. We are not talking about what will happen in the future. What we were suggesting would not have had application to any new or future instruments that may be made. It was merely to deal with the NES interaction with existing settled arrangements.

As this legislation gets passed and this particular aspect gets considered, the cost of employment increases. And we know what happens. You do not need a coalition senator to tell you this; it was a former Treasurer of this country, Mr Frank Crean, who said, ‘One man’s wage rise is another man’s job.’ It is possibly a bit of an extreme statement
but it is still a Labor Treasurer who, at the
time, had a grasp of the fundamental eco-
nomic drivers. If you make the employment
conditions worse, as in allowing somebody
to not only get the benefit of six weeks an-
nual leave but also no longer having to work
public holidays and so double dip, then it
will increase the cost of employment and it
will mean fewer jobs.

As I said when we were discussing the
Fair Work legislation, there were three crite-
rria that we would judge the legislation and
the amendments on: impact on small busi-
ness, impact on jobs and impact on trade
union power. In relation to this matter that
we moved and that was defeated—and I ac-
cept the numbers in the Senate—Senator
Xenophon’s inferior amendment and Labor
Party and Greens opposition will mean that
there will be flow-through consequences for
small business and for job seekers in this
country at a time when unemployment is,
unfortunately, heading north at an ever-
accelerating rate. It is heading north not only
because of the global financial situation but
also because of the changes that this Labor
government is now implementing in the in-
dustrial relations regime in this country.

I thought that Senator Xenophon might,
from time to time, be able to recognise qual-
ity when it was put in front of him but, un-
fortunately, he did not see the quality of the
opposition coalition amendments that were,
unfortunately, defeated. However, I can tell
Senator Xenophon that we recognise second-
best when we see it and his amendment is
second-best. It is between the status quo of
the government’s legislation and what we are
recommending. Therefore, I can indicate
reluctant support for Senator Xenophon’s
position.

Senator XENOPHON (South Australia)
(9.12 pm)—There was a TV program many
years ago about ‘never mind the quality, feel
the width’. It may not be quality, but Senator
Abetz should recognise a bargain when he
sees one from his point of view.

I ask Senator Abetz—and I appreciate the
comments he made—about the example that
he and the coalition gave with respect to
leave. Does the coalition have any other con-
cerns with the way that this would operate on
the line-by-line approach? Where the coal-
ition says there will be anomalies—I think
that is what they are saying—in addition to
the example given with respect to the issue
of leave entitlements, I guess, similarly, there
will be questions to the government about
that particular issue of the leave example that
was given by Senator Abetz and that was
conveyed to me by the coalition.

Senator ABETZ (Tasmania) (9.13 pm)—
Very briefly, in response to Senator Xeno-
phon, I think the Chamber of Commerce and
Industry Western Australia example is a very
good example. But without knowing the full
detail and minutiae of each individual agree-
ment that might be existing around the coun-
try, it seemed to us that having that overall
approach—overall no detriment—was the
best approach during the transition period.
We are only talking about the transition pe-
riod; we are not talking about new fresh
agreements as we move forward, but just the
transition not having a retrospective impact,
which will allow workers to potentially get a
windfall. It is all very nice for workers to get
the windfall and that is a great thing until
you remember that former Labor Treasurer’s
injunction that one person’s wage rise is usu-
ally another person’s job.

That is why we as a coalition are moti-
vated to ensure that the economics of all this
is not such that you make yourself a hero to
somebody and, on the other side of the equa-
tion, somebody loses their job as a result of
it. In these very tight economic times, the
economics are pretty basic. Frank Crean was
able to grasp it; I am sure that colleagues around the chamber are able to grasp it as well. So, without our knowing what all the minutiae and detail are in each agreement, it seemed to us that to have a generic approach that there be no detriment overall meant that workers clearly would not be worse off, but nor would employers, during the transition period.

I have to be careful. I was about to follow up on Senator Xenophon’s commentary early on, and I have decided against that. Suffice it to say that, rather than discussing width, ‘broader coverage’ might be a more delicate turn of phrase that we were suggesting. That is something that I would still remind Senator Xenophon of, but I dare say that no amount of advocacy this evening will allow Senator Xenophon to see the error of his ways on the previous motion, and therefore he will not be changing his mind on his own, and therefore, as I have indicated, we will reluctantly support his amendment.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (9.16 pm)—I say to Senator Abetz that I do not think that that quote from the late Frank Crean was taken in context, and certainly he would never have allowed it to be used that way, so I think it is probably best that we resist going any further there. I will just say, to try and allay some of the fears of Senator Xenophon, that subitem 26 is intended to be a flexible power. In this case, it would be open to Fair Work Australia to vary an agreement-based transitional instrument to reflect an agreement between the parties that additional days of leave are substituted for public holidays. We are obviously talking about the public holiday example here. Subitem 26 already enables a person covered by a transitional instrument to apply to Fair Work Australia for a variation to resolve an uncertainty or difficulty relating to the interaction between the transitional instrument and the NES or to make the transitional instrument operate effectively with the NES.

Coming to this situation, an application could be made to vary an agreement based transitional instrument where parties have agreed to an additional number of days of annual leave in substitution for public holidays but where the agreement does not clearly state that the additional days reflect an agreement that the additional days are provided in substitution for the public holidays. An application could be made to Fair Work Australia to vary the instrument to make it clear that those additional days of leave are a substitute for public holidays. This is already available right now in 26(1).

Another example of where item 26(1) could be used to resolve a difficulty is that if an agreement provides for an extra number of personal leave days that can be used to undertake community service duties then Fair Work Australia could amend the agreement to make it clear that the two entitlements are not cumulative. Other NES conditions have an in-built flexibility. An example we talked about is that annual leave can be cashed out. Also, you can agree to substitute another day for a public holiday. Again, any difficulty can be resolved by Fair Work Australia.

So, Senator Xenophon, obviously we have tried to work cooperatively, and I thank you for the assistance you have given us with these amendments, but unfortunately we cannot agree to them tonight. We believe that we have the balance right in terms of the NES. We do not want to further complicate the system, which I believe your amendments do.

Senator ABETZ (Tasmania) (9.19 pm)—The minister just said he could not agree to the amendments tonight. If we came back
tomorrow morning, would he change his mind?

Senator Arbib—I don’t think so, Senator.

Senator ABETZ—I just asked that rhetorically; I was anticipating the interjected answer. I simply say very briefly that item 26, to which the minister referred, is entitled ‘Resolving difficulties about application of this Division’, so the legislation itself foresees difficulties. What we are suggesting is that some of these problems can in fact be avoided upfront without the need to go through Fair Work Australia to make a determination varying the transitional instrument for the purposes of ‘resolving difficulties’, whatever that might mean. We have repeated a number of times now that a worker could not and would not be worse off but it would stop the double dipping and retrospective application in circumstances where, for example, wage negotiations in an aged-care facility may have been undertaken on the basis of what the government is willing to pay per nursing home bed. If these things change, I am sure the government will not be increasing the funding per nursing home bed on the basis of some of the increased costs that will be visited upon health and aged-care facilities around the country because of these changes.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (9.21 pm)—I will just make it very clear that one of the biggest criticisms that the industrial relations system of this country has faced over the past two decades has been about its complexity. It is very important that there be a clear and simple message to small business and employees about their rights and entitlements. Again, there has been plenty of time for both small business and large business employees to understand the changes, and we do not want to put in place amendments that make the system any more complex or confusing. Simplicity is the key, and that is what the government is aiming to do with its amendments. I apologise, Senator Xenophon, but that is why, again, we cannot support your amendments tonight.

Senator XENOPHON (South Australia) (9.22 pm)—There is no need for an apology. It is just a difference of opinion. I note what the minister says about complexity, but I think flexibility is also important and I maintain my position. I am happy to keep talking to the government about this overnight if this amendment succeeds. But I think that the like-by-like approach does actually give a degree of flexibility without undermining the NES. Therefore, I indicate I will be maintaining my position, and I hope the coalition can maintain their second-best position and support this amendment.

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

The committee divided. [9.27 pm]

(The Temporary Chairman—Senator C Moore)

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

AYES
Abetz, E. Adams, J.
Back, C.J. Barnett, G.
Bernardi, C. Boswell, R.L.D.
Boyce, S. Brandis, G.H.
Bushby, D.C.* Cash, M.C.
Colbeck, R. Coonan, H.L.
Cormann, M.H.P. Eggleston, A.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Fisher, M.J.
Heffernan, W. Humphries, G.
Johnston, D. Joyce, B.
Kroger, H. Macdonald, I.
McGauran, J.J.J. Nash, F.
I move amendment (3) on sheet 5817:

(3) Schedule 5, item 2, page 58 (line 23), after "employment", insert ", on business profitability".

This amendment deals with the issue of award modernisation and the impact of award modernisation on business profitability. As we all know, business profitability is a very important factor in the capacity of businesses to employ people. Without profitable businesses they do not have the capacity to employ. This amendment seeks to provide an additional factor—the likely effects on business profitability—that the Australian Industrial Relations Commission must take into account when making a modern award. This amendment builds on the existing factors that were amended as part of the third reading in the House of Representatives. The AIRC would be able to hear submissions from industry about the likely effects on profitability for the sector to which a modern award will apply. After hearing submissions, the AIRC must have regard to any evidence on this factor in the same manner as the other factors in this section and then make a new award. This will ensure that certain sectors that have unique working conditions may have an opportunity to give evidence about profitability to the AIRC and will ensure that the AIRC has regard to such evidence when making a modern award.

There is no doubt that this matter has now finally mugged the government, as a result of which the Minister for Employment and Workplace Relations wrote to the President of the Australian Industrial Relations Commission on 29 May 2009 and invited the Australian Industrial Relations Commission to consider the fact that data from the Australian Bureau of Statistics show that cafes, restaurants and catering services are characterised by comparatively low profit margins and high labour costs as a proportion of total expenses. My colleague Senator Fisher asked a very good question of the minister as to what was unique about restaurants and caterers as opposed to a number of other sectors in the economy. Other sectors in the economy that do not have a high profitability factor, such as aged care, horticulture et cetera, all fit into that category.

We now know that award modernisation will do untold damage to the restaurant and catering sector, and that is why the minister herself was finally moved to write to the Australian Industrial Relations Commission. To seek to place a 20 per cent to 30 per cent loading on those workers in the horticultural sector, who pick fruit on a Saturday or a Sunday is, with respect, an indication that
this government has no idea whatsoever how the rural and regional areas of this country operate. It has no idea about the needs and plight of the horticultural and agricultural sectors in this country. God determines when fruit ripens on trees and berry bushes, not Ms Gillard. If fruit has to be picked on a Sunday, it has to be picked, whether you like it or not, and imposing a 30 per cent loading for that upon the farmer, upon the horticulturist, will make the enterprise unprofitable. There is overwhelming evidence on this from the stone fruit growers in my own home state and those all around Australia. The berry fruit growers in my home state have made similar representations, and I note Senator Colbeck, my colleague from Tasmania, acknowledging that by nodding his head. I hope he is not falling asleep but in fact agreeing with me. It is reassuring that he is agreeing with me, as I was sure that he would.

To be serious, this is an issue of great concern to our rural communities and all the small businesses that are part and parcel of the rural and regional fabric of Australia. You can keep on going with this approach of one size fits all. It is going to be imposed, whether we like it or not, but can I simply say that the impact of increased wages in this manner, completely unrelated to productivity, will have a huge impact on the farmers of this country, on the aged care facilities of this country and on the restaurants and caterers of this country.

It will also have an impact on the carers of this country. In my home state of Tasmania there is an organisation called CBS South. It looks after people in their homes. They had in their newsletter of February 2009 this comment:

The election of the Rudd Labor Government brought an effective end to Australian Workplace Agreements (AWAs). From April 2009 our support workers will mostly work under the Community Services Award.

They then outlined the problems that that would have. Here is a not-for-profit organisation delivering fantastic services, but guess who funds them? It is largely the Australian government. There are extra wages costs but—hello—has the Australian government come up with extra funding for them? No. As a result services will need to be cut, so those people who are reliant on those services will become the victims of award modernisation. Well done and congratulations. If that is what Labor thinks it is doing by way of social justice, so be it, but there are flow-on consequences.

I have already outlined the case for rural and regional communities and the horticulture sector, and the restaurants and caterers have already made their case exceptionally well—they have required Miss Gillard to change her position. We believe that it makes good sense, in particular in this period of increased unemployment courtesy of the Rudd Labor government, to seek to minimise the impact of the global financial crisis on the unemployment levels in this country. If business profitability is impacted as outlined by these various sectors, there is no doubt, as sure as night follows day, that the employment levels will drop in these sectors. There will be only one party to blame for that: the Australian Labor Party and those who do not support this amendment to award modernisation.

**Senator Xenophon** (South Australia) (9.39 pm)—I indicate that I will not support this amendment. We will not get into a debate about quality again—although maybe Senator Abetz wishes to get into a debate—

**Senator Abetz**—Or something like that.

**Senator Xenophon**—or something like that! I foreshadow that I will be moving an amendment that deals with this and that I
think will in many respects be more comprehensive and fairer. I am happy to speak to that when the time comes to move my amendment. In relation to the matters raised by Senator Abetz, it is clear that the Deputy Prime Minister has understood the circumstances and particular concerns that apply to the restaurant and catering industry. She deserves to be congratulated fulsomely for taking a pragmatic and sensible approach. I note I was contacted by a number of people who were concerned about their jobs in that sector. It would be fair to say that people within the labour movement were concerned about jobs being lost in the restaurant and catering sector, and what the Deputy Prime Minister did was absolutely the right thing to do.

I have indicated to the government that I have had a number of representations from the horticulture sector, particularly in the Riverland. As we all know, the Murray-Darling Basin is doing it very tough; it is in crisis because of a combination of drought, climate change, overallocation and other factors, and there is a concern in the horticulture sector that jobs could be needlessly lost. I would be grateful if the minister could indicate what the government says its approach to that will be. I am mindful of the discussions I have had with the government; I think they have been quite useful in terms of what the government has outlined, but some on-the-record assurances would be appreciated. I indicate that I will be moving my amendment and will not be able to support the coalition’s.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (9.42 pm)—It was remiss of me not to refer to the aged-care sector and their concerns, but I note that with the aged-care sector it is complicated by the regulatory structure there and by the fact that it receives government funding. Could the minister indicate whether the Deputy Prime Minister’s office has had representations from the aged-care sector on their particular set of circumstances, which I think are complicated by virtue of their regulatory structure and by the level of government funding which many would say has kept wages down for nurses? I sympathise with their concerns about that.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (9.44 pm)—Yes, the Deputy Prime Minister’s office has met with representatives from the aged-care industry on their particular set of circumstances, which I think are complicated by virtue of their regulatory structure and by the level of government funding which many would say has kept wages down for nurses? I sympathise with their concerns about that.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (9.42 pm)—In response to Senator Xenophon, I say that it is important to recognise that the overwhelming task of award modernisation has been a major success and has been managed by the commission with its usual professionalism and expertise. The small number of problems that have arisen will be considered and addressed on their merits. The department is examining other issues concerning award modernisation, including those which you have raised about the horticulture sector. Representatives of the horticulture industry met with the Deputy Prime Minister’s office and representatives of her department on 26 May. Attending were members of the Horticulture Advisory Leadership Council, AIG, the National Farmers Federation and Fruit Growers Tasmania. I assure you, Senator, that the department is working through the issues raised, the Deputy Prime Minister is awaiting detailed advice and we will continue our consultative and careful approach with the sector.

Senator XENOPHON (South Australia) (9.43 pm)—It was remiss of me not to refer to the aged-care sector and their concerns, but I note that with the aged-care sector it is complicated by the regulatory structure there and by the fact that it receives government funding. Could the minister indicate whether the Deputy Prime Minister’s office has had representations from the aged-care sector on their particular set of circumstances, which I think are complicated by virtue of their regulatory structure and by the level of government funding which many would say has kept wages down for nurses? I sympathise with their concerns about that.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (9.44 pm)—Yes, the Deputy Prime Minister’s office has met with representatives from the aged-care industry; in fact, they met the day prior to the horticulture meeting. It is being analysed and examined. This is a significant task and it will take time. It must be done in a careful and consultative way. Of course the Deputy Prime Minister will make a judgment in rela-
tion to aged care and horticulture on the merits of the cases.

Senator SIEWERT (Western Australia) (9.44 pm)—Senator Abetz, I am sorry if I let you down sometimes with my opposition. Here I am feeling sorry for letting you down, the same as I did to Senator Nick Xenophon. However, having said that, the Greens will not be supporting this amendment. It amends the government’s amendment around the award modernisation process. We do not think it will add to the process. We think that it was already too skewed towards the interests of business and away from a robust safety net. We have previously articulated our concerns about the award modernisation process. We also think it is probably too far down the track in any case. Sorry, we will not be supporting it.

Senator ABETZ (Tasmania) (9.45 pm)—Can I assure Senator Siewert that I only get let down by people from whom I expect better. Senator Siewert’s position does not come as a matter of disappointment. Can I correct the record. Previously I indicated that the horticulture sector was in fact looking at 20 to 30 per cent increases. In fact, they are looking at the introduction of a 200 per cent Sunday penalty rate and an absurdly restricting Monday to Friday 6 am to 6 pm span of hours for packing house employees. Penalty rates of 150 per cent and 200 per cent must be paid to employees if they work outside that span of hours, even if part of the 38 ordinary hours per week. While loading on piecework rates has reduced from 20 per cent to 15 per cent, if an employer hires piece-workers on a casual basis, they must pay both the new casual loading of 25 per cent and the piecework loading of 15 per cent. These are the real imposts that will be visited.

