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FORTY-SECOND PARLIAMENT
FIRST SESSION—SIXTH 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
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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
Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion
Treasurer
Minister for Immigration and Citizenship and Leader of the Government in the Senate
Minister for Defence and Vice President of the Executive Council
Minister for Trade
Minister for Foreign Affairs and Deputy Leader of the House
Minister for Health and Ageing
Minister for Families, Housing, Community Services and Indigenous Affairs
Minister for Finance and Deregulation
Minister for Infrastructure, Transport, Regional Development and Local Government and Leader of the House
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate
Minister for Innovation, Industry, Science and Research
Minister for Climate Change and Water
Minister for the Environment, Heritage and the Arts Attorney-General
Cabinet Secretary, Special Minister of State and Manager of Government Business in the Senate
Minister for Agriculture, Fisheries and Forestry
Minister for Resources and Energy and Minister for Tourism
Minister for Financial Services, Superannuation and Corporate Law and Minister for Human Services

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

[The above ministers constitute the cabinet]
Minister for Veterans’ Affairs
Hon. Alan Griffin MP

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

Minister for Home Affairs
Hon. Brendan O’Connor MP

Minister for Indigenous Health, Rural and Regional Health and Regional Services Delivery
Hon. Warren Snowdon MP

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
Hon. Dr Craig Emerson MP

Assistant Treasurer
Senator Hon. Nick Sherry

Minister for Ageing
Hon. Justine Elliot MP

Minister for Early Childhood Education, Childcare and Youth and Minister for Sport
Hon. Kate Ellis MP

Minister for Defence Personnel, Materiel and Science and Minister Assisting the Minister for Climate Change
Hon. Greg Combet AM, MP

Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery
Senator Hon. Mark Arbib

Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government
Hon. Maxine McKew MP

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

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

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

Parliamentary Secretary for International Development Assistance
Hon. Bob McMullan MP

Parliamentary Secretary for Pacific Island Affairs
Hon. Duncan Kerr SC, MP

Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Trade
Hon. Anthony Byrne MP

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

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

Parliamentary Secretary for Employment
Hon. Jason Clare MP

Parliamentary Secretary for Health
Hon. Mark Butler MP

Parliamentary Secretary for Industry and Innovation
Hon. Richard Marles MP
**SHADOW MINISTRY**

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<td>Shadow Minister for Foreign Affairs and Deputy Leader of the Opposition</td>
<td>The Hon. Julie Bishop MP</td>
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<tr>
<td>Shadow Minister for Trade, Transport, Regional Development and Local Government and Leader of The Nationals</td>
<td>The Hon. Warren Truss MP</td>
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<td>Shadow Minister for Broadband, Communications and the Digital Economy and Leader of the Opposition in the Senate</td>
<td>Senator the Hon. Nick Minchin</td>
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<td>Shadow Minister for Innovation, Industry, Science and Research and Deputy Leader of the Opposition in the Senate</td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td>Shadow Treasurer</td>
<td>The Hon. Joe Hockey MP</td>
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<td>Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House</td>
<td>The Hon. Christopher Pyne MP</td>
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<tr>
<td>Shadow Minister for Infrastructure and COAG and Shadow Minister Assisting the Leader on Emissions Trading Design</td>
<td>The Hon. Andrew Robb AO, MP</td>
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<tr>
<td>Shadow Minister for Finance, Competition Policy and Deregulation</td>
<td>Senator the Hon. Helen Coonan</td>
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<td>Shadow Minister for Human Services and Deputy Leader of The Nationals</td>
<td>Senator the Hon. Nigel Scullion</td>
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<td>Shadow Minister for Energy and Resources</td>
<td>The Hon. Ian Macfarlane MP</td>
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<td>Shadow Minister for Families, Housing, Community Services and Indigenous Affairs</td>
<td>The Hon. Tony Abbott MP</td>
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<td>Shadow Special Minister of State and Shadow Cabinet Secretary</td>
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<td>Shadow Minister for Small Business, Independent Contractors, Tourism and the Arts</td>
<td>Mr Steven Ciobo</td>
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[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

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

Shadow Assistant Treasurer
The Hon. Tony Smith MP

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

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

Shadow Minister for Housing and Local Government
Mr Scott Morrison

Shadow Minister for Ageing
Mrs Margaret May MP

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

Shadow Minister for Veterans’ Affairs
Mrs Louise Markus MP

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

Shadow Minister for Justice and Customs
The Hon. Sussan Ley MP

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

Shadow Parliamentary Secretary for Northern Australia
Senator the Hon. Ian Macdonald

Shadow Parliamentary Secretary for Roads and Transport
Mr Don Randall MP

Shadow Parliamentary Secretary for Regional Development
Mr John Forrest MP

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

Shadow Parliamentary Secretary for Energy and Resources
Mr Barry Haase MP

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

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

Shadow Parliamentary Secretary for Health Administration
Senator Mathias Cormann

Shadow Parliamentary Secretary for Defence
The Hon. Peter Lindsay MP

Shadow Parliamentary Secretary for Education
Senator the Hon. Brett Mason

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

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

Shadow Parliamentary Secretary for Immigration and Citizenship and Shadow Parliamentary Secretary Assisting the Leader in the Senate
Senator Concetta Fierravanti-Wells
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Wednesday, 9 September 2009

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

PRIVILEGE

The PRESIDENT (9.31 am)—The Senate Legal and Constitutional Affairs References Committee has raised a matter of privilege under standing order 81. The matter is set out in a report by the committee to the Senate, which recommends that the matter be referred to the Privileges Committee.