I say to Senator Xenophon, Senator Fielding and others in this place: what assurance have we got that the horticulture sector is going to be looked after, other than ‘the minister’s aware of it’ and ‘they are consulting’. The minister was aware of this for weeks and weeks. The consultations are still not over, yet we are expected to vote for this legislation without this amendment. Once this legislation is through, the consultations will mean nothing because the legislation will be through. I know that Senator Nick Xenophon, as is his wont, goes for second best. I do not know why he does not aim for the top. He has another second-rate amendment that I do acknowledge. And, in a cognate manner, I will indicate that if Senator Xenophon cannot bring himself to vote for ours, we will be magnanimous enough to vote for his.

Senator FISHER (South Australia) (9.48 pm)—Madam Chair, I have a question of the minister in terms of his response to Senator Xenophon about consultation with the horticulture sector. No doubt the minister will be aware that the AIRC is proposing in respect of the wine grape sector to excise coverage of wine grape production from the horticulture award and instead lump it together with the processing, packing and retailing of wine grape in the wine industry award.

When the minister indicates that the government are consulting with the horticulture sector about their concerns about award modernisation, what is he saying about the government’s consultation with the wine grape sector? Are the government consulting with the wine grape sector? If so, who is doing it? With whom are they doing it? When have they been doing it? When will they continue to be doing it? What is the end point? In asking that, I have indications from wine grape producers in South Australia and Western Australia that wine grape production has not been conferred with by the government—for example, Mr Mark McKenzie, Executive Director of the Wine Grape Growers Australia. Mr Neil Delroy, Managing Di-
rector of Agribusiness Research and Management, says he has not heard of any consultation with the industry whatsoever from the Deputy Prime Minister’s office. If the minister could reassure us that consultations have been happening—by whom, with whom, when, how and what—that may be some reassurance for the industry. I look forward to the answer.

Senator Jacinta Collins—Don’t forget where, Mary Jo.

Senator Fisher—And where, yes, Senator Collins.

Progress reported.

ADJOURNMENT

The President—Order! It being 9.50 pm, I propose the question:
That the Senate do now adjourn.

Brighton Secondary School: Study Tour
One Tree Hill Progress Association

Senator Farrell (South Australia) (9.50 pm)—I rise this evening to recognise an important study tour that students from Brighton Secondary School in South Australia recently embarked upon to learn more about Australia’s involvement on the Western Front in the Great War—where, coincidentally, my grandfather, Edward John Farrell, fought.

This year a group of seven students, who were accompanied by a teacher, travelled to the Somme region in France to attend the official Commonwealth government dawn service at the Australian national monument near Villers-Bretonneux. They also attended a local community service held in the town centre. Last year, the students who were selected to participate in this program wrote an expression of interest where they described what the Anzac memory meant to them and why they wanted to be part of the trip. Since then the students researched aspects of local history or a person who was involved in the Battle of the Somme.

With the help of the Australian War Graves Commission, the group identified 26 soldiers who originated from their local council area, the City of Holdfast Bay, and were buried in graves in the Somme area. The students found that the war records of these soldiers were very sad, many enlisting only weeks before they went to battle and were now buried in unknown soldiers’ graves.

During the two official ceremonies, the students placed wreaths of Australian native flowers on the memorials. Judging from the photographs I saw, they were banksias. They also placed small bouquets of native flowers on the individual graves of the identified soldiers at the Pozieres Australian war cemetery. The students brought the native flowers with them all the way from Australia, so they held special significance as well as generating a lot of interest from the locals. The group also visited a number of museums and other cemeteries in the Somme area, including the Franco-Australian Museum for World War I in Villers-Bretonneux.

I recently had the pleasure of visiting Brighton Secondary School and speaking to the students about their trip. I left them with a copy of my grandfather’s World War I letters, which he wrote while serving at the front. All of the students agreed that the tour was a life-changing experience that personalised their understanding of the war and the sacrifices made by our diggers and their families. One student, Holly Winter, wore the medals of her great-grandfather during the ceremony. Brighton Secondary School students Kim Evans, Mark Oakley, Liz Affleck, Gabby Coote, Grace Banner and Tara Bouchier also attended, along with assistant principal Jenny Hilterbrand.
Their journey enhanced their understanding of the magnitude of Australia’s involvement in and heavy losses sustained during the Great War. Learning about the personal sacrifices of the Australians sent to fight helped to highlight the enormous tragedy of the conflict. The students also studied the war’s incredible impact on France and they reported that the French have great respect and appreciation of the involvement of Australians during both the first and second world wars. The dawn service was an emotional experience for them and gave them an opportunity to reflect on all they had learned on their trip. One of the students commented that she ‘had never been so proud to be an Australian’.

The tour was an excellent example of successful school and community partnerships. The Brighton RSL assisted with establishing historical connections and in the research process and, together with the Brighton Bowling Club, sponsored the cost of a special jacket to be worn by the students during and after their tour. The jackets displayed the logos of all the contributing groups as well as the Australian flag, which meant that the group was easily identifiable as they carried out their research activities.

I would also like to recognise the contribution of the Brighton Lions Club, which made a significant donation to the school to support the tour. A grant from the Anzac Day Commemoration Fund, a program managed by the South Australian government, has been awarded to the school to support ways in which the research findings from the tour can be used to educate others in the future. I have been advised by Brighton Secondary that Ms Chloe Fox, the state member for Bright, and the members for Hindmarsh and Boothby have also been very supportive of the trip.

As the school has a strong commitment to maintaining the Anzac memory and a structured values education program, it has already established some prestigious awards called the Spirit of Anzac Awards. These awards are presented to one student per year in each year level who displays to a very high degree the Anzac qualities of mateship, leadership, courage and perseverance.

The school have told me that they would be pleased to be involved in official activities and planning for the 2015 anniversary of the battle of Gallipoli. During a previous meeting in 2008 between the school, the Minister for Youth and Sport and Mr Warren Featherby of the Spirit of Gallipoli committee, initial conversations around this idea occurred, and I look forward to Brighton Secondary School’s participation. The school has made a special offer for students in the prestigious special interest music program to perform at the ceremony, as well as to develop a concert, musical or play to be performed in the soon to be constructed school and community performing arts centre.

It is a pleasure for me to see young Australians taking a strong interest in the Anzacs and thinking about what the tradition means while remembering and honouring those who sacrificed their lives for their nation. I am also pleased to see more young people attending Anzac Day events to honour the memory of Australia’s service men and women. On Anzac Day this year I attended the dawn service at One Tree Hill, which was run by the One Tree Hill Progress Association and which attracted between 300 and 500 people in unusually torrential rain. It was a marvellous service and there was a diverse mix of young and old who braved the very rainy conditions to attend.

The last ceremony in One Tree Hill was 40 years ago. The One Tree Hill Progress Association identified that there was some
demand in the community for this event and decided to hold a service. Squadron Leader Bruce Whittington from the Aerospace Operational Support Group at Edinburgh RAAF Base ran the service and did an excellent job in the inclement weather conditions. Ros Bond from the Uniting Church was the chaplain who led the prayer, and the organisers tell me that there were at least five World War II veterans present at the ceremony. It was very clear that the One Tree Hill Progress Association had put a great deal of effort into organising the event, and in the Senate this evening I would like to formally acknowledge their efforts. It was one of the most professional, well-organised and moving dawn services I have attended. It was a fitting tribute to those who lost their lives and it allowed those who attended to reflect on the sacrifices these service men and women made for their country.

In conclusion, I would like to thank both Brighton Secondary School and the One Tree Hill Progress Association for their efforts to honour the Anzacs’ spirit and to ensure that we never forget their sacrifice.

Senator Bob Brown

Senator ABETZ (Tasmania) (9.58 pm)— Last week, Senator Brown, in a soap opera type performance, publicly appealed for donations supposedly to stave off imminent bankruptcy and consequent expulsion from the Senate—a claim backed up dramatically by no less an authority than the Clerk of the Senate, although it is there in black and white in the Constitution, section 44, plactus (iii). Even the hapless lawyer of The Castle could have told Senator Brown that. Senator Brown’s alleged financial plight was due to having to pay $239,000 in legal costs incurred because of his own personal ill-considered legal challenge to selective logging in the Wielangta forest. This $239,000 comes on top of Senator Brown’s personal costs.

According to the Age, Senator Brown said:

... he had $10,000 cash to his name, and little chance of selling remaining property by the due date.

He has already raised more than $600,000 in costs for the case that was lost in the High Court. ‘I don’t have the money,’ he said.

You probably missed it, but Senator Brown slipped into his YouTube broadcast that he actually meant ‘technical bankruptcy’—by which I assume he means not actual or real bankruptcy—but there was no such disclosure in his media release, which was faithfully regurgitated by many of the fawning members of the media. Nor was there any challenge, by the way, to Senator Brown’s vehement condemnation of people who take legal action against him. Legal action against Senator Brown by its very definition, it seems, must be bad. And, of course, legal action, no matter how ill-advised, taken by Senator Brown is also by very definition good. The double standard is easy to ignore if consistency and intellectual rigour and integrity are not part of the framework under which you operate.

We are told Senator Brown’s public appeal resulted in a deluge of support. But what would-be donors were not told last week was that, as at October 2008, Senator Brown’s so-called Wielangta forest fund—but actually the RJ Brown forest account—had already raised $739,000 at a bare minimum. How do we know this? Because, after being shamed into disclosing this fund’s receipts to the Register of Senators’ Interests, Senator Brown had disclosed at least $739,000 in donations by October 2008. Even then he did not detail donations for May to July 2008, nor has he disclosed donations received in the seven months since October 2008. In
other words, there are up to 10 months missing. Clearly the senator does not abide by the same accountability rules he so self-righteously insists be imposed on everybody else. For example, Senator Brown has not disclosed the proceeds of his allegedly successful *Wild Photos* exhibition held earlier this year. So it follows that prior to his public appeal Senator Brown’s account had undoubtedly received more than the $739,000 he has to date disclosed, and probably significantly more.

Which brings me to the question of Senator Brown’s personal legal costs. So far as the Register of Senators’ Interests is concerned, Senator Brown has only disclosed legal costs of $35,000 for the six months from 1 July 2005 to January 2006. A press release issued by Senator Brown on 3 June 2008 said:

The High Court awarded no costs against Senator Brown because of the public interest of the case …

However, the Federal Court’s decision to award costs against Senator Brown may leave him with a bill, including his own representation, of $200,000 to $300,000. However, numerous recent briefings by Senator Brown put his personal legal costs at $600,000. When pressed on exactly this point last Wednesday evening by Gerard McManus from the *Herald Sun*, Senator Brown’s office confirmed his personal legal costs were $600,000. Even on this basis, when making his recent appeal he needed less than $100,000 to pay legal costs and maybe nothing at all. It is extraordinary that, immediately the *Herald Sun* probed and questioned the apparent healthy state of his fund and the veracity of his claims to be on the verge of bankruptcy, Senator Brown closed down his appeal, saying there had been a huge public response and that any extra money would be put into the campaign to save Australia’s forests. This includes, I note, the so-called Triabunna 13, individuals facing the Supreme Court for blockading and chaining themselves to machinery, costing struggling contractors tens of thousands of dollars. I wonder how many well-meaning people who gave to save Senator Brown from phantom bankruptcy knew their donations could be used to defend these irresponsible antics.

I understand that Senator Brown is now explaining the discrepancy between what he raised and what he owes by claiming to journalists that his personal legal costs are not $600,000 but $1 million. Like many of Senator Brown’s claims, this latest claim to be on the verge of personal bankruptcy just does not add up. His approach to fundraising and accountability is reminiscent of Max Bialystok of *The Producers*. Senator Brown must now come clean, become accountable, cease flouting his obligations to the Senate and disclose all amounts he has received, when he received them and the amounts paid out and to whom. The fact is Senator Brown’s legal challenge to selective logging in Wielangta was always ill-advised and dubious. Sadly, some so-called environmental activists have in the past put cuddly animals on their websites to solicit donations for what are essentially scams, preying upon people’s good nature and gullibility. This latest stunt by Senator Brown, crying poor over legal costs, will be seen in the same light or worse. For all his talk about Wielangta’s wedge-tailed eagle, the marvellous swift parrot and the ancient stag beetle, the policies advocated by the senator actually contributed to the destruction of their habitat. By this I mean Senator Brown’s calls against selective logging and hyperbole about the mushroom clouds of fuel reduction burns. Such measures, if allowed, would have mitigated the almost total destruction of Wielangta and the wildlife contained therein in the devastating 2006 bushfire, which killed more stag beetles.
and destroyed more swift parrot habitat than 100 years of selective harvesting ever did.

The fact is Senator Brown’s legal challenge lost not on a technicality but on the law. Remember the law? It is what everyone else has to abide by unless, it seems, they are a Green crusader. Regrettably, to Senator Brown and his gullible followers, science, the rule of law, accountability and, above all, truth are often relative concepts. Sadly it seems that, if you bang on enough about how much you really care about forests, some misguided people will give you money—even if you may not need it and even if your policies and legal challenges would see those same forest habitats destroyed. My challenge to Senator Brown is this: be accountable. Immediately disclose to the Senate, as is required, exactly how much your fund raised prior to last week’s appeal, and disclose and substantiate your progressive personal legal costs. Anything less, Mr President, will be a wholesale abrogation of his duties as a senator and ethically bankrupt.

Economy

National Institutions

Senator LUNDY (Australian Capital Territory) (10.07 pm)—As the Prime Minister has suggested with due caution in recent weeks, Australia’s economic numbers through this global recession are holding up remarkably well. The stimulus package is working. Australian consumer spending is up and, most importantly, far fewer Australian jobs have been lost than had been widely predicted over a very difficult time for just about everybody in the community. While no-one is about to get complacent, bold policies, resolute implementation and, above all, courageous economic leadership have provided a much needed buffer against the worst effects of the recession.

This presents an opportunity to reflect on a particular aspect of the government’s broad range of nation-building initiatives. We know that 70 per cent of the stimulus package is invested in infrastructure and that these investments are providing jobs for Australians at a time when they need them most. These investments are also in the best long-term interests of Australia, serving our needs across education, across capacity constraints existing in our current economic infrastructure and, very importantly, investing in a high-bandwidth network that will serve us well into the next century.

But there is another priority that I would like to address tonight that the Prime Minister has made clear, and that is the national capital. As we are all aware, the city of Canberra is heading towards its 100th birthday, on 12 March 2013. The reason for the celebration on that date is that on 12 March 1913 Labor Prime Minister Andrew Fisher, along with Governor-General Lord Denman and Minister for Home Affairs King O’Malley, laid the first foundation stones of the capital with golden trowels. Prime Minister Fisher had an expansive vision for the nation’s capital back then, and the modern Labor Party, under the leadership of Mr Rudd, is determined to build on Andrew Fisher’s dream.

Just last month Prime Minister Rudd, in an important speech to the John Curtin Medical School, confirmed the government’s intention to ‘refresh’ a historic commitment to the primary ‘seat of learning’ in Canberra, the Australian National University. ‘We intend to recognise,’ the Prime Minister stated, ‘the ANU’s unique place in the national firmament.’ The Prime Minister went on to say: In the intensely competitive and globalised world of tertiary institutions, the ANU will need to fight hard to hold its place and advance its reputation in the months ahead. But as it does that, it will have the support of the national government.

The ANU’s Vice-Chancellor, Professor Ian Chubb, welcomed this commitment as ‘a significant turnaround’ on the recent past. It
is worth noting that under the former Howard government there was neither adequate government funding nor any understanding of the tertiary sector’s task in very demanding and rapidly changing times.

The ANU, from its beginnings in the Ben Chifley years, has always had a unique brief, through its specially designated research schools, to engage in cutting-edge inquiry. This government, the Rudd Labor government, intends to further strengthen the original visionary pledge. In the recently announced 2009-10 budget, some $150 million of capital funding was allocated to create over 5,000 university related local jobs, with the bulk of this funding directed towards research. I would like to list a few of those initiatives. Stage 2 of the ANU’s chemical sciences hub will be allocated $90 million; the Australian phonemics project will get $15 million; collaborative facilities for urban resource use and management—a project shared by several universities and led by the ANU—has been allocated $20 million; the National Plasma Fusion Facility has been allocated $10 million; and the National Ion Accelerators project, led jointly by the ANU and the University of Melbourne, has also been allocated $10 million. As a result of these and other investments in the tertiary education sector, this ‘refresh’ of our internationally acclaimed national university has well and truly begun.

The Labor government is acutely aware that the ANU is one of a significant group of national institutions. I am certainly of the view, as are many of my colleagues, that more attention, preferably accompanied by funds, to shore up and, when economic circumstances permit, enhance and expand the intellectual and cultural infrastructure of the national capital is now required. I imagine that it cannot have been easy for the Treasurer, Mr Swan, to frame arguably one of the most complex budgets in a generation. So I was very pleased to see that funds were allocated specifically to national institutions in great need. Questacon, the National Science and Technology Centre—so loved by visiting school students from right around the country—is to receive $7.6 million to build on its national science outreach programs, such as the early childhood and Indigenous programs, and the very popular Invention Convention. An additional $3.7 million was also allocated in the budget to allow Questacon to carry out urgent maintenance and repair works.

The National Library of Australia will share $800,000 with the National Archives of Australia and the National Film and Sound Archive for the next phase of the joint Digital Deluge project to find strategies to digitise the vast amount of information in those collections so they will be able to be preserved effectively and accessed in a sustainable manner in the future. The High Court of Australia at last receives a funding boost—again, desperately needed—of $9 million over four years, with over $5 million of that to be allocated to urgently needed capital funding to resolve maintenance issues there. I also note that $1.5 million for a sustainable water solution for the Botanic Gardens is on the way, as is half a million dollars to contribute to the restoration of the Albert Hall—a very important historic civic centre here in the national capital.