The issue relates to the treatment of a witness before the committee in the course of its inquiry into access to justice. After she gave her evidence, the witness received a written warning of disciplinary action from her employer. The committee pointed out to the employer that threatening a witness with action as a result of the witness’s evidence constitutes interference with a witness and a possible contempt of the Senate. The employer subsequently withdrew the warning, but in correspondence with the committee appeared to reserve the right to discipline its employees in respect of evidence given to a Senate committee. The witness resigned from her employment and there is the possibility that she suffered loss of employment as a result of her evidence to the committee.

The Senate’s privilege resolution No. 6, in paragraphs (10) and (11), declares that any interference with a witness, and any imposition of a penalty on a witness, in consequence of the witness’s evidence, and any threat or attempt of such actions against a witness, may constitute a contempt of the Senate. Such treatment of a witness may also be a criminal offence under section 12 of the Parliamentary Privileges Act 1987.

The Senate Privileges Committee has declared in its past reports that interference with and penalisation of witnesses are the most serious of all contempts, and the committee and the Senate have always regarded such actions as requiring rigorous investigation and firm remedial action. The committee has pointed out that actions which are otherwise lawful, such as the dismissal of an employee, may constitute contempts when taken against a witness in consequence of the witness’s evidence.

The matter raised by the committee clearly meets the criteria I am required to consider. I therefore give precedence to a motion to refer the matter to the Privileges Committee.

I table the letter from the committee. Other relevant documents are included in the committee’s report.

A notice of motion may now be given.

Senator Barnett (Tasmania) (9.33 am)—I give notice that, on the next day of sitting, I shall move:

That the following matter be referred to the Committee of Privileges:

Having regard to the report of the Legal and Constitutional Affairs References Committee on a possible contempt in relation to a witness to the committee’s inquiry into access to justice, whether there was any interference with, or imposition of a penalty on, a witness before that committee, or any threat or attempt to carry out those acts, and whether any contempt was committed in that regard.

Senator Ferguson—Mr President, I rise on a point of order. For the past two mornings, at the commencement of our proceedings you have stood to make a statement in this chamber regarding a matter of privilege. I noticed that yesterday, while you were on your feet, a government minister walked over, talked to a colleague and walked out the door. Another senator walked up to the Clerk, asked questions and returned to their seat. If people read standing orders closely,
they will read that while you are on your feet you should be heard in silence and that senators should resume their seats. I think senators are getting rather lax when it comes to showing courtesy to the President when he is making a statement to the chamber.

The PRESIDENT—I hear your point of order, Senator Ferguson. I must admit that my eyes were firmly fixed on what I was reading, rather than on the activity in the chamber. I ask all senators to abide by the standing orders.

BUSINESS
Rearrangement

Senator FAULKNER (New South Wales—Minister for Defence) (9.35 am)—I move:

That government business notices of motion nos 1 to 3 standing in my name and in the name of the Special Minister of State (Senator Ludwig) for today, proposing the introduction of the Military Justice (Interim Measures) Bill (No. 1) 2009 and a related bill and relating to consideration of legislation, be postponed till a later hour.

Question agreed to.

HEALTH INSURANCE AMENDMENT (EXTENDED MEDICARE SAFETY NET) BILL 2009
Second Reading

Debate resumed from 20 August, on motion by Senator Wong:

That this bill be now read a second time, upon which Senator Cormann moved by way of amendment:

At the end of the motion, add “and further consideration of the bill be an order of the day for 3 sitting days after a draft of the final regulations and determinations relating to this bill are laid on the table”.

Senator FAULKNER (New South Wales—Minister for Defence) (9.35 am)—I table draft determinations and explanatory memoranda relating to the Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009.

Senator CORMANN (Western Australia) (9.36 am)—by leave—I just want to flag to the chamber that during the debate on the Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009 I will seek leave to make a statement on behalf of the opposition, given that the government has just tabled these regulations which were the subject of the second reading amendment which I moved when this bill was debated during the last sitting fortnight.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.37 am)—The extended Medicare safety net was introduced in 2004 as part of the Howard government’s MedicarePlus package. It was introduced to protect Australians from high out-of-pocket expenses for medical services provided out of hospital, particularly for those with complex, high healthcare needs. Under the current system, once a patient has reached the annual threshold, Medicare will pay 80 per cent of future out-of-pocket costs for out-of-hospital care. These thresholds are by no means low. As of 1 January 2009, patients must incur $1,111 before they will qualify for the Medicare safety net, and concession card holders or recipients of family tax benefit part A will only qualify after incurring $555 in out-of-pocket costs.

The Medicare safety net has provided much relief to many Australians, including many of our senior citizens. It is accessed by almost one million Australians each year and has succeeded in keeping medical bills at somewhat more manageable levels for many people. Importantly, the Medicare safety net is also a policy measure which until recently had attracted bipartisan support, and it was publicly supported by the Prime Minister in the lead-up to the 2007 election. In September 2007, Mr Rudd stated: ‘A Rudd Labor
government will retain the Medicare safety net, as Australian working families have come to rely on it for help with their family budgets. The health minister, Nicola Roxon, also confirmed this policy, stating:

We are setting out a comprehensive plan and the safety net is part of that plan that we are committed to and we will be running on for the election.

Isn’t it funny that now, not even two years after the election, the Rudd government is suddenly reneging on its core promise to keep the Medicare safety net roughly the same?

The changes contained in this bill, the Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009, have the same effect as putting a cap on key items under the Medicare safety net. This will have serious implications for thousands of Australians. In particular, this is destined to affect the most basic dream of many Australians: having a family. The government proposed changes to IVF that would see the cost involved in having children through IVF increase enormously. Under the changes they originally proposed to the safety net, mums and dads were to be out of pocket by about $3,000. This is hardly consistent with the Rudd government’s commitment to helping working families. If the government are willing to resort to taxing mums, they have clearly lost touch with Australians.