The capacity of the national capital to serve the citizens of this nation is obviously something that is not only on the mind of the Prime Minister; it is a task that is being tackled with some creativity by a number of ministers in the Rudd Labor government. The Minister for Tourism, Martin Ferguson, is well aware that travellers worldwide have less money in their pockets to travel to distant locations, including Australia. Now, with tourism amounting to 3.7 per cent of Australia’s GDP and with nearly half a million Aus-
ustralians employed in the industry, the tourism sector cannot afford to falter. Minister Ferguson knows this and, accordingly, a couple of months ago he responded with some imagination to the volatile times and launched a new and exciting program that is certain to prove a turning point in the development of the tourism industry. The TQUAL Grants program will supersede and build on the Australian Tourism Development Program. A program that was given a mere $2.2 million in recent years has been beefed up substantially to a much healthier $8.5 million in the new financial year. In broad terms, this program aims to develop products and services within the industry, to contribute directly to long-term economic development in the designated host regions, and to assist in the development of high-quality visitor services and experiences. The minister is seeking a refreshed, versatile industry that is intent on responding to the global climate with innovative programs that can be ultracompetitive in difficult days and in high demand when better times return.

How does this relate to the national capital? The TQUAL Grants program is a carefully targeted program and it is one that the national capital, if they are clever about it, will be able to access. This is a very exciting time for Canberra, because in the past it has been extremely difficult—in fact impossible—for a combination of ACT government, Australian Capital Tourism and our national institutions to access Commonwealth tourism funding. But the TQUAL Grants program invites such an opportunity to move forward. When launching the TQUAL program, Minister Ferguson referred to his affection for Canberra. He wants to see the city play a more energetic and engaged role in the tourism industry here in Australia. For this reason, he made particular mention of a very successful recent advertising campaign called Culture Shock. Culture Shock brought together a number of our national institutions and showcased four separate treasure house institutions. The upshot of the minister’s comments was that he was encouraging our national institutions to work closely with the ACT government to access Commonwealth tourism funding, to help promote Canberra and to make our national capital more accessible to the citizens of this country.

Heart Disease

Senator MOORE (Queensland) (10.17 pm)—On Friday, 12 June, the National Heart Foundation called upon women and men in our country to join together and be involved in a special campaign called Go Red for Women. It unites Australian women in the fight against the leading killer of women in our country: heart disease. It raises awareness about the risks and it helps women to make healthier choices. The Go Red campaign was instigated in America and, as they often do—they lead on these kinds of things—they have started a movement which has moved across the world. Now more than 33 countries participate in the Go Red for Women campaign, which is aimed at reducing cardiovascular disease in women by building global attention and commitment.

The three main objectives of the Go Red campaign are: firstly, to challenge the widely-held belief that heart disease is largely a disease for men; secondly, to encourage women to learn more about the risk factors associated with heart disease and to take real personal action to avoid them; and, thirdly, to raise much-needed funds to assist the Heart Foundation to spread this message about heart disease and to be involved in the general support and research around heart issues.

One of the most important things is to make sure that women understand that this disease is one that kills them. In fact, we found through surveys that women do not...
understand this. We know that, on average, heart disease kills about 204 Australian women per week. Just think about that. About 30 women every day die from a condition that is linked to heart disease. Heart disease is responsible for 16 per cent of all deaths in Australian women. In 2007, 10,610 Australian women died of heart disease. We actually learn much about all kinds of conditions in this country, and I know there have been marvellous campaigns around breast cancer; many people have spoken about that issue in this place. But, confrontingly, Australian women are four times more likely to die from heart disease than from breast cancer. And we know that women do not know these figures.

A Heart Foundation survey conducted in 2008 of 1,964 women aged between 30 and 65 living in Australia found that more than 78 per cent of these women were not aware that heart disease is the leading cause of death for their gender in Australia. Most women recognised that smoking causes danger. Poor diet and lack of exercise are also risk factors; however, almost two-thirds of the women surveyed did not identify that blood pressure, cholesterol or diabetes were risk factors. It is quite worrying that now, with all the information that is available, with years of information and education, women in an open survey did not understand these figures. We also found out that women truly believed that heart disease is much more common amongst men. That is just not factual. In fact, one of the discussions that came out was that women were concerned about how their men were being affected by heart disease and they expressed worry that they needed to help their partners, their fathers or their sons, to understand the risks and to work closely with them to improve their health. That is so important, but the worrying aspect is that basic knowledge about their own risk, their own need to look at their own lifestyles and their health, was not acknowledged by many of them. That is something that the Go Red campaign has identified across the world and it is something that we as Australians should understand for our own people.

We also understand from the survey that more than a third of women believe that information on heart disease for women is not easy to find. That is truly worrying because, as we know, the Heart Foundation itself—the wonderful organisation that held its first meeting here in Canberra in 1959, so is now 50 years old—bases all its exercise on the fact that we need to give open and easily accessible information to our community. And it is very easy to get. There are a wide range of publicity tools. There is a clearly available website that is very easy to use. There is a telephone service, which the Heart Foundation actually pioneered, which provides immediately accessible information for anyone to find out about what the risks are, to find out how they can do better and to understand what is available to help them. So, the fact that in an open survey more than a third of the women surveyed did not think they could find information easily indicates that we have a long way to go and indicates exactly why we need to have programs like the Go Red for Women Day.

We also need to make sure that people can access the wonderful medical services that we have in this country. And we know that there have been a wide range of easily accessible treatments available. Through the Heart Foundation programs people can have their blood pressure checked easily and they can work out what is a healthy lifestyle for them. And we know that, by using such things as the tick program relating to healthy foods that the Heart Foundation pioneered in this country, we can have support in the kinds of things that each of us have to do personally to take ownership of our health in this way.
Through the Go Red for Women campaign the Heart Foundation aims to increase awareness of the risk of heart disease amongst women and to highlight the opportunities for all Australian women to improve their heart health.

There are a few key messages out of this campaign. It is for all Australians, not just for women, but the whole focus of this Go Red for Women day was for the women in the community. There are five healthy choices that anyone can make to reduce their risk of heart disease. The first is regular check-ups: see your doctor or GP on a regular basis; don’t just drop in on an occasional basis. Make a date annually with your GP to have a full check-up. That must include the basic areas of your heart health and your general wellbeing. This is something that many Australians do not take up. I know through the National Preventative Health Strategy, which the government is pushing so clearly now and resourcing so strongly, we are looking at these issues of preventative health. So, please, make that date with your GP and have your regular check-up.

The next key message is to know your numbers. Sometimes these are a bit worrying, but what we need to find out is your personal cholesterol level, your blood pressure and, a bit worryingly, your waist circumference. What you need to do is to know those figures, to work out what they mean and to check them regularly. Last year the Department of Health and Ageing provided some help for Australians by having heart-check packs, where they gave us tape measures. I do not know whether people used them effectively, or whether they put them away, but the message of the Go Red for Women campaign is to know those numbers.

Importantly—and this message continues—is to go smoke free. There have been ongoing campaigns to ensure that Australians understand that smoking is a direct danger to your health—not just your own health but that of the people around you. So the whole idea of being smoke free is the third checkpoint for us to follow up. Enjoy healthy eating. It sounds easy, and it is easy, but we should remember that we have to have a strong, healthy diet. The Heart Foundation can give you help on that as well. On their website they give you particularly valuable ways to look at your own diet and to amend, without too much cost, your own diet. Be active every day—and Mr President, you would understand that most personally—and keep up regular exercise so that on a daily basis you are looking after your health.

These are simple messages, but the statistics I read out before are very confronting. We know that those regular things can make you healthier and make you more aware of your health and the health of your family. I think it is important that we maintain our support for the Go Red for Women campaign. I think it is most important that we look after the health of all Australians. The politicians in this place had a breakfast in this place—I know Senator Lundy was there—sponsored by the Heart Foundation, which raised awareness of the Go Red for Women campaign and those simple messages that I have put on record this evening. I think about 30 parliamentarians from both the ACT parliament and the federal parliament publicly gave a commitment on that day that we would support the Go Red for Women campaign, that we would talk about these issues and that we would put on the public record the importance for every single Australian to take care of and take ownership of their own health. On Go Red for Women day on 12 June next year we are hoping that more women will take up the challenge to talk about these issues, to become involved and to be healthy.

Senate adjourned at 10.27 pm
The following documents were tabled by the Clerk:


Civil Aviation Act—
Civil Aviation Regulations—Instrument No. CASA 250/09—Amendment of instrument CASA 206/09


Higher Education Support Act—VET Provider Approvals Nos—
24 of 2009—Australian English & Business College Pty Ltd [F2009L02357]*.
25 of 2009—MEGT (Australia) Ltd [F2009L02358]*.
26 of 2009—Swinburne University of Technology [F2009L02359]*.
27 of 2009—The Board of the Gordon Institute of Technical and Further Education [F2009L02360]*.

* Explanatory statement tabled with legislative instrument.

The following government documents were tabled:


Northern Territory Fisheries Joint Authority—Report for 2006-07.
Queensland Fisheries Joint Authority—Report for 2005-06.
Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 January to 31 March 2009.
Western Australian Fisheries Joint Authority—Report for 2004-05.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Aged Care

(Question No. 1370)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 5 March 2009:

With reference to the provision of zero interest loans to aged care providers for the construction of new facilities:

(1) Have any providers turned down offers by the department for the loans; if so, what were the stated reasons.

(2) What is: (a) the total number of loans, broken down by state or territory; and (b) the total value of loans.

(3) Why has the first round of loans not been completed.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) As at 21 April 2009, two providers have formally declined the offer of a zero real interest loan. The stated reasons for declining the loan included:

- reconfiguring the drawings for the extension to accommodate new places highlighted the limitations of their current site. The provider replaced its current expansion plans with a five-year plan to acquire additional land and relocate their entire facility; and

- provider is considering the development of a revised aged care strategy and business plan to meet the needs of the community into the future.

(2) (a) and (b) In total, 40 loans and $150 million were offered in Round 1 (the state breakdown follows):

<table>
<thead>
<tr>
<th>State/territory</th>
<th>No of loans</th>
<th>Loan amount offered ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>12</td>
<td>30.11</td>
</tr>
<tr>
<td>Victoria</td>
<td>6</td>
<td>19.69</td>
</tr>
<tr>
<td>Queensland</td>
<td>6</td>
<td>24.73</td>
</tr>
<tr>
<td>Western Australia</td>
<td>6</td>
<td>46.60</td>
</tr>
<tr>
<td>South Australia</td>
<td>3</td>
<td>12.80</td>
</tr>
<tr>
<td>Tasmania</td>
<td>7</td>
<td>16.07</td>
</tr>
<tr>
<td></td>
<td>40</td>
<td>150.00</td>
</tr>
</tbody>
</table>

(3) Round 1 has been completed, with offers of $150 million in loans for 1,348 residential aged care places, made to providers on 17 September 2008.

Australian Crime Commission: Staffing

(Question No. 1374)

Senator Cormann asked the Minister representing the Minister for Home Affairs, upon notice, on 5 March 2009:

With reference to full-time equivalent (FTE) positions within the Australian Crime Commission (ACC):

QUESTIONS ON NOTICE
(1) What was the budgeted FTE allocation of the ACC, broken down by job category and state/territory, on the following dates: (a) 23 November 2007; (b) 23 November 2008; and (c) 1 March 2009.

(2) What was the actual staffing level, including officers seconded from state and territory agencies, of the ACC, broken down by job category and state/territory, on the following dates: (a) 23 November 2007; (b) 23 November 2008; and (c) 1 March 2009.

(3) How many sworn officers, not including officers seconded from state and territory agencies, were employed by the ACC, broken down by job category and state/territory, on the following dates: (a) 23 November 2007; (b) 23 November 2008; and (c) 1 March 2009.

(4) How many officers seconded from state and territory agencies were employed by the ACC, broken down by job category and state/territory, on the following dates: (a) 23 November 2007; (b) 23 November 2008; and (c) 1 March 2009.

(5) How many redundancies have there been among sworn officers of the ACC, broken down by job category and state/territory, for the following periods: (a) the 2006-07 financial year; (b) the 2007-08 financial year; and (c) 1 July 2008 to 1 March 2009.

(6) How many redundancies are planned from 2 March to 30 June 2009, broken down by job category and state/territory.

Senator Wong—The Minister for Home Affairs has provided the following answer to the honourable senator’s question:

(1) The ACC budgets FTE each financial year. FTE is allocated internally to Business areas to achieve ACC outcomes, as such FTE is not budgeted to a particular state or role. Budgeted FTE for the dates queried are as follows:

(a) Financial year 2007/08 (covering 23 November 2007) - 628 FTE (includes funded secondees and APS)

(b) Financial year 2008/09 (covering 23 November 2008) - 580 FTE (includes funded secondees and APS)

(c) Financial year 2008/09 (covering 1 March 2009) - 580 FTE (includes funded secondees and APS)

(2) Staffing figures are calculated at end month. End month figures have therefore been provided in response to the Senator’s question.

Staffing Levels (Headcount) by Employment Category as at 30 November 2007 (as representative of 23 November 2007)

<table>
<thead>
<tr>
<th></th>
<th>APS</th>
<th>Contractors</th>
<th>Seconded LWOP (PS Act)</th>
<th>Seconded funded by ACC (ACC Act)</th>
<th>Seconded funded by jurisdictions</th>
<th>Total</th>
<th>Members of Task Forces funded by jurisdictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide</td>
<td>32</td>
<td>2</td>
<td>7</td>
<td>1</td>
<td>54</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>Alice Springs</td>
<td>7</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>12</td>
<td>4</td>
</tr>
<tr>
<td>Brisbane</td>
<td>83</td>
<td>2</td>
<td>8</td>
<td>4</td>
<td></td>
<td>112</td>
<td>15</td>
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<tr>
<td>Canberra</td>
<td>131</td>
<td>71</td>
<td>2</td>
<td>6</td>
<td></td>
<td>210</td>
<td></td>
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<tr>
<td>Darwin</td>
<td>3</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Melbourne</td>
<td>148</td>
<td>12</td>
<td>4</td>
<td>16</td>
<td>3</td>
<td>188</td>
<td>5</td>
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<td>2</td>
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<td></td>
<td></td>
<td>43</td>
<td>7</td>
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</table>
### Staffing Levels (Headcount) by Employment Category as at 30 November 2008 (as representative of 23 November 2008)

<table>
<thead>
<tr>
<th></th>
<th>APS Contractors</th>
<th>Seconded LWOP (PS Act)</th>
<th>Seconded funded by ACC (ACC Act)</th>
<th>Seconded funded by jurisdictions</th>
<th>Total</th>
<th>Members of Task Forces funded by jurisdictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>163</td>
<td>10</td>
<td>6</td>
<td>3</td>
<td>191</td>
<td>9</td>
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<tr>
<td>Total</td>
<td>600</td>
<td>24</td>
<td>38</td>
<td>14</td>
<td>761</td>
<td>52</td>
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### Staffing Levels (Headcount) by Employment Category as at 28 February 2009 (as representative of 1 March 2009)

<table>
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<th></th>
<th>APS Contractors</th>
<th>Seconded LWOP (PS Act)</th>
<th>Seconded funded by ACC (ACC Act)</th>
<th>Seconded funded by jurisdictions</th>
<th>Total</th>
<th>Members of Task Forces funded by jurisdictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide</td>
<td>30</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>33</td>
<td>15</td>
</tr>
<tr>
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<td>1</td>
<td>1</td>
<td>1</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Brisbane</td>
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<td>7</td>
<td>1</td>
<td>1</td>
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<td>Canberra</td>
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<td>Darwin</td>
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<td>Melbourne</td>
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<td>2</td>
<td>6</td>
<td>1</td>
<td>146</td>
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</tr>
<tr>
<td>Perth</td>
<td>25</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>27</td>
<td>2</td>
</tr>
<tr>
<td>Sydney</td>
<td>132</td>
<td>6</td>
<td>2</td>
<td>3</td>
<td>144</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>539</td>
<td>18</td>
<td>21</td>
<td>11</td>
<td>601</td>
<td>36</td>
</tr>
</tbody>
</table>

### Staffing Levels (Headcount) by Job Category and Location (includes Task Force Members)

* All employment categories from above are represented in this table.
(3) The ACC is unable to provide this information as it has the potential to compromise operations.

(4) The ACC is unable to provide this information as it has the potential to compromise operations.

(5) No sworn officers have received redundancies in the 2006-07 Financial Year, 2007-08 Financial Year or for the period 1 July 2008 to 31 December 2008.

(6) Until the finalisation of the 2009-10 Budget, the ACC is not in a position to plan its resource/staffing allocation. At this time the ACC will be able to identify the need for, or extent of, any future redundancies.

**Climate Change and Water: Media Contracts**

*(Question No. 1407)*

Senator Ronaldson asked the Minister for Climate Change and Water, upon notice, on 12 March 2009:

For the 2008 calendar year, can details be provided of the start date, duration and nature (direct source or open source) of tender for each contract for external speechwriting services entered into by the department.

Senator Wong—The answer to the honourable senator’s question is as follows:

**Climate Change**

The Department of Climate Change did not enter into any contract for external speechwriting services in the 2008 calendar year.

**Water**

In relation to my ministerial responsibilities, the Department of the Environment, Water, Heritage and the Arts did not enter into any contract for external speechwriting services in the 2008 calendar year.

**Pacific Brands**

*(Question Nos 1427, 1428, 1429, 1430 and 1431)*

Senator Abetz asked the Minister representing the Prime Minister, the Minister representing the Minister for Employment and Workplace Relations, the Minister representing the Treasurer, the Minister representing the Minister for Finance and Deregulation and the Minister for Innovation, Industry, Science and Research, upon notice, on 12 March 2009:
(1) On what date did the Minister first become aware that Pacific Brands were considering reducing employment levels in Australia and/or closing any or all of their Australian clothing manufacturing facilities.

(2) Since 1 December 2008, what discussions has the Minister, the Minister’s office or the department had with Pacific Brands’ chairman, board members, employees or any form of company representative regarding Pacific Brands’ future operations in Australia; if any, for each instance, please identify: (a) by whom; (b) with whom; and (c) on what date.

Senator Carr—The Prime Minister, the Minister for Employment and Workplace Relations, the Treasurer and the Minister for Finance and Deregulation have provided the following answer to the honourable senator’s question:

(1) The Government was aware that Pacific Brands had undertaken a strategic review of its operations in 2008. The Government received formal advice of Pacific Brands’ intention to close the majority of its manufacturing operations on 25 February 2009.