Infertility is a medical problem and it is the only medical problem where assistance is not available from a public hospital. Over 11,000 babies are born to Australian families each year through assisted reproductive treatments. That means that, on average, one child in every classroom around the country is now conceived through IVF. Doesn’t that just demonstrate how vital IVF is for families? The government’s budget proposal would have jeopardised those Australians who rely on this treatment to have children. This treatment is their only hope. Having children is the greatest blessing of life. It should not be reserved for only the rich. Birth rates are still below replacement levels and families who have children are actually helping Australia. We have an ageing population and that means we have a decreasing number of full-time workers to support our ageing population.

The government, however, wanted to take a short-term approach, making it less affordable to have children, without a single thought for the consequences that this might have had for the future. It was willing to shatter the dream of a family for many Australians without giving a thought to the consequences it would have had for our nation. Thankfully, the government have realised they need a more commonsense approach. The government, under pressure, have done a bit of a backflip, but are we sure that the changes they have made are in fact fair and reasonable?

As a result of the amendment flagged by Family First as well as the amendment put forward jointly by Family First, the coalition and Senator Xenophon, the government has backed down from its original proposal. Just like it had to do with the proposed changes to Youth Allowance and its plan to ban home births, the government has been forced into yet another embarrassing backflip. The government is getting so good at doing backflips maybe it should consider joining the Australian gymnastics team for the next Olympics. Perhaps if the Rudd government took a more conciliatory approach upfront, instead of arrogantly trying to steamroll bad policy through the Senate, it would not need to keep changing its policies on the run.

To be given only a few hours to consider the changes to the legislation shows a basic disregard for the Senate. We have had only a few short hours to look at the changes, which
shows a basic disregard for the Senate. We had a briefing this morning—and we are thankful for that—and we have asked the minister for a letter of assurance about the draft regulations for IVF, that they will remain the same for the rest of the government’s term. But we have had only a few short hours to actually see whether what they are saying about the impacts makes sense; are they fair and reasonable? It certainly shows a disregard for the Senate to put this before us at the last minute to see what they are proposing. Are there further unintended consequences in the changes to the regulations?

Family First believes a clever nation would make it easier for Australians to have kids, not harder.

Senator CORMANN (Western Australia) (9.43 am)—I seek leave to make a statement as part of the debate, given the government tabled the final draft of the regulations for this legislation in the Senate this morning.

Senator Carr—I seek advice from the senator: is this for a short statement; is it for a long statement? Is it to withdraw an amendment? For what purpose is he seeking to make a statement?

Senator CORMANN—The purpose is to explain the coalition’s position on the second reading amendment, given the government’s tabling of the final draft regulations that are the subject of the second reading amendment that is before the Senate.

Senator Carr—Are you seeking to make a short statement of five minutes?

Senator CORMANN—Five minutes is fine, yes.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Leave is granted for five minutes.

Senator CORMANN—Thank you, Madam Acting Deputy President. Firstly, the opposition welcomes the backflip by the government in relation to what was yet another ill-considered, ill-thought out budget measure in the health portfolio. What we had from the minister yesterday afternoon was a final draft of the regulations to this legislation which enshrine increases in a key Medicare rebate relating to IVF. It introduces new Medicare rebate items for IVF. It increases caps under the extended Medicare safety net arrangements for IVF. Yet the minister was also saying in her press release yesterday that the changes would not have any fiscal impact. She said:

The restructured items and caps achieve the same savings announced in the 2009-10 Budget ($451.6 million over 4 years).

Patients are better off and doctors are better off, but the government is telling us that there is no fiscal impact whatsoever.

The opposition is not prepared to take the government on trust on these revised measures. The minister entered into an agreement with stakeholders on Thursday last week and it took them until yesterday afternoon to table the final draft of the regulations in the House of Representatives, and they tabled them in the Senate this morning. After the regulations were tabled in the House of Representatives yesterday afternoon the opposition sought a briefing last night, essentially to seek some reassurance as to whether the figures actually add up. Is it possible that doctors and patients can be better off to the tune, we believe, of about $1,000 per IVF procedure yet there will be no impact on the budget bottom line?

This morning we received that briefing and we asked very specific questions. The department told us that they would be increasing the Medicare rebate for the first IVF cycle by $1,100, for the second and subsequent cycles by $900. We asked the very specific question: what is going to be the
impact of that in terms of additional expenditure by the Commonwealth? The departmental officials said: ‘We haven’t got that information. We were asked to come here at the last minute. We were asked last night to provide you with a briefing this morning.’ The reason we were only able to ask the department to provide a briefing for us last night is that the minister waited until yesterday afternoon to table the final draft of the regulations. Very sensibly, Senator Fielding, Senator Xenophon and the coalition moved the second reading amendment when this legislation was being debated during the last sitting fortnight. In part it said:

... and further consideration of the bill be an order of the day for three sitting days after a draft of the final regulations and determinations relating to this bill are laid on the table.

That has happened in the Senate today and it happened in the House of Representatives yesterday. But we do not think that the figures add up. We welcome the government’s backflip. We welcome the fact that families seeking access to IVF treatment will be better off. But we want to get some more detail from the government and we think that it is quite reasonable for the Senate to be able to spend those three days properly scrutinising the impact of what the government announced as late as yesterday afternoon.