(2) The Government has had a range of discussions with Pacific Brands, on a range of topics, since 1 December 2008.

Snowy River
(Question No. 1445)

Senator Bob Brown asked the Minister for Climate Change and Water, upon notice, on 19 March 2009:

With reference to the findings of the Snowy Scientific Committee in October 2008 that environmental flows in the Snowy River are inadequate:

(1) Is the Federal Government able to instruct Snowy Hydro Limited (the licence holder) to release legislated environmental flows down the river; if so, does the Federal Government plan to do so.

(2) Will the Federal Government move to renegotiate the Snowy Water Licence to ensure that the environmental flow targets of the 2002 Snowy Water Inquiry Outcomes Implementation Deed are met.

(3) (a) Is the Minister confident that Snowy Hydro Limited and the New South Wales Water Administration Ministerial Corporation are the best placed entities to manage the release of environmental flows; and (b) has the department considered other entities to take over this role.

(4) Can the Minister confirm that there are no moves afoot to privatise the Snowy Scheme or to further increase its independence from the three governments.

Senator Wong—The answer to the honourable senator’s question is as follows:

(1) No. The release of water is managed by Snowy Hydro Limited in accordance with the Snowy Water Licence. The Water Operations Plan, when approved by the New South Wales (NSW) Ministerial Corporation, details the pattern of water releases for that year. Snowy Hydro Limited must abide by this plan unless directed otherwise by the NSW Ministerial Corporation.

(2) The Snowy Hydro Corporatisation Act 1997 (NSW) requires a review of the provisions of the Snowy Water Licence relating to the initial release of water to the Snowy River for environmental reasons five years after the licence is issued. This review is currently proceeding. The identification of anomalies in the licence is within the scope of this review. NSW have advised that the review will outline a set of proposed amendments to the licence.

It would be premature to consider amendments to the Snowy Water licence prior to the release of the draft findings of the review. Any amendment to the licence must be agreed to by all three shareholders. The Australian Government has made an initial submission to the review and may make further comments on the draft report when it is released.
(3) These arrangements reflect NSW legislative requirements and the Snowy Water Inquiry Outcomes Implementation Deed (SWIOID) of which the Commonwealth is a party.

(4) Yes. The government has not taken any decision to privatise Snowy Hydro Limited, nor to increase its independence from the three shareholder governments. Any move to privatise the Company or change the way the Company is managed would need the cooperation of all three shareholders.

Antarctica

(Question No. 1450)

Senator Bob Brown asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 20 March 2009:

(1) Given that the Australian Labor Party (ALP) National Platform 2007 committed support for a nomination of Antarctica to the World Heritage List, will the ALP now it is in Government commit to nominating Antarctica to the World Heritage List; if so, when does the Government intend to make the nomination; if not, why not.

(2) Is it possible for one country to nominate Antarctica to the list; if not, how many are needed.

(3) Has the Government approached other countries to work towards the nomination of Antarctica for World Heritage listing.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

The Australian Government is deeply engaged in the Antarctic Treaty system as a means of achieving Australia’s Antarctic objectives, including environmental protection.

The benefits of a World Heritage listing have already been achieved or exceeded in Antarctica through the international agreements that comprise the Antarctic Treaty system. These include the 1961 Antarctic Treaty, the 1970 Convention for the Conservation of Antarctic Seals, the 1980 Convention on the Conservation of Antarctic Marine Living Resources and the 1991 Protocol on Environmental Protection to the Antarctic Treaty (the Protocol), and measures adopted under those instruments. In particular, the Protocol declares Antarctica to be a natural reserve devoted to peace and science, and ensures that Antarctica’s environment is very well protected. Australia is an active participant in the Antarctic Treaty Consultative Meeting and plays a lead role in its Committee for Environmental Protection.

The listing mechanism of the Convention Concerning the Protection of the World Cultural and Natural Heritage requires a country with territorial jurisdiction to make a nomination. The special legal and political status of Antarctica, accommodating the positions of both those countries claiming territory and those which do not recognise such claims, would present significant challenges in applying this listing mechanism.

Special Minister of State: Electorate Office

(Question No. 1451)

Senator Ronaldson asked the Special Minister of State, upon notice, on 20 March 2009:

(1) What is the current ‘standard’ size of an electorate office.

(2) What is the average actual size of all electorate offices, excluding ‘second offices’ for the members that are entitled to have them.

(3) For each senator and member, can a list be provided detailing:

(a) the size of their main electorate office, or in the case of ministers, parliamentary secretaries and office holders, their joint office;

(b) the date at which the current lease expires (not applicable to Commonwealth Parliament Offices (CPO) suites);
(c) the value of the lease (not applicable to CPO suites); and
(d) whether the building is heritage listed or not.

(4) For each minister and office holder, can a list be provided, excluding Parliament House suites, detailing:
(a) the size of any ministerial or office holder office;
(b) the date at which the current lease expires (not applicable to CPO suites);
(c) the value of the lease (not applicable for CPO suites); and
(d) whether the building is heritage listed or not.

**Senator Faulkner**—The answer to the honourable senator’s questions are as follows:

(1) The guideline size of an electorate office is 175m² in area. Where an electorate office is located within a Commonwealth Parliament Office, its area may be smaller, in recognition of the shared facilities afforded within the Commonwealth Parliament Office.

(2) The average actual size of all electorate offices is 182.70m². This figure excludes those offices that have been established as a combined Ministerial/Electorate office or Office Holder/Electorate office. It does, however, include those offices that were established at a time when the Senator or Member concerned (or his or her predecessor) was entitled to a larger office.

(3) (a) The answer to this question is provided at Attachment A.
(b) The answer to this question is provided at Attachment A.
(c) It would not be appropriate to provide details of the lease value because publication of this information would likely harm the Commonwealth’s bargaining position in the broader market.
(d) The answer to this question is provided at Attachment A.

(4) (a) The answer to this question is provided at Attachment B.
(b) The answer to this question is provided at Attachment B.
(c) It would not be appropriate to provide details of the lease value because publication of this information would likely harm the Commonwealth’s bargaining position in the broader market.
(d) The answer to this question is provided at Attachment B.

### Attachments

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<td>99.00</td>
<td>CPO</td>
<td>Yes</td>
</tr>
<tr>
<td>The Hon Robert Debus MP</td>
<td>146.00</td>
<td>CPO</td>
<td>No</td>
</tr>
<tr>
<td>The Hon Chris Bowen MP</td>
<td>134.00</td>
<td>CPO</td>
<td>No</td>
</tr>
<tr>
<td>The Hon Alan Griffin MP</td>
<td>98.00</td>
<td>CPO</td>
<td>Yes</td>
</tr>
<tr>
<td>The Hon Tanya Plibersek MP</td>
<td>140.00</td>
<td>CPO</td>
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<tr>
<td>The Hon Brendan O’Connor MP</td>
<td>101.00</td>
<td>CPO</td>
<td>Yes</td>
</tr>
<tr>
<td>The Hon Warren Snowdon MP</td>
<td>240.00</td>
<td>31/03/2009</td>
<td>No</td>
</tr>
</tbody>
</table>
Senator Cormann asked the Minister representing the Minister for Education, in writing, on 24 March 2009:

(1) For the 2008-09 financial year, how much funding has been budgeted for the following education programs: (a) the Indigenous Tutorial Assistance Scheme; and (b) the Commonwealth Literacy and Numeracy Program.

(2) For the 2008-09 financial year, how much money has been disbursed for the following programs: (a) the Indigenous Tutorial Assistance Scheme; and (b) the Commonwealth Literacy and Numeracy Program.

Senator Carr—The Minister for Education has provided the following answer to the honourable senator’s question:

(1) (a) Funding for the Indigenous Tutorial Assistance Scheme (ITAS) is based on a calendar year. 2008 entitlements for the ITAS elements are included at Attachment A.

As of 1 January 2009, ITAS ceased to exist as individual elements for some components. Components of ITAS which have been rolled into the SPP base funding (Federal Financial Relations Act) or the Schools Assistance Act are:

ITAS 9 – 12
ITAS Remote Indigenous Students (RIS)
ITAS In-Class Tuition (ICT).

The remaining ITAS components will be appropriated through the Education Legislation Amendment Bill as a transitional arrangement to non-government VET Providers and Higher Education Institutions until alternative legislation associated with VET SPP and NP agreements become operational in 2009. These include:

ITAS VET
ITAS Tertiary

(b) There is no program called the Commonwealth Literacy and Numeracy Program.

(2) (a) Funding for the ITAS is based on a calendar year. 2008 expenditure for the ITAS elements are at Attachment A.
(b) See 1(b).

Attachment A

Indigenous Tutorial Assistance Scheme – Entitlements and Expenditure

ITAS funding is based on a calendar year and determined using enrolment data and benchmark data. Table 1 below shows the amounts that were committed and expended for the Indigenous Tutorial Assistance Scheme (ITAS) in 2008.

Table 1 – Calendar Year

<table>
<thead>
<tr>
<th>ITAS Element</th>
<th>2008 Entitlement</th>
<th>2008 Expended—1 January 2008 to 31 March 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITAS In-class Tuition (ICT)</td>
<td>$35,526,715</td>
<td>$32,881,051</td>
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<tr>
<td>ITAS 9, 10, 11 &amp; 12</td>
<td>$17,783,763</td>
<td>$15,522,890</td>
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<tr>
<td>ITAS Remote Indigenous Students (RIS)</td>
<td>$4,340,600</td>
<td>$3,930,126</td>
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<tr>
<td>ITAS VET</td>
<td>$2,612,815</td>
<td>$2,315,601</td>
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<tr>
<td>ITAS Tertiary</td>
<td>$10,914,565</td>
<td>$7,839,856</td>
</tr>
<tr>
<td>Total</td>
<td>$71,178,458</td>
<td>$62,489,524</td>
</tr>
</tbody>
</table>

Aged Care

(Question No. 1456)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 25 March 2009:

(1) For the 2008-09 Aged Care Approvals Round (ACAR), what was the total number of Community Aged Care Package (CACP) applications: (a) submitted; and (b) submitted for each aged care planning region.

(2) For the 2007-08 ACAR, what was the total number of CACP applications: (a) submitted; and (b) submitted in each aged care planning region.

(3) For the 2007-08 ACAR, what was the total number of successful CACP applications in each aged care planning region.

(4) For the 2007-08 financial year, what was the percentage of unsuccessful CACP applications in each aged care planning region.

(5) Since November 2007, what was the total number of bed licences: (a) returned to the department; and (b) returned to the department in each aged care planning region.

(6) Has there been any correspondence from aged care providers giving reasons as to why bed licenses were returned; if so, can copies of that correspondence be provided.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) (a) In the 2008-09 Aged Care Approvals Round a total of 843 Community Aged Care Package applications were submitted.

(b) Details of the number of Community Aged Care Package applications submitted for each aged care planning region in the 2008-09 Aged Care Approvals Round are contained in Attachment A.

(2) (a) In the 2007-08 Aged Care Approvals Round a total of 945 Community Aged Care Package applications were submitted.

(b) Details of the number of Community Aged Care Package applications submitted for each aged care planning region in the 2007-08 Aged Care Approvals Round are contained in Attachment A.

QUESTIONS ON NOTICE
Details of the total number of successful Community Aged Care Package applications in each aged care planning region in the 2007-08 Aged Care Approvals Round are contained in Attachment A.

Details of the percentage of unsuccessful Community Aged Care Package applications in each aged care planning region in the 2007-08 Aged Care Approvals Round are contained in Attachment A.

(a) From 1 December 2007 to 25 March 2009 the total number of provisionally allocated residential places surrendered to the department was 786.

(b) Details of these residential places surrendered by aged care planning region are contained in Attachment B.

Yes, there has been correspondence from aged care providers giving reasons as to why bed licences were returned. Copies of the correspondence cannot be provided because the information is protected information as defined in section 86-1 of the Aged Care Act 1997.

### Attachment A

<table>
<thead>
<tr>
<th>Aged care planning region</th>
<th>2008-09 Community care Applications submitted</th>
<th>Community care Applications submitted</th>
<th>2007-08 Number successful</th>
<th>% unsuccessful</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New South Wales</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central Coast</td>
<td>6</td>
<td>3</td>
<td>1</td>
<td>66.7%</td>
</tr>
<tr>
<td>Central West</td>
<td>8</td>
<td>8</td>
<td>2</td>
<td>75.0%</td>
</tr>
<tr>
<td>Far North Coast</td>
<td>13</td>
<td>30</td>
<td>4</td>
<td>86.7%</td>
</tr>
<tr>
<td>Hunter</td>
<td>33</td>
<td>39</td>
<td>5</td>
<td>87.2%</td>
</tr>
<tr>
<td>Illawarra</td>
<td>2*</td>
<td>2*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Inner West</td>
<td>16</td>
<td>21</td>
<td>4</td>
<td>91.5%</td>
</tr>
<tr>
<td>Mid North Coast</td>
<td>28</td>
<td>23</td>
<td>2</td>
<td>91.3%</td>
</tr>
<tr>
<td>Nepean</td>
<td>11</td>
<td>13</td>
<td>2</td>
<td>84.6%</td>
</tr>
<tr>
<td>New England</td>
<td>8</td>
<td>9</td>
<td>1</td>
<td>88.9%</td>
</tr>
<tr>
<td>Northern Sydney</td>
<td>33</td>
<td>38</td>
<td>9</td>
<td>76.3%</td>
</tr>
<tr>
<td>Orana Far West</td>
<td>3*</td>
<td>1*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Riverina/Murray</td>
<td>18</td>
<td>20</td>
<td>6</td>
<td>70.0%</td>
</tr>
<tr>
<td>South East Sydney</td>
<td>41</td>
<td>37</td>
<td>8</td>
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</tr>
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<td>South West Sydney</td>
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<td>82.1%</td>
</tr>
<tr>
<td>Southern Highlands</td>
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<td>17</td>
<td>5</td>
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</tr>
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<td>Western Sydney</td>
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<td>35</td>
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<tr>
<td><strong>Victoria</strong></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Barwon South-Western</td>
<td>18</td>
<td>22</td>
<td>4</td>
<td>81.8%</td>
</tr>
<tr>
<td>Eastern Metropolitan</td>
<td>27</td>
<td>33</td>
<td>8</td>
<td>75.8%</td>
</tr>
<tr>
<td>Gippsland</td>
<td>10</td>
<td>12</td>
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<tr>
<td>Grampians</td>
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<td>Hume</td>
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<td>14</td>
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<td>78.6%</td>
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<td>48</td>
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</tr>
<tr>
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<td>28</td>
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<td>82.1%</td>
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</table>
## Aged care planning region

<table>
<thead>
<tr>
<th>Aged care planning region</th>
<th>2008-09</th>
<th>2007-08</th>
<th>Number successful</th>
<th>% unsuccessful</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Community care Applications submitted</strong></td>
<td>Community care Applications submitted</td>
<td>Number successful</td>
<td>% unsuccessful</td>
<td></td>
</tr>
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<td><strong>Queensland</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brisbane North</td>
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<td>18</td>
<td>3</td>
<td>83.3%</td>
</tr>
<tr>
<td>Brisbane South</td>
<td>29</td>
<td>24</td>
<td>3</td>
<td>87.5%</td>
</tr>
<tr>
<td>Cabool</td>
<td>14</td>
<td>12</td>
<td>3</td>
<td>75.0%</td>
</tr>
<tr>
<td>Central West</td>
<td>0*</td>
<td>0*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Darling Downs</td>
<td>9</td>
<td>4*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Far North</td>
<td>8</td>
<td>10</td>
<td>4</td>
<td>60.0%</td>
</tr>
<tr>
<td>Fitzroy</td>
<td>5</td>
<td>8</td>
<td>2</td>
<td>75.0%</td>
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<td>1</td>
<td>90.0%</td>
</tr>
<tr>
<td>Mackay</td>
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<td>1</td>
<td>80.0%</td>
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<tr>
<td>Northern</td>
<td>10</td>
<td>6</td>
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<td>North West</td>
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</tr>
<tr>
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<td>12</td>
<td>1</td>
<td>91.7%</td>
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<tr>
<td>Wide Bay</td>
<td>15</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Goldfields</td>
<td>8</td>
<td>7*</td>
<td>3</td>
<td>66.7%</td>
</tr>
<tr>
<td>Great Southern</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Kimberley</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mid West</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pilbara</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Wheatbelt</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Metropolitan East</td>
<td>3*</td>
<td>22</td>
<td>6</td>
<td>72.7%</td>
</tr>
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<td>Metropolitan North</td>
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<td>25</td>
<td>5</td>
<td>80.0%</td>
</tr>
<tr>
<td>Metropolitan South East</td>
<td>6*</td>
<td>22</td>
<td>6</td>
<td>72.7%</td>
</tr>
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<td>Metropolitan South West</td>
<td>17</td>
<td>7*</td>
<td>1</td>
<td>85.7%</td>
</tr>
<tr>
<td>South West</td>
<td>0*</td>
<td>6</td>
<td>1</td>
<td>83.3%</td>
</tr>
<tr>
<td>All Metropolitan regions</td>
<td>5*</td>
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<tr>
<td><strong>South Australia</strong></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Eyre Peninsula</td>
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<td>-</td>
</tr>
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<td>77.8%</td>
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<td>18</td>
<td>5</td>
<td>72.2%</td>
</tr>
<tr>
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<td>21</td>
<td>14</td>
<td>2</td>
<td>85.7%</td>
</tr>
<tr>
<td>Metropolitan South</td>
<td>15</td>
<td>4*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Metropolitan West</td>
<td>3*</td>
<td>14</td>
<td>2</td>
<td>85.7%</td>
</tr>
<tr>
<td>Mid North</td>
<td>0*</td>
<td>0*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Riverland</td>
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<td>0</td>
<td>-</td>
</tr>
<tr>
<td>South East</td>
<td>0*</td>
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<td>1</td>
<td>50.0%</td>
</tr>
<tr>
<td>Whyalla, Flinders &amp; Far North</td>
<td>3*</td>
<td>0*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Yorke, Lower North &amp; Barossa</td>
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<td>3</td>
<td>40.0%</td>
</tr>
<tr>
<td>All Metropolitan regions</td>
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<td>2</td>
<td>2</td>
<td>80.0%</td>
</tr>
</tbody>
</table>
## Aged care planning region

<table>
<thead>
<tr>
<th>Aged care planning region</th>
<th>Community care Applications submitted</th>
<th>Community care Applications submitted</th>
<th>Number successful</th>
<th>% unsuccessful</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tasmania</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northern</td>
<td>14</td>
<td>11</td>
<td>2</td>
<td>81.8%</td>
</tr>
<tr>
<td>North Western</td>
<td>7</td>
<td>6</td>
<td>3</td>
<td>50.0%</td>
</tr>
<tr>
<td>Southern</td>
<td>19</td>
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<td>78.3%</td>
</tr>
<tr>
<td><strong>Australian Capital Territory</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ACT</td>
<td>12</td>
<td>14</td>
<td>5</td>
<td>64.3%</td>
</tr>
<tr>
<td><strong>Northern Territory</strong></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Alice Springs</td>
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<td>2</td>
<td>33.3%</td>
</tr>
<tr>
<td>Barkly</td>
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<td>0*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Darwin</td>
<td>2</td>
<td>7</td>
<td>2</td>
<td>71.4%</td>
</tr>
<tr>
<td>East Arnhem</td>
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<td>0*</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Katherine</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>00.0%</td>
</tr>
</tbody>
</table>

Note: Aged care planning regions with * indicate no places were made available.