Industry stakeholders are quite happy with the deal that they were able to reach with the government on Thursday. They were not happy with what came out of the budget last year, so if they are now happy there must have been some improvement. How is it, if there is some improvement, that there is supposed to be no impact on the bottom line? Industry stakeholders tell us that there are about 20,000 couples who would access 2½ cycles each on average and all of them are going to be $1,000 per procedure better off. Quick maths on the back of an envelope indicate that if 20,000 women are able to access IVF and are $1,000 better off per procedure and will access on average 2½ procedures each, that is about $50 million in additional expenditure per annum.

The government tells us, ‘Well, we can offset some savings in another Medicare item number.’ We asked the questions: ‘How much are those savings? How many procedures do you expect to be accessed on the item number where there is a saving?’ ‘We have not got that information,’ was the answer we were given. To cut a long story short, the minister initially introduced a budget measure that was going to hurt families requiring access to IVF. She was forced to go back to the drawing board by the actions of the Senate. She has left it until the last minute to put forward the final draft of the regulations which we demanded during the last sitting fortnight. We are now given a couple of minutes to deal with it. (Time expired)

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.50 am)—I thank senators for their contribution on the debate on the Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009. This bill amends the Health Insurance Act 1973 to enable the Minister for Health and Ageing to determine by a legislative instrument the maximum benefit payable under the extended Medicare safety net for each Medicare benefits schedule item.

I note that this bill was considered by the Senate Community Affairs Legislation Committee, which recommended that the bill be passed. Firstly, I think it is important to highlight that all services that are currently covered by—and we will use the acronym—EMSN will remain covered. All patients will still be able to receive the standard Medicare rebate for all Medicare services, and of course all people will still be eligible for the EMSN benefits. There will be no age restric-
tion on accessing IVF services nor will there be a restriction on the number of treatment cycles that a patient can receive. And contrary to some media reports leading up to the budget, no cancer services are affected by these changes.

Caps are being placed on some Medicare items to discourage doctors from charging excessive fees for these Medicare services. This directly responds to issues that were highlighted in the Extended Medicare safety net: review report 2009. The current nature of the safety net means that doctors feel a little pressure to moderate their fees. The report noted some significant findings. For example, the fees charged by obstetricians for out-of-hospital services increased by 267 per cent between 2003 and 2008. The fees charged for ART services have also increased significantly, with the report noting that fees charged out of hospital increased in the order of 62 per cent. These increases are over and above inflation and well in excess of the increases in the fees charged for other services. If this trend continues, many services will become unaffordable, even with the assistance of the extended Medicare safety net.

The report identified areas where there were large increases in the fees charged for a service where the majority of the EMSN benefit was going to doctors rather than helping patients or had a very high safety net benefit per service. The new caps will apply in these areas: obstetrics; assisted reproductive technology, including IVF; hair implantation; the injection of a therapeutic substance into an eye; one type of cataract operation; and, one type of varicose vein treatment. The committee also suggested that there should have been additional consultation on the development of the bill. I note that there have been detailed discussions with the medical profession over the last five years and the medical profession itself has acknowledged that the fees charged by doctors have increased unreasonably in some areas and that this was a result of the safety net. Of course, some doctors also recommended that caps or upper limits be placed on the amount of funding provided through the safety net for some services.

It is also worth noting that the Australian Greens suggested that the bill be amended to include a review to be tabled in parliament no later than 1 July 2011. We will continue to closely monitor the effects of the extended Medicare safety net, but do not believe a review after one full year of these changes will provide a reasonable analysis of the impact of the bill. The opposition, Senator Fielding and Senator Xenophon have moved an amendment to delay consideration of this bill until after the final draft regulations are tabled.

In relation to IVF, the model is clear. Currently, a typical IVF cycle costs around $6,000, yet there are doctors who charge in excess of $10,000 per cycle. The patients of specialists who charge $6,000 or less for a typical IVF cycle will not be worse off under these changes. Today, on the day of introduction in the house, the minister tabled the draft regulations. At that time the minister also indicated that we would be working with the profession and consumers to restructure the IVF items to better reflect modern practice.

I advise the Senate that the new item structure for ART services has now been finalised. The new structure better reflects modern clinical practice and will benefit patients as it redirects benefits to the more technical and expensive services through a reduction in its outlay for treatment cycles that are not completed. From 1 January 2010, ART patients receiving a typical cycle of ART treatment will receive a much higher standard rebate for the service. This will benefit all patients, not just those who qualify for the extended Medicare safety net.
benefits. Importantly, the new structure shows that patients charged at the average and median fees for a typical cycle will not be worse off as a result of this measure. In fact, many patients will receive higher Medicare rebates. This measure will still result in the same level of savings as announced in the 2009-10 budget.

The opposition treasury spokesperson clearly stated at the Press Club on 20 May: We’ve said we’re not going to block any initiative other than private health insurance. That’s our position, we’re not changing from it.

So we expect the opposition will support the sensible measure that creates a mechanism for the government to responsibly manage expenditure on the extended Medicare safety net. With expenditure on the EMSN in 2008 being $414 million—a 30 per cent increase on 2007—these changes are necessary to assist in keeping the safety net sustainable and providing a continuing benefit for patients. I commend the bill to the Senate.

Question put:
That the amendment (Senator Cormann’s) be agreed to.

The Senate divided. [10.01 am]
(The President—Senator the Hon. JJ Hogg)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>41</th>
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<tbody>
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<td>Noes</td>
<td>29</td>
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<tr>
<td>Majority</td>
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AYES
Abetz, E.  Adams, J.  Kroger, H.
Bernardi, C.  Birmingham, S.  McGauran, J.J.J.
Boswell, R.L.D.  Brown, B.J.  Minchin, N.H.
Bushby, D.C.  Cash, M.C.  Parry, S. *
Colbeck, R.  Coonan, H.L.  Ronaldson, M.
Cormann, M.H.P.  Eggleston, A.  Scullion, N.G.
Ferguson, A.B.  Fielding, S.  Troeth, J.M.
Fifield, M.P.  Fisher, M.J.  Williams, J.R.
Hanson-Young, S.C.  Heffernan, W.  Xenophon, N.
Humphries, G.  Johnston, D.
Joyce, B.  

NOES
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.  
Forshaw, M.G.  Furner, M.L.  
Hogg, J.J.  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. *  
Polley, H.  Pratt, L.C.  
Stephens, U.  Sterle, G.  
Wortley, D.  

PAIRS
Boyce, S.  Wong, P.  
Brandis, G.H.  Sherry, N.J.  
Ferravanti-Wells, C.  Evans, C.V.  
* denotes teller

Question agreed to.
Original question, as amended, agreed to.
Bill read a second time.

INTERNATIONAL MONETARY AGREEMENTS AMENDMENT BILL 2009

Second Reading
Debate resumed from 8 September, on motion by Senator Carr:
That this bill be now read a second time.

Senator COONAN (New South Wales) (10.06 am)—I rise to speak in response to the proposed International Monetary Agreements Amendment Bill 2009 and indicate that the coalition will be supporting this bill.
It proposes to amend the International Monetary Agreements Act 1947 so that the process for Australian acceptance of amendments to the articles of agreement of the International Monetary Fund, the IMF, and the International Bank for Reconstruction and Development, the IBRD, is simplified.

At present, when an amendment to the articles of agreement is agreed to by the IMF or the IBRD an amendment of the IMA Act is required to change the schedules to reflect the new articles of agreement. This bill proposes to alter the definition of ‘articles of agreement’ in the International Monetary Agreements Act to include any amendments that enter into force for Australia, without the need for further legislation to amend the act. This will not have any financial impact. In our view, it makes a great deal of common sense for this action to be taken because it will allow governance changes approved by the IMF and the IBRD to be accepted by Australia without an amending bill having to pass through parliament. An example of the benefit of this in action is the speedy approval of the new funding model for the IMF. The current financial crisis is an example in point. It has only served to highlight the need to respond very quickly to changes introduced by these global bodies. Expediting Australia’s formal acceptance of amendments to the IMF and IBRD agreements will ensure that we continue to work together with these bodies in a seamless manner.

I am aware that there is some force to the concern that this bill will undermine parliamentary democracy and national sovereignty by allowing legislative changes to occur without reference to parliament. That is a very reasonable apprehension on the part of certain persons. But we must also acknowledge that there are already similar provisions in place that allow updates to international treaties to which Australia is a party, and it is this latter category that makes the coalition confident that this is an appropriate way to deal with this bill. In addition, as the IMF and IBRD agreements are international treaties, amendments to the agreements will still be tabled in parliament and considered by the Joint Standing Committee on Treaties, so there will be an opportunity for particular concerns to be raised and for there to be both scrutiny and, potentially, review. Also, if there are any funding requirements arising from amendments to the IMF or IBRD agreements, they will still be dealt with through an appropriation bill, ensuring that nothing will slip through the cracks.

We in the coalition support the role the International Monetary Fund and the International Bank for Reconstruction and Development play in assisting and supporting global financial stability, particularly in times such as those we have now encountered and, in some views, are still encountering as the global downturn works its way through. We also acknowledge the need for swift reaction to enable the full potential of the powers and authority of these important international bodies to be realised and activated when required. For those reasons we support the bill as drafted and commend it to the Senate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.10 am)—The Greens have concerns with the International Monetary Agreements Amendment Bill 2009. We have a long-held and very public interest in the International Monetary Fund and the World Bank, because we believe that the track record of both these organisations leaves a lot to be desired. We are very aware that the United States, for example, has had an extraordinary and untoward influence on the boards of both organisations and therefore the outcomes. We are also very aware that the true interests of not just the developing countries but the poorer people in the world, not least those one bil-
lion people living in great poverty, have been set aside to the interests of both the wealthy developed nations and very often the already wealthy minority in countries that are developing.

This bill will amend the International Monetary Agreements Act 1947 to introduce a range of recent changes to the articles of agreement of the International Monetary Fund and the World Bank and to simplify the legal process for Australia to accept future agreed amendments. The articles of agreement are the treaties that set out the obligations of members to both organisations. They cover issues like funding governance and voting rights. Currently, a legislative amendment is required to incorporate into Australian law any changes to the agreements. This bill will allow future changes to International Monetary Fund or World Bank articles to be automatically enacted for Australia once they come into force in either of those organisations. This will be achieved by updating the schedules of the International Monetary Agreements Act that set out the current versions of the articles of agreement of the fund and the bank.

The government is of course arguing that this will be an improvement because the current legislative process is largely administrative and because the Treasurer, as Australia’s representative on the fund or bank, is required to vote on any proposed changes of their institution. The agreements that will form schedules to our Australian International Monetary Agreements Act will still be tabled in parliament by the Joint Standing Committee on Treaties. That is the point: the problem here is that this is a transfer of power from the parliament to the executive, in particular from parliament to the Treasurer. I am surprised that the coalition thinks that that is a good thing. The Greens do not agree. We believe that parliament should be taking a very close interest in the World Bank and the International Monetary Fund and should be able to look at any changes to the operations of those organisations and to go beyond that and be able to respond to those changes in a way that draws our attention to them beyond just tableing changes that the Treasurer of the day has agreed to.