### Attachment B

Provisionally allocated residential places surrendered from 1 December 2007 to 25 March 2009

<table>
<thead>
<tr>
<th>State or Territory</th>
<th>Aged care planning region</th>
<th>Provisionally allocated residential places returned</th>
</tr>
</thead>
<tbody>
<tr>
<td>QLD</td>
<td>Brisbane South</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Cabool</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>Darling Downs</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Wide Bay</td>
<td>130</td>
</tr>
<tr>
<td>Total QLD</td>
<td></td>
<td>224</td>
</tr>
<tr>
<td>NSW</td>
<td>Illawarra</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>Nepean</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Northern Sydney</td>
<td>11</td>
</tr>
<tr>
<td>Total NSW</td>
<td></td>
<td>80</td>
</tr>
<tr>
<td>VIC</td>
<td>Barwon-South Western</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Gippsland</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Hume</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>Western Metro</td>
<td>10</td>
</tr>
<tr>
<td>Total VIC</td>
<td></td>
<td>64</td>
</tr>
<tr>
<td>TAS</td>
<td>Southern</td>
<td>35</td>
</tr>
<tr>
<td>Total TAS</td>
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<td>35</td>
</tr>
<tr>
<td>SA</td>
<td>Whyalla, Flinders &amp; Far North</td>
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</tr>
<tr>
<td>Total SA</td>
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<tr>
<td>WA</td>
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<td>Metropolitan South East</td>
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</tr>
<tr>
<td></td>
<td>Metropolitan South West</td>
<td>130</td>
</tr>
<tr>
<td></td>
<td>Mid West</td>
<td>55</td>
</tr>
<tr>
<td></td>
<td>South West</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Wheatbelt</td>
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<tr>
<td>Total WA</td>
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<td>283</td>
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</tbody>
</table>

## QUESTIONS ON NOTICE
State or Territory | Aged care planning region | Provisionally allocated residential places returned
---|---|---
ACT | ACT | 80
Total ACT | 80
Australia total | 786

### Pharmaceutical Benefits Scheme
(Question No. 1457)

**Senator Cormann** asked the Minister representing the Treasurer, upon notice, on 25 March 2009:

1. Has the Minister considered increasing the $10 million threshold for Cabinet consideration for Pharmaceutical Benefits Scheme (PBS) listings.
2. What threshold levels have been considered.
3. Does the Minister consider the current threshold is causing unnecessary delays to the listing of pharmaceuticals on the PBS, particularly when those pharmaceuticals have already been assessed for cost effectiveness and meet the legislative requirements for listing on the PBS.

**Senator Conroy**—The Treasurer has provided the following answer to the honourable senator’s question:

1. No.
2. N/A.
3. No.

### Pharmaceutical Benefits Scheme
(Question No. 1458)

**Senator Cormann** asked the Minister representing the Minister for Health and Ageing, upon notice, on 25 March 2009:

1. Has the Minister considered increasing the $10 million threshold for Cabinet consideration for Pharmaceutical Benefits Scheme (PBS) listings?
2. What threshold levels have been considered?
3. Does the Minister consider the current threshold is causing unnecessary delays to the listing of pharmaceuticals on the PBS, particularly when those pharmaceuticals have already been assessed for cost effectiveness and meet the legislative requirements for listing on the PBS.

**Senator Ludwig**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

1. Increasing the $10 million threshold is not being considered.
2. Not applicable.
3. No—the Pharmaceutical Benefits Advisory Committee (PBAC) recommendation is an important first step towards the Pharmaceutical Benefits Scheme (PBS) subsidy of a medicine. A number of other steps must be completed before a medicine can be given approval for listing and added to the PBS and this includes careful consideration by the Government.

### Pharmaceutical Benefits Advisory Committee
(Question No. 1460)

**Senator Cormann** asked the Minister representing the Minister for Health and Ageing, upon notice, on 30 March 2009:
With reference to the positive recommendation, received in July 2008, from the Pharmaceutical Benefits Advisory Committee for the Pharmaceutical Benefits Scheme (PBS) listing of Bevacizumab (Avastin) and Sunitinib malate (Sutent):

1. What caused the delay in listing these products on the PBS.
2. How does this delay promote the National Medicines Policy objective of access to medicines and the objective of the PBS to provide ‘reliable, timely and affordable access’ to pharmaceuticals.
3. What steps have been taken by the Minister to advance the listing of Avastin and Sutent.

Senator Ludwig—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

1. and (2) The timeframes on the proposed listings of Avastin® and Sutent® on the PBS are consistent with other high cost drug listings that have required consideration by Government.
3. Sutent® was listed on the PBS on 1 May 2009 and Avastin® will be PBS listed from 1 July 2009.

The Pharmaceutical Benefits Advisory Committee recommendation is an important first step towards the PBS subsidy of a medicine. A number of other steps must be completed such as pricing negotiations with the manufacturer, agreement on estimates of utilisation, and finalisation of the conditions for listing, before a medicine can be given approval for listing and added to the PBS. This also includes careful consideration by the Government.

Pharmaceutical Benefits Advisory Committee

(Question No. 1461)

Senator Cormann asked the Minister representing the Minister for Health and Ageing, upon notice, on 27 March 2009:

1. With reference to products listed in the Schedule of Pharmaceutical Benefits during the 2003-04, 2004-05, 2005-06, 2006-07 and 2008-09 financial years, for each product, what was the time taken:
   (a) between the Pharmaceutical Benefits Advisory Committee’s positive recommendation and ministerial approval; (b) between the Pharmaceutical Benefits Pricing Authority’s recommendation and ministerial approval; (c) for those products that require Cabinet approval, between ministerial approval and the pharmaceutical being listed for consideration by Cabinet; (d) for a pharmaceutical being listed for consideration by Cabinet and being approved by Cabinet; and (e) between Cabinet approval and final listing on the Schedule of Pharmaceutical Benefits.

2. For each part in (1) above, what was the average time taken for all products listed in each of the following financial years: (a) 2003-04; (b) 2004-05; (c) 2005-06; (d) 2006-07; and (e) 2008-09.

Senator Ludwig—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

1. and (2) The scope of this request is considerable, encompassing several hundred medicines, and the amount of detail required is significant. Therefore I consider the provision of the level of detail requested would involve an unreasonable diversion of Department of Health and Ageing resources. On this basis the information provided has been limited to those medicines that have required consideration by Cabinet between 2003-04 to 2008-09 (Attachment A).

It should be noted that a number of factors may influence the time it takes to list, including a request from the sponsor, protracted negotiations around pricing matters and sponsors not meeting listing requirements.
### Table Showing Elapsed time For All High Cost Drugs From PBAC Recommendation Date Through to PBS Listing Date

<table>
<thead>
<tr>
<th>Drug</th>
<th>For the treatment of</th>
<th>Listing date</th>
<th>PBAC Meeting Date</th>
<th>Time Taken to Listing (months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Risperdal Consta (risperidone)</td>
<td>Schizophrenia</td>
<td>February 2005</td>
<td>July 2004</td>
<td>7</td>
</tr>
<tr>
<td>Zyprexa (olanzapine)</td>
<td>Bipolar disorder</td>
<td>February 2005</td>
<td>July 2004</td>
<td>7</td>
</tr>
<tr>
<td>Eloxatin (oxaliplatin)</td>
<td>Adjuvant colon cancer</td>
<td>Extended 1 October 2005</td>
<td>March 2005</td>
<td>7</td>
</tr>
<tr>
<td>Arimidex (anastrozole)</td>
<td>Early breast cancer</td>
<td>Extended 1 December 2005</td>
<td>July 2005</td>
<td>5</td>
</tr>
<tr>
<td>Inspra (epilrenone)</td>
<td>Heart failure</td>
<td>1 February 2006</td>
<td>July 2005</td>
<td>7</td>
</tr>
<tr>
<td>Vytorin (simvas-tatin and ezetimibe)</td>
<td>High blood cholesterol</td>
<td>1 February 2006</td>
<td>July 2005</td>
<td>7</td>
</tr>
<tr>
<td>Raptiva (efalizumab)</td>
<td>Psoriasis</td>
<td>1 April 2006</td>
<td>November 2005</td>
<td>5</td>
</tr>
<tr>
<td>Prexige (lumiracoxib)</td>
<td>Osteoarthritis</td>
<td>1 August 2006</td>
<td>November 2005</td>
<td>5</td>
</tr>
<tr>
<td>Mabthera (rituximab)</td>
<td>Non-Hodgkin’s lymphoma</td>
<td>Extended 1 August 2006</td>
<td>March 2006</td>
<td>5</td>
</tr>
<tr>
<td>Pegasys (peginterferon alfa-2a)</td>
<td>Hepatitis B</td>
<td>Extended 1 October 2006</td>
<td>November 2005</td>
<td>11</td>
</tr>
<tr>
<td>Enbrel (etanercept)</td>
<td>Psoriatic arthritis</td>
<td>Extended 1 August 2006</td>
<td>E – March 2005</td>
<td>6 - 18</td>
</tr>
<tr>
<td>Humira (adalimumab) Remicade (infliximab)</td>
<td>Diabetes</td>
<td>1 October 2006</td>
<td>March 2006</td>
<td>7</td>
</tr>
<tr>
<td>Lantus (insulin glargine)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Levemir (insulin detemir)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>docetaxel (Taxotere)</td>
<td>Early breast cancer</td>
<td>Extended 1 October 2006</td>
<td>March 2006</td>
<td>7</td>
</tr>
<tr>
<td>paclitaxel (Anzatax)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Herceptin (trastuzumab)</td>
<td>Early breast cancer</td>
<td>1 October 2006</td>
<td>July 2006</td>
<td>3</td>
</tr>
<tr>
<td>Fosamax Once Weekly and Alendro Once Weekly (alendronate)</td>
<td>Osteoporosis</td>
<td>Extended 1 April 2007</td>
<td>July 2006</td>
<td>10</td>
</tr>
</tbody>
</table>
### QUESTIONS ON NOTICE

**Drug** | **For the treatment of** | **Listing date** | **PBAC Meeting Date** | **Time Taken to Listing (months)**
--- | --- | --- | --- | ---
Strattera (atomoxetine) | Attention deficit hyperactivity disorder | 1 July 2007 | November 2006 | 8
Ezetrol (ezetimibe) and Vytoris (ezetimibe and simvastatin) | High cholesterol | Extended 1 August 2007 | November 2006 | 9
Lucentis (ranibizumab) and Visudyne (veraporphin) | Age-related macular degeneration | 1 August 2007 | Luc – March 2007 Vis – November 2005 | 5 - 21
Remicade (infliximab) | Crohn disease | Extended 1 October 2007 | March 2007 | 7
Taxotere (docetaxel) | Prostate cancer | Extended 1 November 2007 | July 2007 | 4
Remicade (infliximab) | Psoriasis | Extended 1 December 2007 | March 2007 | 9
Renagel (sevelamer) | Chronic kidney disease | 1 December 2007 | July 2007 | 5
Topamax (topiramate) | Prevention of migraine | Extended 1 December 2007 | March 2007 | 9
Champix (Varenicline) | Smoking Cessation | 1 January 2008 | July 2007 | 7
Sensipar (Cinacalcet) | Secondary Hyperparathyroidism | 1 July 2008 | November 2007 | 8
Tysabri (Natalizumab) | Relapsing-Remitting Multiple Sclerosis | 1 July 2008 | November 2007 | 8
Humira (Adalimumab) | Crohn disease | Extended 1 August 2008 | November 2007 | 9
Plavix & Iscover (Clopidogrel) | Acute Coronary Syndrome (ACS) | Extended 1 February 2009 | March 2008 | 11
Noxafil (Posaconazole) | Prophylaxis and Treatment of invasive fungal infections | 1 January 2009 | March 2008 | 10
Sutent (sunitinib) | Renal cell carcinoma | 1 May 2009 | July 2008 | 10
Avastin (bevacizumab) | Metastatic colorectal cancer | 1 July 2009 | July 2008 | 12

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**Aged Care**

*Question No. 1462*

**Senator Cormann** asked the Minister representing the Minister for Ageing, upon notice, on 27 March 2009:

With reference to the referral of the Queensland aged care providers Blue Care, TriCare Limited, RSL Care and Baptistcare to the Australian Competition and Consumer Commission (ACCC), for publicly
stating that they would not apply for stand-alone, non-extra-service high care beds in the 2009 Aged Care Approvals Round:

(1) When did the department provide advice to the Minister regarding the referral of this matter to the ACCC.
(2) What was the content of that advice.
(3) Who provided the advice.
(4) Was legal opinion sought on the advice.
(5) On what basis did the Minister or the department consider that competition law had been breached.
(6) How many other aged care facilities have been referred to the ACCC since its inception.

Senator Ludwig — The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) to (3) The Department of Health and Ageing (the Department) did not provide advice to me on this matter. There was informal discussion between officers of the Department and my office on 30 October 2008.
(4) No.
(5) Neither I or the Department considered that competition law had been breached, as it is not a matter for the Health and Ageing portfolio to consider. It is standard practice when an agency becomes aware of facts which might constitute a breach of legislation administered by another agency, for the matter to be referred to the administering agency. It is then a matter for the administering agency to obtain any necessary legal advice, consider whether any breach may have occurred and decide what action (if any) should be taken. Under the Legal Services Directions the Australian Competition and Consumer Commission (ACCC) is responsible for administering the Trade Practices Act 1974.
(6) The Department is not aware of any.

Taxation

(Question No. 1464)

Senator Cormann asked the Minister representing the Treasurer, upon notice, on 31 March 2009:

With reference to the Australian Labor Party’s election commitment to promote ‘investment in exploration by allowing the selective use of flow through share schemes for smaller operators in the gas, oil and mineral exploration industries’:

(1) What steps have been taken to introduce a flow-through share scheme.
(2) When was the department instructed to develop a flow-through share scheme.
(3) When will the necessary legislation be introduced into the Parliament.
(4) Will a flow-through share scheme, as promised before the 2007 election, be implemented by the end of 2009; if not: (a) why not; and (b) when is a flow-through share scheme expected to become available.

Senator Conroy — The Treasurer has provided the following answer to the honourable senator’s question:

(1) The introduction of flow-through shares is being considered in the context of the broader treatment of losses within the business tax system as part of the Australia’s Future Tax System Review. This will ensure that the introduction of such a scheme is consistent with other reforms to the business
The introduction of flow-through shares is being considered in the context of the broader treatment of losses within the business tax system as part of the Australia’s Future Tax System Review. This will ensure that the introduction of such a scheme is consistent with other reforms to the business tax system that may be recommended by the Review Panel. The Review Panel is scheduled to present its report to the Government by end 2009.

(2) See answer to question 1.

(3) See answer to question 1.

(4) The Government’s election commitment did not promise introduction of a flow-through shares scheme by end 2009.

**Budget Process**

(Question Nos 1466, 1467 and 1468)

_Senator Cormann_ asked the Minister representing the Treasurer, upon notice, on 31 March 2009:

(1) What changes have been made to the pre-budget processes of the Government since 24 November 2007.

(2) Can the Minister confirm that, in addition to the Expenditure Review Committee process, there is a further process for some items, described as ‘mini-Cabinet’ meetings or some such process.

(3) What type of pre-budget or other items are considered at the ‘mini-Cabinet’ meetings.

(4) Who has been present, including ministers and public officials, at each of the ‘mini-Cabinet’ meetings held so far.

(5) Who provides official support for the ‘mini-Cabinet’ meetings.
(6) Are there agenda papers for the ‘mini-Cabinet’ meetings; if not, why not.
(7) Are official records of the meetings kept; if not, why not.

Senator Conroy—The Treasurer has provided the following answer to the honourable senator’s question:
(1) None. The Government conducts pre-Budget processes through relevant Cabinet Committees and Cabinet.
(2) As noted in answer to (1), pre-Budget processes are conducted through the relevant Cabinet Committees and Cabinet. Information about current Cabinet Committees and their membership is available on the Government Online Directory (www.directory.gov.au). There is no ‘mini-Cabinet’.
(3) See answer to (2).
(4) See answer to (2).
(5) The Cabinet Secretariat provides support to Cabinet and all Cabinet Committees.
(6) Agenda papers are circulated for Cabinet and Cabinet Committees.
(7) Yes.

Minister for the Environment, Heritage and the Arts
(Question No. 1469)

Senator Cormann asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 31 March 2009:
(1) Do the comments by Midnight Oil drummer Mr Rob Hirst, reported on Australian Broadcasting Corporation radio on 27 March 2009, that the Minister ‘will do all he can to ensure a gas processing plant is not built in Western Australia’s Kimberley region’, accurately reflect the Minister’s intentions.
(2) Has the Minister at any time made any private statement to Mr Hirst or others that he will do all he can to prevent a gas processing plant being built in the Kimberley Region; if so, what was the nature of those comments.
(3) If the Minister has not at any time made any private statement to Mr Hirst or others, what steps has the Minister taken to correct Mr Hirst’s perception that the Minister will do all he can to ensure a gas processing plant is not built in Western Australia.
(4) Does the Minister’s reported intention to do all he can to prevent a gas processing plant being built in the Kimberley region represent official government policy.
(5) What current federal issues are being considered under relevant legislation in relation to the development of a gas processing plant in the Kimberley region.
(6) When is that process expected to conclude and a final decision made.
(7) Given the inevitable perception of a conflict of interest by the Minister on the basis of personal bias against the development of a gas processing plant in the Kimberley Region, has the Minister considered recusing himself from any decision under Commonwealth legislation on any such project; if not, has the Minister or the department sought legal advice to quantify any exposure of the Commonwealth to litigation as a result of a decision made by the Minister in these circumstances.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:
(1 to 4) I understand that like many people, Mr Hirst has strong views about Western Australia’s Kimberley region. However, I have always made it clear that I take my statutory responsibilities as the regulator under the Environment Protection and Biodiversity Conservation (EPBC) Act very seri-
ous, and this case will be no different. As I have said on numerous occasions in relation to the proposed Kimberley LNG gas processing hub, I will absolutely ensure that I diligently follow the requirements that are laid out under the EPBC Act, and I will make my decision based on the full and comprehensive suite of information available, including the best possible scientific data.

At no time have I indicated to Mr Hirst or to anyone else that I would adopt anything other than a legally rigorous, scientific and transparent approach in fulfilling my statutory responsibilities under the EPBC Act, and I have reinforced that in making my decision I will carefully consider all legally relevant matters in accordance with those statutory responsibilities.

(5) In February 2008 I entered into a Strategic Assessment Agreement under the EPBC Act with the Western Australian government to, amongst other things, identify a suitable site for an LNG processing precinct.

During 2008 the Australian and Western Australian governments were involved in a lengthy and rigorous consultative site selection process to identify a preferred site in the Kimberley for the development of a LNG precinct to service the Browse Basin gas reserves. Over forty sites in the Kimberley were considered. All key stakeholders including environmental scientists, marine experts, environment groups and Indigenous interests were engaged in the site shortlisting, and the public were invited to comment. Through this process, James Price Point was selected as the preferred location in the Kimberley.

This site has now moved into the next stage of assessment, which includes further detailed environmental, technical and social impact assessment to determine the suitability of James Price Point for an LNG precinct.

Over the course of 2009, a management plan for the nominated site will be developed. Further information on the environment and potential impacts will therefore continue to be sought. The Australian Government is committed to ensuring that appropriate environmental safeguards are employed in any future development in the Kimberley.

(6) The final decision on approval under the Kimberley Strategic Assessment is expected in mid 2010.

(7) No.

Minister for the Environment, Heritage and the Arts

(Question No. 1470)

Senator Cormann asked the Minister representing the Prime Minister, upon notice, on 31 March 2009:

With reference to the comments by Midnight Oil drummer Mr Rob Hirst, reported on Australian Broadcasting Corporation radio on 27 March 2009, that the Minister for the Environment, Heritage and the Arts ‘will do all he can to ensure a gas processing plant is not built in Western Australia’s Kimberley region’:

(1) Has the Prime Minister or his office sought assurances directly from the Minister for the Environment, Heritage and the Arts that:

(a) the reported comments are not an accurate reflection of his intentions in his official capacity as a Minister of the Crown; and

(b) he has not at any time made private statements to Mr Hirst or others that he will do all he can to prevent a gas processing plant to be built in the Kimberley Region.

(2) If the Prime Minister or his office has sought the assurances in (1) above:

(a) was the Minister for the Environment, Heritage and the Arts able to provide such assurances; and
(b) has the Prime Minister or his office sought assurance from the Minister for the Environment, Heritage and the Arts that he has corrected Mr Hirst’s perception that he will do all he can to ensure a gas processing plant is not built in Western Australia.

(3) If the Prime Minister did not seek the assurances in (1) and (2)(b) above, why not.

(4) Do the reported intentions of the Minister for the Environment, Heritage and the Arts to do all he can to prevent a gas processing plant to be built in the Kimberley region represent official government policy.

(5) Has the Government made any strategic decision about its intentions in relation to the development of a gas processing plant in the Kimberley region.

(6) Does the Prime Minister agree that the question of development of a gas processing plant in the Kimberley region of Western Australia is primarily a matter for the State of Western Australia to consider and decide on.

(7) Given the inevitable perception of a conflict of interest by the Minister for the Environment, Heritage and the Arts on the basis of personal bias against the development of a gas processing plant in the Kimberley region, has the Prime Minister considered asking the Minister for the Environment, Heritage and the Arts to recuse himself from any decision under Commonwealth legislation on any such project; if not, has the Prime Minister or the department sought advice to ensure that the Commonwealth will not be exposed to litigation as a result of a decision made by the Minister for the Environment, Heritage and the Arts in these circumstances.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) to (7) The Prime Minister does not respond to hearsay comments reported in the media. Any matters that come before the Minister for the Environment, Heritage and the Arts for determination will be subject to the proper and lawful exercise of the Minister’s powers.

Prime Minister and Cabinet: Website

(Question No. 1471)

Senator Abetz asked the Minister representing the Prime Minister, upon notice, on 1 April 2009:

With reference to the website www.economicstimulusplan.gov.au:

(1) What was the cost of developing the website.

(2) Who developed the website.

(3) If the website was developed externally, by what method was the contractor selected.

(4) Who maintains the website.

(5) In detail, what resources does: (a) the office of the Prime Minister; and (b) the department, provide for ongoing maintenance/updates of the website.

(6) (a) When did the department first receive instructions to establish this new website; and (b) from whom did these instructions come.

(7) From where in the budget is the cost of the website drawn.


(9) Will the presence of this new website be advertised; if so, in detail: (a) how; and (b) what is the budget.

(10) Was the establishment and content of this website approved by the Auditor-General; if not, why not.

QUESTIONS ON NOTICE
Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) As at 1 April 2009, approximately $79,000 had been spent on developing the website. This includes costs for staffing, subscription services and web development.

(2) The website was developed by the Department of Education, Employment and Workplace Relations (DEEWR).

(3) Not applicable.

(4) DEEWR provides ongoing maintenance and support of the website in consultation with the Department of the Prime Minister and Cabinet.

(5) (a) and (b) The website co-ordination and oversight role is undertaken by two officers in the Department of the Prime Minister and Cabinet as part of their duties.

(6) (a) 23 February 2009. (b) The Government initiated the development of the Nation Building—Economic Stimulus Plan website as part of its implementation arrangements for the program elements of this stimulus package.

(7) The budget for the development of the website was from DEEWR Departmental funds.

(8) The delivery of the Nation Building—Economic Stimulus Plan spans seven key line agencies and it was considered appropriate to develop one program administration resource to provide the relevant information on a single website. The website can be accessed through: www.australia.gov.au/economicstimulus.

(9) (a) Details of the website are referenced in program information produced on the Nation Building – Economic Stimulus Plan. (b) Not applicable.

(10) The website is a part of the program administration of the Nation Building initiative. The establishment and content of the website did not require approval by the Auditor-General.

Treasurer: Website
(Question No. 1472)

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 1 April 2009: With reference to the website www.economicstimulusplan.gov.au: In detail, what resources does:
(a) the office of the Treasurer; and
(b) the department, provide for ongoing maintenance/updates of the website.

Senator Conroy—The Treasurer has provided the following answer to the honourable senator’s question:

(a) 0.1 ASL
(b) 0.2 ASL

Education: Music
(Question No. 1473)

Senator Milne asked the Minister representing the Minister for Education, upon notice, on 2 April 2009:

(1) What progress has been made by the Government since the 2007 election to implement the recommendations of the National review of school music education: Augmenting the diminished (Seares report) into school music education.
(2) Taking into consideration the previous Government’s ‘Investing in Our Schools Program’ grants which specifically provided for musical facilities and musical instruments of a capital nature, and with reference to the $14.7 billion over 3 years which was recently announced by the Government for capital works at schools, are:
(a) music practice rooms allowable capital items; if not, why not;
(b) music laboratories allowable capital items; if not, why not;
(c) musical instrument programs of a capital nature allowable capital items; if not, why not;
(d) specialised music classrooms allowable capital items; if not, why not;
(e) music-technology upgrades to existing computer facilities allowable capital items; if not, why not; and
(f) audio visual upgrades to existing school performing arts centres allowable capital items; if not, why not.

(3) With reference to the core recommendations of the National Music Workshop held on 27 August and 28 August 2006, what progress has been made to date regarding the implementation of:
(a) creating a national music education resource; and
(b) the measurement and reporting on music programs and delivery by the states and territories to either the state and/or the Federal Government.

(4) Taking into consideration the joint press release of 21 November 2005 by the then Australian Labor Party (ALP) Shadow Minister for Education, Training, Science and Research, Ms Jenny Macklin, and the then Shadow Parliamentary Secretary for Reconciliation and the Arts, Mr Peter Garrett, which supported the Seares report and contained the following statements, ‘The Seares Report shows that the Howard Government must train more music teachers to improve children’s access to quality music education’ and ‘The report on the National Review of Music Education shows that we need to improve the equity of access and participation in school music for all students. All young people should have access to an excellent music education, not just those who are gifted or are able to afford it’: What programs, policies, funding or initiatives have been put in place by the Government:
(a) to ensure equity of access and participation in school music for all students; and
(b) to train more music teachers.

(5) Does the Government support the inclusion of school music in the national curriculum; if not, why not.

(6) Given that the ALP’s 2007 election policy promised that ‘Labor will also review the issue of the provision of music education through the entire education system, working with State and Territory authorities, teacher employers and with universities to create a comprehensive music education in our schools and educational institutions’: What programs, policies, funding or initiatives have been put in place by the Government to deliver on its election promise.

(7) Given that the ALP’s 2007 election policy cited research by the Music Council of Australia that only 23 per cent of Australian state school students have access to a school music program:
(a) is it still the case that 77 per cent of Australian state school students have no access to a school music program;
(b) what programs, policies, funding or initiatives have been put in place by the Government to increase access to school music; and
(c) what future programs, policies, funding or initiatives will be put in place by the Government to increase access to school music.

(8) How many times has the Minister met with the Music Education Advisory Group (MEAG).
(9) Will MEAG be refunded for the 2009-10 financial year.

(10) With reference to the highly successful ‘Music. Count Us In’ program and for the years 2008 and 2009: (a) how many students; and (b) how many schools, participated in the program.

(11) Will the ‘Music. Count Us In’ program be refunded for 2009; if not, why not.

(12) Given the overwhelming evidence of the benefits of school music for the promotion of numeracy and literacy, what programs, policies, funding or initiatives have been put in place by the Government to promote school music programs for students struggling with literacy or numeracy.

(13) What programs, policies, funding or initiatives put in place by the previous Government to promote school music have been cancelled, delayed or had funding removed by the current Government.

Senator Carr—The Minister for Education has provided the following answer to the honourable senator’s question:

(1) The Melbourne Declaration on Educational Goals for Young Australians, agreed by all Australian Ministers for Education in December 2008, includes the arts (performing and visual) as a key learning area. It includes a commitment by state, territory and Commonwealth governments to work together with all school sectors to develop, among other things, knowledge in the arts. At its meeting in Adelaide on 17 April 2009, the Ministerial Council on Education, Employment, Training and Youth Affairs decided that the arts, including music, should form part of the second stage of national curriculum development (along with languages and geography).

The Government’s New Directions for the Arts policy states that it will work with state and territory education authorities, teacher employers and universities to review the provision of music education. The Government is reviewing the provision of music education on an ongoing basis, for example through consultation with the Music Education Advisory Group and through the development of an arts education work plan for the Cultural Ministers Council.

Since January 2008, funding of $1.84 million has been committed by the Australian Government to school music education initiatives. This includes funding for the National Awards for Excellence in School Music Education, the Music Education Advisory Group, The Song Room and ‘Music. Count Us In 2008’.

(2) As part of the Australian Government’s $42 billion Nation Building—Economic Stimulus Plan, $14.7 billion is being invested over three years for the Building the Education Revolution (BER) program to fund infrastructure projects at primary and secondary schools.

Under the Primary Schools for the 21st Century element of the program, funding can be used for capital expenditure on the following items (in order of priority):

1. construction of new libraries;
2. construction of new multipurpose halls (e.g. gymnasium, indoor sporting centre, assembly area or performing arts centre) or, in the case of smaller schools, covered outdoor learning areas;
3. construction of classrooms, replacement of demountables or other building to be approved by the Commonwealth; or
4. refurbishment of existing facilities.

Music practice rooms and laboratories would be considered eligible under the third priority.

Non infrastructure projects, such as musical instrument programs and upgrades to music-technology or audio visual equipment would not be considered suitable under the BER unless they were necessary to enable the functionality of an eligible building project.

(3) (a) The project to develop a national music education resource is not proceeding. (b) The National Education Agreement does not require reporting on school music participation. Education authori-
ties may determine how best to address education needs and priorities in order to achieve the Council of Australian Governments agreed outcomes for their students.

(4) (a) The inclusion of the arts in the national curriculum will provide opportunities for teachers to expand and update their arts skills and knowledge and will also ensure students receive high quality instruction. There will be opportunities for music educators and music organisations to contribute to the development of national curriculum. (b) The Australian Government, through the Council of Australian Governments, has committed to working with the states and territories to implement a new National Partnership agreement, Smarter Schooling—Improving Teacher Quality National Partnership, to improve the quality of teaching and leadership in schools.

Under the agreement, for which the Government will commit $550 million, a range of reforms to improve teacher remuneration structures, increase school-based decision-making, improve teacher education, classroom support and professional development, and in particular, improve the quality and availability of teacher workforce data are being implemented. This approach to collecting national workforce data is expected to better inform current and future needs for teachers across a range of learning areas, including school music education.


(5) Yes.

(6) See answer number 1 above.

(7) (a) Updated data on this issue are not available. The Report of the National Review of School Music Education (2005) commented that it was “not possible to give a complete and accurate portrait of student participation and achievement in music across Australian schools”. A 2003 survey by the Music Council of Australia found that 77 per cent of state schools (primary and secondary) had no music program. (b) and (c) The Government supports music education in schools through a number of initiatives including the National Awards for Excellence in School Music Education and ‘Music. Count Us In’ and support for the work of The Song Room; Musica Viva in Schools; the Australian Children’s Music Foundation; and the Music Education Advisory Group. Funding of over $3.5 million is being provided for these initiatives.

The Ministerial Council on Education, Employment, Training and Youth Affairs at its meeting in Adelaide on 17 April 2009, decided that the arts, including music, should form part of the second stage of national curriculum development (along with languages and geography).


(9) The Music Education Advisory Group (MEAG) was established by the previous government in May 2007, and has met three times. No funding is currently allocated for the activities of MEAG beyond 30 June 2009.

(10) In 2008 an estimated 459,910 students and teachers took part in the program from 1700 schools. In 2007 about 250,000 students from around 870 schools participated in the event.

(11) The Music Council of Australia has applied for funding for ‘Music. Count Us In’ for 2009-2011. The Department is investigating any potential funding sources from which funding could be provided.

(12) ‘The Song Room’ and ‘Musica Viva in Schools’ are both programs which target disadvantaged and regional and remote students.
The previous government approved funding of $500,000 under the Quality Outcomes Program for the development of music curriculum resources. However, this initiative is not proceeding. Funding has been directed to other education priorities. Funding of MEAG in 2009–10 is discussed at answer number 9 above. Funding of ‘Music. Count Us In’ for 2009 is discussed at answer number 11 above.

United Nations Framework Convention on Climate Change
(Question No. 1474)

Senator Milne asked the Minister for Climate Change and Water, upon notice, on 2 April 2009:

1. With respect to the reviews of the United Nations Framework Convention on Climate Change (UNFCCC) of Australia’s national inventory report (NIR) and the following recommendations of the 2006 review, reiterated in 2008, for ‘forest land remaining forest land’:

   ‘The ERT [expert review team] therefore requests the Party to complete its report including carbon stock changes and non-CO2 emissions occurring in each Australian forest area that is subject to periodic or ongoing human interventions’, noting that ‘human interventions’ includes all human activities such as fire suppression, forest conservation, recreation, harvesting, etc [Paragraph 61 (2006 review)]; and

   ‘The ERT recommends Australia to report both gains and losses in the living biomass in order to improve the consistency and transparency of the inventory’ [Paragraph 63 (2006 review)];

   (a) what action has been taken to implement the recommendation; and (b) when will revised data be published.

2. When will empirical data be available to estimate CO2 uptake by ‘forest land remaining forest land’ and incorporated into the NIR in place of the constant 57.3 Mt CO2 per annum currently assumed.

3. Given that this accounting approach is to be adopted for the Carbon Pollution Reduction Scheme, when will carbon stock changes (emissions and uptake separately) be reported in the NIR for: (a) ‘grassland remaining grassland’; and (b) ‘cropland remaining cropland’.

4. (a) To what extent are emissions from the degradation of riverine red gum forests and similar wetland forest ecosystems currently reported in the ‘forests remaining forests’ NIR category; and (b) when will data for wetlands be included in the NIR.

5. Can a copy be provided of the revised 2007 submission to the UNFCCC (submitted 21 October 2008) referred to in the 2008 review report.