We know that the Treasurer is not the fount of all wisdom, and we know that the Australian parliament will have a diversity of views on the behaviour and processes of and the delivery of policy by both these international monetary and banking organisations and on the outcomes that they deliver. One only has to look at the so-called Asian meltdown of the late 1990s and the intervention of the International Monetary Fund and the World Bank at that time to see that there is a lot to be desired in the performance of these organisations.

The immediate use of this bill will be to bring into Australian law the changes that have been flagged by the G20 deliberations. These reforms are aimed at increasing developing country participation in the two organisations, and we support that, and at reforming the finance model for the International Monetary Fund. We support those changes, because the international organisations have been dominated by richer countries, as I have said. Some redress of that is a good thing. The decision by the IMF board of governors to expand the investment mandate of the International Monetary Fund will allow diversification of income away from lending activities.

The bill will increase the relative power of the executive at the expense of the parliament. The Australian Greens are not going to support such a transfer of authority, responsibility and responsiveness to international organisations, to which Australia pays a lot of money and which have a major impact on the way the world works, away from the par-
parliament into the hands of not just the executive—it is much tighter than that—but the Treasurer of the day. That is bad process. It is antidemocratic in its nature. It is once again shedding the responsibility of this parliament and its collective wisdom to give that to an executive authority. And it goes back further than that. The Treasurer sits on the boards of these organisations. These deliberations occur in Europe or North America, in the main, and are dominated by international monetary organisations. We need to be able to check those. So we will not be supporting this piece of legislation.

It is high time that the parliament took a greater role in Australia’s representation and deliberations through the World Bank and the International Monetary Fund. We ought to have from the Treasurer a much better system of reporting back to the Australian parliament. We are not going to support a process which duds the Senate and the House of Representatives, which, without reflecting upon it, under our single voting system becomes effectively a rubber stamp for the executive of the day. What we are seeing here is part of the rapid process begun under the Howard government now being carried through by the Rudd government of transferring the long-held responsibilities of the parliament into the grasp of the executive. It is an unhealthy process. The big parties might support it, and indeed both of them are the architects of it; but the Greens have a greater respect for this parliament and for the democratic responsibility which we ought to be upholding and expanding, not reducing in this fashion.

I reiterate that the International Monetary Fund and the World Bank and changes to their agreements are part of the emerging global governance which does not have a democratic base. I moved in this chamber in 2002 that we look at the establishment of a global parliament based on one person, one vote, one value, to deal with international issues—not to cut across domestic responsibilities but to deal with international issues. I cite the one trillion dollars spent this year on armaments, of which the United States is the biggest beneficiary, as one of those international issues. Democracy would give us the ability to do better than that. Just a few per cent of that spending would give every child on the planet a school to go to, clean water to drink and food for her or his belly. We have to do better in the field of global governance.

The World Bank and the International Monetary Fund, granted that they have some marvellous officers working within their ranks and some highly motivated people, have nevertheless a record that leaves a lot to be desired. I only have to point to their serial support for massive dams around the world, which lead to the displacement of indigenous people and the destruction of very variable ecosystems and cultural sites, to show that they are not at all strong on governance when it gets down to a local level. Whether you are looking at the local level, or you are going through to the international level, we should be striving for greater democracy, not less democracy. This bill is antidemocratic in its nature. The Australian Greens will not support a bill that effectively says that this parliament will be a rubberstamp to the Treasurer of the day and that gives him or her the ability to fall in line with an agreement struck at an unreported meeting somewhere in the Northern Hemisphere that affects taxpayers’ money in this country and outcomes for the rest of the world.

As I have just explained, the Greens are very strongly in favour of democracy at all levels, not least at the international level. We need the emergence of a much greater democratic system on this globe if the world is going to find a peaceful way forward in an age that is fraught with massive new technologies and not a closure but a growing dis-
parity between the very small numbers of megarich on the planet and the very large numbers of poor people. Let me cite one current case which we do not read about in our media: there are four million people currently facing starvation in northern Kenya due to drought and climate change, with the United Nations having only a quarter of the money that is urgently needed to facilitate the saving of those people, let alone to give them a fulfilling life in the future. Where is the International Monetary Fund and World Bank’s trajectory in dealing with climate change? Where is their trajectory in ensuring that the megadevelopments that they get involved in are not inimical to the best interests of people in long-term outcomes and climate change? Where is the Treasurer’s report back to this parliament on that? We do not have it. We are not about to support this bill transferring parliament out of this chamber and into the hands of the Treasurer, and I am surprised that the opposition is going along with this government move.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (10.23 am)—I thank those honourable senators who have taken part in the debate today on the International Monetary Agreements Amendment Bill 2009. The purpose of this bill is to simplify the process through which Australia, in domestic legislation, comes to reflect agreed amendments to the articles of agreement of the International Monetary Fund and the International Bank for Reconstruction and Development, commonly known as the World Bank. The purpose of this bill is to simplify the process through which Australia, in domestic legislation, comes to reflect agreed amendments to the articles of agreement of the International Monetary Fund and the International Bank for Reconstruction and Development, commonly known as the World Bank. The International Monetary Agreements Act 1947 established Australia’s membership of the IMF and the World Bank. The articles of agreement of the fund and bank are schedules to the act.

This bill proposes to alter the definitions of the IMF articles of agreement and the World Bank articles of agreement to automatically reflect amendments to the articles that enter into force for Australia without the need for further legislative changes. Similar provisions are commonly used in Australian legislation to allow updates to international treaties to which Australia is party. Currently, an IMA amendment act is required each time there is an amendment to the fund or bank articles of agreement. However, this legislative process is largely administrative, simply aligning the legislation with Australia’s treaty obligations once these obligations enter into force for all IMF or World Bank members, including Australia.

All proposed amendments to the articles of agreement are required to go through rigorous approval processes both at the institutions and in Australia. The Treasurer, as Australia’s governor of the IMF and World Bank, is required to vote on any proposed amendments to the articles of agreement. For the amendment to enter into force, three-fifths of all members of the IMF or World Bank—85 per cent of the total voting power—must accept the amendment. If accepted, the amendment enters into force for all IMF or World Bank members, whether or not a particular member has accepted it. The articles of agreement constitute international treaties for Australia and as such, irrespective of the requirement for legislation, any amendments to the treaties will be subject to Australia’s treaty processes and still require tabling in parliament and consideration by the Joint Standing Committee on Treaties.

The bill will not reduce parliamentary scrutiny in any meaningful sense. Under current legislative arrangements, if parliament did nothing or disagreed with proposed changes to the articles, the changes would nevertheless come into force for Australia with effect from the date that they entered into force for all IMF or World Bank members. The result would be a confusing gap between Australia’s legislation and Austra-
lia’s treaty obligations. The bill provides for updating of the IMA Act only with effect from the date that the amended treaty obligations become binding on Australia, not earlier. The real parliamentary scrutiny—the substantive scrutiny—will continue to be provided by the JSCOT process.

While the bill is of general application to all future amendments to the IMF and World Bank articles of agreement, three amendments to the IMF and World Bank articles of agreement will be reflected in the IMA Act. These amendments will implement governance and financial reforms that were approved by the IMF and World Bank boards of governors in April-May 2008 and January 2009. The reforms aim to enhance the voice and participation of developing countries in the two institutions and support a new income model for the fund, aimed at providing it with a more robust, stable and sustainable income base into the future.

As the governor for Australia of the IMF and World Bank, the Treasurer voted in favour of each of these proposed amendments. Australia has a significant interest in seeing these reforms implemented, as they will enhance the effectiveness and legitimacy of both institutions and support the robust, stable and sustainable financial position of the fund into the future. A national interest analysis was tabled in parliament on 20 August 2009 outlining these proposed amendments for scrutiny by the Joint Standing Committee on Treaties. The bill does not alter the way in which Australia’s financial relationships with the IMF and World Bank are conducted.

Reform of the international financial institutions has been a key priority for G20 leaders, finance ministers and central bank governors to help deal with the current global crisis and to prevent any future crisis. The bill will help Australia deliver on commitments made by G20 leaders at their meeting in London on 2 April. The G20 is also seeking further reform of the IMF and World Bank, and this is likely to require further amendments to their articles of agreement. The bill provides flexibility to ensure that future amendments may be reflected in the IMA Act in an efficient and timely way, minimising the administrative burden while maintaining policy and parliamentary oversight.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.29 am)—by leave—I ask that the opposition of the Greens to the third reading be recorded.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Yes, that will be done.

THERAPEUTIC GOODS AMENDMENT (2009 MEASURES No. 2) BILL 2009

Second Reading

Debate resumed from 20 August, on motion by Senator Wong:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (10.29 am)—On behalf of the opposition I will make a reasonably short contribution to indicate that the opposition supports the Therapeutic Goods Amendment (2009 Measures No. 2) Bill 2009 as a non-controversial bill. Our attitude to this bill is similar to previous TGA bills we debated in recent times. It continues the reforms which were commenced under the Howard government and which were delayed by the withdrawal of New Zealand from the development of a joint regulatory arrangement in 2007.
We support the ongoing streamlining and improvement of the regulatory processes surrounding the TGA, which is of course one of the important pillars of our healthcare system. There has been general support for the principles underlying this bill; however, there has been some significant concern—and this has been a consistent theme coming through in relation to these TGA bills—about the lack of quality in terms of the consultation processes. We really do urge the government to take heed of this. We know that they have given some assurances that there will be further and ongoing consultation as these measures are implemented.

This bill will do a number of things. It will separate the scheduling of medicines from the scheduling of poisons. It will give the secretary of the health department the power to preclude certain uses for medical devices on the Australian Register of Therapeutic Goods. There is a series of other amendments, which include provisions for greater consultation with the Gene Technology Regulator on genetically modified organisms and various changes to offence provisions. And, of course, there are some provisions empowering the Minister for Health and Ageing to specify advisory statements on specific medicines.

The opposition flags that we have had discussions with Senator Xenophon, who has circulated a series of amendments. We will not be supporting the amendments in relation to consultation and changes to the medicines scheduling committee. However, the opposition will be supporting a proposal to conduct a review of the operation of this bill at a time to be specified in Senator Xenophon’s amendment. So, as I said before, we consider this to be largely a very non-controversial bill. It is part of ongoing reforms that have been taking place for some time. We urge the government to make a serious effort to improve the quality of the consultation that takes place around measures like this. That is an issue that was also picked up by the Senate community affairs committee in their report. So, with those few remarks I indicate the opposition’s support for this bill. (Quorum formed)

Senator SIEWERT (Western Australia) (10.35 am)—The Australian Greens agree in principle to the Therapeutic Goods Amendment (2009 Measures No. 2) Bill 2009, which amends the Therapeutic Goods Act of 1989. The issue of separating scheduling arrangements for medicines and chemicals is something that goes back, as we understand it, to 2001, when the Australian Health Ministers Conference commissioned the Galbally review. Then we had an advisory committee working group in 2003. In 2007 we saw the abandonment of the Australia-New Zealand transnational authority. Now, some eight years later, we have an Australia-only initiative.