Senator Wong—The answer to the honourable senator’s question is as follows:

1. (a) Australia has implemented the recommendations to include both emissions and removals of greenhouse gases in the ‘forest land remaining forest land’ category and the changes in living biomass as part of Australia’s revised 2007 inventory submission. (b) Data from Australia’s revised 2007 inventory submission has been published in the Common Reporting Format tables (dated 21 October 2008) on the United Nations Framework Convention on Climate Change (UNFCCC) website.

2. The ‘forest land remaining forest land’ category of Australia’s revised 2007 inventory submission contains a number of sub-categories, including the ‘harvested native forest’ sub-category. The ‘harvested native forest’ sub-category currently applies a constant 57.3 Mt CO2 uptake per annum, with emissions varying based on harvesting rates. The emissions and removals for other categories are not constant. Ongoing development of the National Carbon Accounting System will continue to improve the estimation of emissions and removals for all forest systems.
(3) (a and b) Emissions and removals for both the ‘grassland remaining grassland’ and ‘cropland remaining cropland’ categories are reported in Australia’s revised 2007 inventory submission (dated 21 October 2008). The data is available on the UNFCCC website.

(4) (a) Emissions from forest degradation are incorporated into the ‘forests remaining forests’ category of the revised 2007 inventory submission. (b) Wetlands are a voluntary UNFCCC reporting category. Australia is continuing to develop coverage of all lands and will seek to include data when comprehensive information is available in accordance with UNFCCC reporting requirements.

(5) The data from Australia’s revised 2007 inventory submitted to the UNFCCC (dated 21 October 2008) is available from the UNFCCC website. A full description of national inventory reporting methods applied in Australia’s revised 2007 submission will be provided in Australia’s 2009 submission.

**Climate Change**

(Question No. 1475)

Senator Milne asked the Minister for Climate Change and Water, upon notice, on 2 April 2009:

(1) Is the Minister aware that of stream flow reduction risks, climate change poses the greatest risk, followed by afforestation and groundwater pumping.

(2) In regard to the inclusion of the Mersey-Forth as a ‘priority catchment’ in the 2009 Tasmania Sustainable Yields (TasSY) Project (Commonwealth Scientific and Research Organisation, 2008):
   (a) have provisions been made by qualified specialists for the appropriate assessment of the karst component of that catchment (Mole Creek karst) during the TasSY study; and
   (b) do these provisions acknowledge the need to quantify and account for the broadacre afforestation and unregulated groundwater extraction in the karst catchment.

(3) (a) What provisions, if any, have been made for karst assessment as a component of a water catchment area; and (b) if provisions have been made, what prescriptions will be applied in karst water yield assessments.

Senator Wong—The answer to the honourable senator’s question is as follows:

(1) Stream flows can be influenced by a range of factors including climate change, land use change and groundwater abstraction and surface water extraction for a range of consumptive uses. Climate change, in particular, poses one of the biggest threats to stream flow and water availability throughout Australia.

(2) The CSIRO Tasmanian Sustainable Yields Study will provide critical information on current and likely future water yields in Tasmania as a result of climate change, the development of irrigation under the Tasmanian government’s Drought-proofing Tasmania plan and other water interception activities such as forestry and changes in groundwater.

Scientific modelling will include information on current and future increases in broadacre forestry and unregulated groundwater extraction where such data are currently available in the DPIW WIMS database.

Regarding the Mole Creek karst area, the impacts of proposed broadacre forestry development on water yield will be assessed as part of the CSIRO study. The Mole Creek karst system is represented in the CSIRO study by five different sites, all of which are considered to be of Very High Integrated Conservation Value under Tasmania’s Conservation of Freshwater Ecosystem Values program.
(3) Assessment of the karst component of the Mersey-Forth catchment is not a direct focus of the study. However, the study will take into account karst areas where appropriate, particularly where karst-associated groundwater areas intersect with existing and planned irrigation areas and other water interception activities.

**Climate Change**

*(Question No. 1476)*

**Senator Milne** asked the Minister representing the Minister for Resources and Energy, upon notice, on 2 April 2009:

Is it a fact that if electricity voltages were reduced from the 240 to 250 (phased to neutral) volts range to 225 to 230 volts range there would be a reduction in Australia’s greenhouse gas emissions of 15 million tonnes annually.

**Senator Carr**—The Minister for Resources and Energy has provided the following answer to the honourable senator’s question:

The Government has not undertaken any modelling on the possible impact of these changes in electricity voltages for greenhouse gas emissions.

Such a change raises a number of issues which make the net benefits uncertain and complex to quantify. Reducing the nominal voltage of Australia’s electricity distribution system below 230 V for domestic users may reduce electricity consumption for some applications such as lighting, but its implications for other appliances is less certain. One particularly significant issue to consider is that many electric motors used in Australia are designed to Australia’s 240 V ± 6% standard. Operating an electric motor in a voltage range lower than that for which it is designed stresses the motor at start up and causes premature burnout, which has both cost and safety implications. Further, the electricity consumption of appliances such as water and space heaters, which are major users of household electricity, would not change and a reduced voltage would simply increase the time it took for them to carry out their heating function. Other issues such as fluorescent lights flickering or not starting due to a reduction in voltage and the dimming of incandescent bulbs would also need to be addressed. Another important consideration is that power output is a product of both voltage and current, so should voltage be reduced, then current would need to be increased to meet the same demand for power—which in some network situations can create higher losses, resulting in more greenhouse gases emissions.

**National Water Initiative**

*(Question No. 1477)*

**Senator Milne** asked the Minister for Climate Change and Water, upon notice, on 2 April 2009:

Taking into consideration the Tasmanian Government’s removal of third appeal rights and processes under the state’s Water Management Act 1999 via the provisions or lack thereof in the state’s Dam Works Legislation (Miscellaneous Amendments) Act 2007, how does the Commonwealth Government expect to ensure:

(a) water, dam and/or irrigation projects in Tasmania are both commercially viable and environmentally sustainable; and

(b) community consultation on projects and due diligence obligations as outlined in the National Water Initiative will be met by the Tasmanian Government which has in effect established a system that enables community consultation on dam permits, but does not provide for any formal process of appeal.
Senator Wong—The answer to the honourable senator’s question is as follows:
The Australian Government remains committed to funding of up to $140 million to support more efficient irrigation in Tasmania, under the Sustainable Rural Water Use and Infrastructure Program.
In return for Australian Government funding Tasmania will need to meet a number of conditions, including ensuring that projects are compliant with the National Water Initiative and accounting for future water availability in project designs.
We have asked Tasmania to provide detailed proposals for its highest priority irrigation projects. These will need to include a comprehensive business case and the detail of technical, economic, environmental and social impact assessments. This will allow us to assess projects for potential funding in line with our due diligence obligations. The Australian Government is working with Tasmania to ensure that irrigation development is both commercially viable and environmentally sustainable.
Project proposals will also be required to demonstrate appropriate consultation with stakeholders affected by irrigation proposals, including irrigators and environment and community groups in Tasmania.

Regional Forest Agreement
(Question No. 1478)

Senator Milne asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 2 April 2009:
Taking into consideration the Tasmanian Government’s Forest Practices Regulations 2007, which contains the following provisions that exempt the Forest Practices Authority as the independent regulator from assessing and approving the removal of Regional Forest Agreement threatened forest community types, ‘4. Circumstances in which forest practices plan, &c., not required (i) dam works authorised by a dam permit granted under the Water Management Act 1999’: Is the Commonwealth Government satisfied with the Tasmanian Government’s dam assessment process; if so, why; if not, why not and what specific actions are required from the Tasmanian Government to satisfy the Commonwealth Government.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:
The construction and operation of dams, and associated works, are subject to the provisions of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). Any proposal to construct a dam in Tasmania that is likely to have a significant impact on a matter of national environmental significance will need to be assessed and approved by the Australian Government pursuant to the EPBC Act. A decision on the assessment approach under the EPBC Act may take into account any relevant Tasmanian Government environmental impact assessment processes.

Education, Employment and Workplace Relations: Australian Workplace Agreements
(Question No. 1481)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 7 April 2009:
With reference to the answer to DEEWR question no. EW631 09 taken on notice on 3 June 2008 during the 2008-09 Budget estimates hearings of the Education, Employment and Workplace Relations Committee:
(1) Can a copy be provided of the signatory page of the document referred to as ‘document labelled as an Australian Workplace Agreement’.
(2) Does this page disclose the signature of the employee.
(3) On what basis is it claimed in the answer provided that this document was not signed by the employee.

(4) Whilst it is acknowledged that the claimant stated in an interview that she had not seen an Australian Workplace Agreement, was she ever presented by a Workplace Ombudsman employee with a copy of the ‘document labelled as an Australian Workplace Agreement’, which purportedly had the claimant’s signature attached to it.

(5) Was the claimant asked to verify or deny that it was her signature attached to that ‘document labelled as an Australian Workplace Agreement’.

(6) Given the date that appeared on the ‘document labelled as an Australian Workplace Agreement’ and the claimant’s commencement of employment, was any further verification or information sought from the claimant in relation to the document and her previous sighting of it.

(7) (a) On what dates did Ms Healy make back pay payments; and (b) were three of those payments made during 2007; if so, on what dates were those payments made.

(8) On what date was Ms Healy officially charged.

(9) On what basis was it reported in the Hobart Mercury that Mr Wilson had advised that Ms Healy ‘had not voluntarily complied with the Ombudsman during the investigation’.

(10) Is it acknowledged that payments for the underpaid staff were in fact made prior to Ms Healy being officially charged.

(11) Is voluntary payment prior to being charged considered to be voluntary compliance; if so, why did Mr Wilson assert Ms Healy had not voluntarily complied during the investigation.

Senator Ludwig—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) Please refer to my response to Senate Parliamentary Question No. 1207 (1) of 23 December 2008.

(2) Please refer to the Workplace Ombudsman’s response to DEEWR Question No. EW631_09 of 3 June 2008.

(3) Please refer to the Workplace Ombudsman’s response to DEEWR Question No. EW631_09 of 3 June 2008.

(4) No. It was not operationally relevant to do so, as the investigation did not extend to making inquiries into the employer’s failure to lodge the Agreement with the Workplace Authority (as required by Part 8, Division 4 of the Workplace Relations Act 1996).

(5) Please refer to my response to Senate Parliamentary Question No. 1207 (5) of 23 December 2008.

(6) Please refer to my response to Senate Parliamentary Question No. 1207 (6) of 23 December 2008.

(7) (a) Please refer to my response to Senate Parliamentary Question No. 1207 (7)(a) of 23 December 2008. (b) Please refer to my response to Senate Parliamentary Question No. 1207 (7)(b) of 23 December 2008.

(8) Please refer to my response to Senate Parliamentary Question No. 1207 (8) of 23 December 2008.

(9) Please refer to my response to Senate Parliamentary Question No. 1207 (9) of 23 December 2008.

(10) Please refer to my response to Senate Parliamentary Question No. 1207 (10) of 23 December 2008.

(11) Please refer to my response to Senate Parliamentary Question No. 1207 (11) of 23 December 2008.
Talisman Sabre Military Exercises
(Question No. 1483)

Senator Ludlam asked the Minister representing the Minister for Defence, upon notice, on 8 April 2009:

In regard to the Talisman Sabre military exercises in Shoalwater Bay, Queensland:

(1) What type and number of land vehicles, amphibious vehicles, aircraft and navy vessels will be involved in the 2009 exercises.
(2) What types and quantities of fuel are expected to be needed for the 2009 exercises.
(3) How much live fire will be used in the 2009 exercises.
(4) Will any missile firing take place in the 2009 exercises.
(5) How many troops from Australia and the United States of America (US) will be involved in the 2009 exercises.
(6) What was the Government’s response to the warning provided to it by the International Whaling Commission before the 2007 exercises that the use of underwater sonar in the exercises could seriously injure or kill whales.
(7) Is the Government aware that in 2007 the US Navy claimed an exemption from the Marine Mammal Protection Act of 1972 (US) when conducting exercises with powerful sonar designed to hunt for super-quiet submarines.
(8) Will the Government be allowing high-powered active sonar to be used in the 2009 exercises.
(9) Given that the 2005 exercises are reported to have involved the sinking of two decommissioned US Navy ships off Australia’s coast: (a) what types and what volume of chemicals will disperse as the vessels disintegrate; and (b) how will this be monitored.
(10) What form of assessment occurred before permission was given for US warships to be sunk in Australian waters.
(11) Will there be any further ship sinking exercises as part of the 2009 exercises.

Senator Faulkner—The answer to the honourable senator’s question is as follows:

(1) Exercise Talisman Sabre 2009 will be conducted at designated Australian Defence Force (ADF) training facilities in Queensland and the Northern Territory, within the Australian Maritime Zones of Territorial Sea and Exclusive Economic Zone and in the United States (US). The exercise is not taking place exclusively at Shoalwater Bay in central Queensland.

Approximately 1,650 armoured and other vehicles will be operating in and around Shoalwater Bay. The combined Australian-US Amphibious Task Group will comprise six major amphibious units and four minor amphibious units. Each of the major amphibious units has indigenous landing craft and rotary wing aircraft to provide ship to shore movement. Additionally, the US Landing Helicopter Dock ship will have six Vertical, Short Take Off and Landing aircraft embarked. A total of approximately 50 aircraft will operate in and around Shoalwater Bay, many of which will be transitioning from Air Force bases throughout Australia. Seven Royal Australian Navy major fleet units and eight US Navy warships will form the Surface Task Group and will support amphibious landings before proceeding to the Coral Sea. Royal Australian Navy mine countermeasures and survey assets will conduct precursor operations in preparation for the amphibious landings. A US nuclear-powered aircraft carrier, supported by a single escort ship, will operate in the Arafura and Timor Seas off the north-west coast of Australia and will conduct air operations over northern Australia.
(2) The quantities of fuel used during the exercise are not disclosed because of the potential to reveal valuable intelligence information about the preparedness of the participating forces. The types of fuel used include military specification diesel, unleaded petrol and jet turbine fuels.

(3) Live fire will be restricted to gazetted Defence impact areas. The quantity of ordnance used during the exercise is not disclosed because of the potential to reveal valuable intelligence information about the preparedness of the participating forces.

(4) Yes.

(5) The exercise is scheduled to involve up to 8,000 Australian and 15,000 US personnel distributed across a number of geographic locations in Australia and in the US.

(6) The Government is aware that in 2007 the International Whaling Commission’s (IWC) Scientific Committee commented on the risks associated with the operation of certain types of high-powered active military sonars on marine mammals. The IWC Scientific Committee further recommended that certain precautionary measures be in place when this equipment was operated during Exercise Talisman Saber 2007. The measures recommended by the IWC were comparable with those that had already existed in the ADF Maritime Activities Environmental Management Plan for almost two years. The Government considers that the IWC Scientific Committee’s comments supported the approach that the ADF was taking with regard to protecting marine mammals from any risks that might be associated with the use of sonar. The Government is satisfied that the precautions taken to avoid exposing marine mammals to high-powered sonar transmissions during Exercise Talisman Saber 2007 were effective in reducing any risk to a very low level. Notwithstanding, additional measures are being enacted during Exercise Talisman Saber 2009 to further protect the marine mammals from any possible harmful high-powered active sonars.

(7) Yes.

(8) Yes.

(9) (a) The vessels went down in excess of 4000 metres of water during a live-fire exercise conducted by US Forces. The ADF monitored but did not take part in this activity. Both vessels were very thoroughly cleaned and inspected prior to sinking. Strict requirements were enforced to ensure all oils and any other chemicals were removed from the vessels. The vessels were inspected and assessed as meeting all Australian requirements by an Australian Department of Defence-appointed contractor with extensive expertise in disposing of vessels at sea to ensure they met the strict protocols required. (b) There is no intention to monitor the ships’ disintegration at such extreme depths.

(10) The US Navy held all the necessary approvals from the US Environment Protection Agency to dispose of the ships as part of the exercise. The US Navy complied with the requirements of the International Maritime Organisation’s Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (known as the London Dumping Convention) which regulates disposal of ships at sea. The Australian Department of Defence managed Exercise Talisman Saber 2005 and took steps to ensure that the vessels were prepared for disposal to a standard that met the requirements of the then Australian Department of the Environment and Heritage. Defence consulted with that department during the environmental impact assessment process for the exercise and conditions applying to this activity were agreed and strictly implemented. Defence was advised at the time that the US Navy did not require any additional approvals from the Department of the Environment and Heritage to dispose of the vessels in international waters.

(11) No.
Waratah Coal Inc. Rail Line  
(Question No. 1484)

Senator Ludlam asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 8 April 2009:

(1) Why was the proposed Waratah Coal Inc. rail line and coal port for Shoalwater Bay rejected in September 2008.

(2) What potential environmental damage was identified.

(3) Does the Minister consider that the movement of tens of thousands of troops with heavy equipment across this environmentally-sensitive area, conducting live fire exercises, infantry manoeuvres, air combat, ship-to-ship operations and anti-submarine warfare with navy vessels using sonar, will not cause land and marine environmental damage of a similar order, albeit possibly of a different type.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(1) The proposal was determined to have unacceptable impacts on the Shoalwater and Corio Bays Area (SCBA), which is a declared Ramsar wetland, and the environment on Commonwealth land within the Shoalwater Bay Military Training Area (SBMTA).

(2) Permanent destruction of the wilderness values, ecological integrity and scientific values of the immediate and surrounding area of the SCBA Ramsar wetland, and the SBMTA.

(3) No. The Commission of Inquiry Shoalwater Bay, Queensland, May 1994, recommended that the use of the site by the Department of Defence and for conservation could occur concurrently within the SBMTA. It also found that the use of the SBMTA for military training did not appear to have a cumulative adverse impact on conservation values, with military impacts generally being intermittent and localised.

Australian Nuclear Science and Technology Organisation  
(Question No. 1485)

Senator Ludlam asked the Minister for Innovation, Industry, Science and Research, upon notice, on 8 April 2009:

Given that one of the major justifications for the OPAL [Open Pool Australian Lightwater] reactor at Lucas Heights was to provide radioisotopes for radiopharmaceuticals, mainly via technetium-99m generators to be sold domestically and overseas:

(1) Has the new molybdenum-99 production facility for the Australian Nuclear Science and Technology Organisation (ANSTO) been commissioned.

(2) What have been the financial costs to Australia for importing replacement technetium-99m generators for the domestic market due to OPAL-sourced generators being unavailable.

(3) What has been the corresponding financial loss to ANSTO as a result of being unable to export such generators.

Senator Carr—The answer to the honourable senator’s question is as follows:

(1) Yes.

(2) As stated in the response to part 6 of question 1196 of 9 February 2009, ANSTO has not imported technetium-99m generators; rather, it has imported bulk molybdenum-99, which has been processed into technetium-99m generators in ANSTO’s radiopharmaceutical production facilities. The net cost of importation of bulk molybdenum-99 since the fuel fault-related shutdown of OPAL in July 2007 has been approximately $8.19 million over two years.

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(3) Most of ANSTO’s molybdenum-99 production in the HIFAR era was supplied to the domestic market, with only a small amount being exported. During the period of importation of bulk molybdenum-99, priority has obviously been given to the domestic market. ANSTO has also endeavoured to maintain supply of export generators, although disruptions to the supply of bulk molybdenum-99 have meant that that has not always been possible; total losses to ANSTO in that regard would amount to approximately $150,000 over the same time period. With the new production plant working fully, the ability to supply into export markets will become more significant.

Proposed Pulp Mill

(Question No. 1486)

Senator Abetz asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 15 April 2009:

With reference to the answer to question on notice no. 1226 (Senate Hansard, 10 March 2009, p. 163) and noting that the answer was provided the day immediately after the hearings of the Environment, Communications and the Arts Committee additional estimates of 24 February 2009:

(1) When was the draft answer from the department provided to the Minister’s office.
(2) When did the Minister sign-off on the answer.
(3) When was the answer delivered to the Senate Table Office.
(4) In regard to part (2) of the answer provided and given that the information must be available, what time, to the nearest 15 minutes, was this call made.
(5) In regard to the duration of the phone call, and given that telephone records would disclose this information, what was the duration of the phone call.
(6) In regard to part (6) of the answer provided can the Minister advise as to whether he suggested any time parameters to departmental officials for when they contacted Gunns Limited.
(7) In regard to part (7) of the answer provided, and given that the information must be available, what time, to the nearest 15 minutes, did the Minister or his office contact Gunns Limited to advise them of his decision.
(8) In regard to part (8) of the answer provided and given that the answer does not provide the detail sought, in relation to each contact: (a) who was contacted; (b) what was the time (to the nearest 15 minutes) of the contact; (c) what was the duration of the discussion; and (d) what was the nature of the discussion.
(9) In regard to part (9) of the answer provided and given that the answer does not provide the detail sought, in relation to each contact: (a) who was contacted; (b) what was the time (to the nearest 15 minutes) of the contact; (c) what was the duration of the discussion; and (d) what was the nature of the discussion.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(1) The brief accompanying the draft answer is dated 13 February 2009.
(2) 24 February 2009.
(3) 25 February 2009.
(4) As stated in the answer to question no. 1226 the call was made between 11.30 am and 12.30 pm on 5 January 2009; the exact time, duration and details of the telephone calls were not recorded.

It would be an unreasonable use of resources to obtain and analyse telephone records to identify the exact time and duration of specific calls within the period of one hour specified in my earlier answer.
(5) See response to question 4.

(6) The Minister’s office asked the Department to contact Gunns Ltd on receipt of a signed copy of my letter to Mr Gay.

(7) As stated in the answer to part (6) of question no 1226, the Department contacted Gunns Ltd to advise them of my decision and at the same time sent them an electronic copy of my letter to Mr Gay. Departmental records show the electronic copy of my letter was emailed by the Department to Gunns Ltd at 12.15 pm on 5 January 2009.

(8) This question repeats part 8 of question on notice No 1226. The Honourable Senator is referred to the answer to that question in Senate Hansard, 10 March 2009, p. 163.

(9) This question repeats part 9 of question on notice No 1226. The Honourable Senator is referred to the answer to that question in Senate Hansard, 10 March 2009, p. 163.

**Foreign Affairs: Legal Expenses**

**Question No. 1488**

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 16 April 2009:

(1) In regard to the case of *R v Vinayagamoorthy, Yathavan and Rajeevan* in which all charges regarding the Commonwealth criminal code were recently withdrawn, what was the total expenditure by the department, including the time and expenses of staff in Sri Lanka.

(2) In regard to the case of *R v Jack Thomas*, what was the total expenditure by the department, including the time and expenses of staff overseas.

(3) In regard to Dr Mohamed Haneef, what was the total expenditure by the department, including the time and expenses of staff overseas.

(4) In regard to Mr David Hicks, what was the total expenditure by the department, including the time and expenses of staff overseas.

(5) In regard to Mr Mamdouh Habib, what was the total expenditure by the department, including the time and expenses of staff overseas.

Senator Faulkner—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) As at 28 April 2009, legal expenditure incurred by the Department in responding to the subpoena issued in relation to the case of *R v Vinayagamoorthy, Yathavan and Rajeevan* amounts to $76,039.08. Records are not generally kept in the Department of staff time spent on specific issues, and so staff time and expenses associated with this case cannot be reliably costed.

(2) Legal expenditure incurred by the Department in responding to the subpoena issued in relation to the case of *R v Jack Thomas* amounts to $5882.98. Records are not generally kept in the Department of staff time spent on specific issues, and so staff time and expenses associated with this case cannot be reliably costed.

(3) Legal expenditure incurred by the Department in relation to the *Clarke Inquiry into the case of Dr Mohamed Haneef* amounts to $11,020.90. Records are not generally kept in the Department of staff time spent on specific issues, and so staff time and expenses associated with this matter cannot be reliably costed.

(4) Legal expenditure incurred by the Department in relation to the case of *Hicks v The Hon Philip Ruddock Attorney General for the Commonwealth and Ors* (Federal Court of Australia) amounts to $84,905.64. Records are not generally kept in the Department of staff time spent on specific issues, and so staff time and expenses associated with this case cannot be reliably costed.
(5) As at 28 April 2009, legal expenditure incurred by the Department in relation to the case of *Habib v Director-General of Security* (Administrative Appeals Tribunal and Federal Court of Australia) amounts to $110,076.18. Records are not generally kept in the Department of staff time spent on specific issues, and so staff time and expenses associated with these cases cannot be reliably costed.

**Dryland Salinity**  
*(Question No. 1489)*  

Senator Mark Bishop asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 20 April 2009:

(1) (a) How many hectares within the area covered by the Avon Catchment Council (ACC) in Western Australia are estimated to be salt affected; and (b) what proportion is that of Australia’s total estimated dry land salinity.

(2) What Commonwealth funds did the ACC receive for each of the following financial years: (a) 2005-06; (b) 2006-07; (c) 2007-08; and (d) 2008-09.

(3) For each of the following financial years: 2005-06, 2006-07, 2007-08 and 2008-09 (estimate), how much did the ACC spend on: (a) salt land pastures; and (b) native plant industries (broombush and swamp sheoak).

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(1) (a) 388,000 hectares (ha) of the 7.4 million ha used for agriculture in the area covered by the Avon Catchment Council (ACC) is affected by salinity (source: ACC); and (b) this is 6.8% of the 5.7 million hectares estimated to be at risk or affected by dryland salinity across Australia (source: National Land and Water Resources Audit).

(2) The ACC received the following Australian Government funds from the Natural Heritage Trust, National Action Plan for Salinity and Water Quality, National Landcare program and the Caring for our Country initiative: (a) 2005-06 $7,046,468; (b) 2006-07 $5,272,671; (c) 2007-08 $3,529,152; and (d) 2008-09 $7,272,277.

(3) Estimated ACC expenditure on saltland pastures and native plant industries is shown in the following table (source: ACC):

<table>
<thead>
<tr>
<th>Year</th>
<th>Saltland pastures</th>
<th>Native plant industries</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005/06</td>
<td>$240,000</td>
<td>$0</td>
</tr>
<tr>
<td>2006/07</td>
<td>$138,000</td>
<td>$52,000</td>
</tr>
<tr>
<td>2007/08</td>
<td>$293,196</td>
<td>$63,776</td>
</tr>
<tr>
<td>2008/09</td>
<td>$251,850</td>
<td>$90,400</td>
</tr>
<tr>
<td>Total</td>
<td>$923,046</td>
<td>$206,176</td>
</tr>
</tbody>
</table>

**Climate Change**  
*(Question No. 1490)*  

Senator Abetz asked the Minister for Climate Change and Water, upon notice, on 22 April 2009:

With reference to the report of the Economics Committee, Exposure draft of the legislation to implement the Carbon Pollution Reduction Scheme:

(1) Under the current carbon pollution reduction proposal, on whom will be the obligation to report (project owners, service providers or both).
QUESTIONS ON NOTICE

(2) (a) Is the department satisfied that under the tight timetable between the proposed passage of the Carbon Pollution Reduction Scheme (CPRS) legislation, Royal Assent, application for a liability transfer certificate and authority and the 90 day approval before the 31 October 2009 reporting date, there will not be unforeseen consequences such as misreporting and bringing the scheme into disrepute;

(b) given that the LTC mechanism will not take effect until the CPRS starts on 1 July 2010, is there a potential that service providers/contractors, especially in the mining sector, will incur the costs of setting up systems, reviewing contracts and collecting data to meet their capital National Greenhouse and Energy Reporting System obligations for 2 years until those obligations and responsibilities can be transferred; and

(c) what is there to be gained by such an approach given the significant burden that will be placed on business.

(3) Would it be not more appropriate for the mine owner to report on fugitive emissions and be held liable under the CPRS rather than contractors who might actually be operating the mine.

(4) Does the Minister acknowledge that the mine owner has the control and ownership responsibility over the resource before, during and after the contractors have been on site.

(5) Does the Minister acknowledge the difficulty that at present the facility operator needs to collect information from mine site contractors and subcontractors with whom no commercial relationship exists.

(6) Does the Minister acknowledge that the CPRS will impact on many more businesses than the Government’s estimated top 1,000 carbon emitters.

(7) (a) How many small and medium businesses who subcontract to businesses that have carbon pollution reduction liabilities will have increased costs due to compliance and data collection requirements; and

(b) how many businesses are deemed to fall within that category.

(8) What difficulties would be associated with amending the National Greenhouse and Energy Reporting Act 2007 and the CPRS legislation to explicitly recognise mine owners as the facility operators on mine sites.

(9) What difficulties would arise should the CPRS legislation differentiate between mine owners liabilities for emissions directly associated with the resource and operator liabilities for emissions produced during extraction and haulage of the resource.

(10) Is it possible to streamline the legislative regime to ensure the emission liability threshold for facilities of 25kt CO2-e to exclude fuel generated emissions to avoid unnecessary trading and administration burden for marginal emitters.

Senator Wong—The answer to the honourable senator’s question is as follows:

(1) In general, entities with operational control over covered facilities or activities would be liable for emissions obligations arising from those facilities or activities under the Carbon Pollution Reduction Scheme (CPRS). With the approval of the Australian Climate Change Regulatory Authority, an entity with financial control (eg. mine owner) over a covered facility will have some flexibility to take on CPRS liabilities from an entity with operational control (eg. contract miner) in some circumstances where both parties agree.

(2) (a) Liability transfer certificates (LTCs) are not available for the 2008–2009 reporting period.

The Government’s announcement of 4 May 2009 that the CPRS will be deferred for one year also gives contractors with operational control and mine owners another year negotiate liability transfers. The one-year fixed price of $10 from July 2011 provides a level of business certainty to further assist LTC negotiations.
(b) The National Greenhouse and Energy Reporting Act 2007 requires liable entities to report on facilities over which they have operational control. Some entities that expect to transfer reporting obligations under the CPRS would like to put in place arrangements from this reporting year (08/09) rather than have a change in reporting obligations (and corporate reporting structures) with the commencement of the CPRS. The Department of Climate Change is undertaking continued consultation with industry stakeholders on this issue.

(c) The LTC mechanism has been established at the request of industry to provide for flexibility in managing financial liabilities under the Scheme. The Department of Climate Change is undertaking continued consultation with industry stakeholders on detailed technical issues relating to emissions reporting.

(3) Operational control will be the standard test for allocating obligations for emissions from a covered facility under the CPRS. This means that CPRS obligations will be placed on the entity that has the greatest ability to introduce and implement operational and environmental policies at the facility (and therefore give effect to emissions reductions).

(4) The organisation that has the greatest level of operational control over an entire facility and its resources at any given point during a financial year will bear the liability for the emissions for that period. If an entity ceases to have operational control then that entity will not be liable for emissions after that time. A controlling corporation or a member of its group has operational control over a facility under the National Greenhouse and Energy Reporting Act 2007 if it has the authority to introduce and implement any or all of the following for the facility:

(i) Operating policies
(ii) Health and safety policies
(iii) Environmental policies

If the mine owner has operational control over a facility it will be the liable entity for emissions from that facility.

(5) The option currently exists under the National Greenhouse and Energy Reporting Act 2007 for contractors to apply to report emissions separately from an entity with operational control over a facility. However, under the CPRS, all emissions at a facility are included in the facility threshold for inclusion in the Scheme and an emissions report. If entities were allowed to differentiate between activities at a facility this would allow them to divide up emissions at a facility to fall beneath the threshold and therefore avoid liability under the CPRS. Further if a contractor was allowed to report emissions for particular activities at a facility instead of the person with operational control, the operator would still need to be notified by the contractor of that amount as that amount would go towards their facility threshold and liability under the CPRS.

I expect that entities that pass tests of operational control will be able to obtain information from subcontractors and if necessary contracts may need to be re-negotiated by the start of the Scheme to achieve this.

(6) The CPRS will cover around 75 per cent of Australia’s emissions and involve mandatory obligations for around 1000 entities. This number is an initial estimate of entities that will have obligations under the Scheme. This number is based on a number of sources including the Regulatory Impact Statement for the National Greenhouse and Energy Reporting Act 2007, consultancies and data obtained through other Government reporting mechanisms. The Government will be able to estimate the number of liable entities more accurately following receipt of data under the National Greenhouse and Energy Reporting Act 2007.

The Government has always acknowledged that the CPRS would have broader impacts throughout the economy. The Government has committed to providing substantial assistance to businesses to
help them adjust to the carbon price. This includes $2.75 billion for the Climate Change Action Fund, part of which is targeted at assisting small and medium sized businesses.

(7) (a) The design of the CPRS reflects the Government’s best practice regulation principles in seeking to minimise compliance costs for business. The CPRS builds, where possible, on existing regulatory structures. Where new regulation is required for the introduction of the CPRS, it has been designed to impose minimal administrative costs.

(b) The CPRS will cover around 75 per cent of Australia’s emissions and involve mandatory obligations for around 1000 entities. The Government will be able to estimate the number of liable entities more accurately following receipt of data under the National Greenhouse and Energy Reporting Act 2007.

(8) At this stage the Government does not intend to amend the National Greenhouse and Energy Reporting Act 2007 to explicitly recognise mine owners as the facility operators (including having operational control) on mine sites. The flexibility to recognise mine owners as the liable entity on mine sites is available through the LTC provisions in the CPRS legislation as outlined in question one above.

(9) Entities are liable under the CPRS for facilities that meet or exceed an emissions threshold of 25,000 tonnes carbon dioxide equivalent. All activities at a facility are deliberately included in this threshold. If entities were allowed to differentiate between activities this would allow them to divide up emissions at a facility to fall beneath the threshold and therefore avoid liability under the CPRS.

(10) If a facility emits less than 25,000 tonnes carbon dioxide equivalent from the combustion of a single fuel, the entity with operational control will not be required to manage CPRS liabilities – these liabilities will be managed upstream by the fuel importer or distributor.

**Prime Minister: Advertising**

(6) **Senator Abetz** asked the Minister representing the Prime Minister, upon notice, on 12 May 2009:

With reference to the answer to question no. PM29a-1 taken on notice during the 2008-09 additional estimates hearings of the Finance and Public Administration Committee:

(1) Given that the answer provided for parts (a) to (e) on GM Holden using television footage of the Prime Minister at their Elizabeth factory in advertisements does not give the detail originally asked for:

(a) did the Prime Minister, his office or his department have any discussions with the Minister for Innovation, Industry, Science and Research, his office or his department regarding this footage being used; if so, can details be provided;

(b) did the Prime Minister, his office or his department have any discussions with GM Holden regarding this footage being used; if so, can details be provided;

(c) did the Prime Minister give approval for this footage to appear in the advertising; if so, when and to whom;

(d) did the Prime Minister’s office give approval for this footage to appear in the advertising; if so, when, by whom and to whom; and

(e) did the Prime Minister’s department give approval for this footage to appear in the advertising; if so, when and to whom.

(2) Given that the answer provided to parts (f) and (g) of the original question does not give the detail asked for:
(a) can details be provided of all instances a serving Prime Minister has appeared in the advertisements of commercial companies; and

(b) can details be provided of all instances of current Ministers appearing in the advertisements of commercial companies.

(3) Given that the answer provided to part (i) of the original question asked does not give the detail asked for, what make and model of car does the Prime Minister drive.

(4) Given that the answer provided to part (k) of the original question does not give the detail asked for, if such a request [to appear in advertising made by either Ford or Toyota] were to take place, and given that all Australian manufacturers and commercial operators are entitled to know whether or not the Prime Minister would agree to his image being used in similar circumstances as it was used for the Holden advertisement, would the Prime Minister agree to such a request.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) to (4) Please refer to the answer to PM29a-I taken on notice during the 2008-09 additional estimates hearing of the Finance and Public Administration Committee.