Australia’s natural healthcare industry is worth billions of dollars and we need to make sure that we have appropriate regulation in place. More than 70 per cent of Australians under 35 use complementary health-care products and a quarter of the population visit complementary healthcare practitioners each year. Consumers increasingly demand greater choice when it comes to healthcare and they are increasingly seeking better quality of the products and assurances of safety.

Complementary health-care products have an important role to play in our preventative healthcare approach to maintaining healthier lives by combining traditional and alternative therapies within healthcare programs. The Greens are very supportive of this approach. This has resulted in the wide use of supplements, traditional remedies and other natural healthcare products. The Australian natural healthcare industry is integrated into our national health system. There are more than
17,000 products—including vitamins, minerals and herbs, as well as aromatherapy and homeopathic supplements. These contain around 2,200 active ingredients that are listed by the Australian government’s industry regulator, the Therapeutic Goods Administration—or, as it is commonly known, the TGA. The natural healthcare industry is no longer just the preserve of small, independent stakeholders. It is a growing industry with big business involvement and, as I said earlier, it is worth billions of dollars around the globe.

The Therapeutic Goods Amendment Bill proposes to change arrangements for the scheduling of medicines and chemicals. It gives more discretionary power to the Secretary of the Department of Health and Ageing to declare the purpose for which particular kinds of medical devices cannot be included in the Australian Register of Therapeutic Goods. Purposes will be precluded where such a use would pose a risk to public health or where it would otherwise be inappropriate. The Productivity Commission has advised that these new arrangements should be implemented as soon as possible. These arrangements will provide greater clarity and opportunity for individuals to make applications to the department to seek amendment to the scheduling of a substance. The secretary will be able to seek advice from a member of the committee or from another person, such as a recognised international expert, if that will be useful. This is important and will need to be monitored to address concerns that have been raised by stakeholders about identifying expertise when it comes to understanding complementary medicines. We need to make sure that this is implemented effectively.

A Senate inquiry into the bill was conducted by the Community Affairs Legislation Committee over a relatively short period of time. Nonetheless, it was effective in delivering useful advice from the community and from experts on this legislation. The report called on the Minister for Health and Ageing, Minister Roxon, and her department:

… to work constructively together through a number of areas where industry raised concerns, and which will be the subject of legislative instruments, including membership and expertise on the Scheduling Committees, chemicals scheduling, appeal and review of decisions by the Secretary, cost recovery and the publication of advisory statements.

The Greens share the concerns of Senator Xenophon—and I know he will speak shortly—and support some of the amendments he has circulated. Particularly, we think it is important to have an independent review because, as I said, the community raises concerns about these issues and there should be a process to make sure that the changes are proving effective and efficient.

The Greens have consistently called for more transparency in advertising. We believe that the health industry needs to provide more reliable information around safety, efficiency and effectiveness. Consumers need to feel they can trust what they are being told about health products—that is, whether they are the more commercial and traditional medicines or complementary medicines. The health reform agenda has identified a key role for personal responsibility and the government needs to play its part to ensure that standards are set for the evidence for health product claims being presented to consumers.

The Community Affairs Legislation Committee heard from all sectors of the industry that had raised issues with the Department of Health and Ageing about their approach to consultation. It was not that there had been a lack of consultation; rather it was that it lacked meaningful feedback to explain why decisions had been reached and whether their proposals had been considered.
and rejected or simply ignored. The process of consultation had improved considerably, but stakeholders still felt that there was not adequate feedback. Stakeholders emphasised their willingness to engage and work with the department to ensure the best possible outcomes not just for these scheduling arrangements but for the regulation of therapeutic products, medicines and chemicals in general. I must say I was pleasantly surprised at the inquiry, where people were genuinely supportive of these amendments. There were some concerns raised, which I am articulating now, but they were in general fairly supportive of these arrangements and sought to—rather than oppose—seek clarification and amendment. Given that there has been consultation, I think it is good process to provide feedback on the reasons decisions were made. People may still disagree with those decisions, but at least they will have an understanding of where the government is coming from. We believe this will enhance cooperation between the industry, stakeholders and the government.

Currently, Australia has a variety of complex and convoluted coregulatory systems to control unethical therapeutic claims and promotional practices depending upon the type of product and the media in which claims are made. It can be confusing. There are different standards and gross inconsistencies between various codes of conduct, complaint processes, timeliness, transparency, sanctions, monitoring and effectiveness. This bill goes some way to clarifying what is meant by inappropriate advertising of therapeutic goods to ensure that appropriate, consistent and accurate information is provided to the public. It also improves transparency around the requirements for advisory statements on medicine labels by empowering the minister to specify them in a legislative instrument. These statements will assist consumers in choosing the most appropriate medicines and using them safely and effectively, as the medicines these statements apply to are generally those that individuals choose themselves or choose with some assistance from a pharmacist. It is particularly important that these statements are made, because then the medicines can be used effectively. When you use prescription medicines, a medical practitioner tells you how to use the them. I acknowledge that people do not always use them in the way that has been prescribed, but there is some advice. When you select them yourself, it is an individual choice so you need to be provided with adequate information with which to make choices.

This bill avoids the need for new state and territory legislation, and the Greens welcome this. The creation of a separate legislative approach to underpin chemicals scheduling would entail significant delays in achieving a separation of chemicals scheduling from medicines scheduling. Both medicines and chemicals committees would be responsible for amending the same legislative instrument, the Poisons Standard. The Greens acknowledge the difficulties this would present, with two acts having responsibility and control over the same instrument. This issue was raised during the Senate inquiry. However, the arrangements put in place for the scheduling of chemicals should be seen, we believe, as interim steps that are subject to review after two years, as recommended by the Productivity Commission in its 2008 chemicals and plastics regulation research project. These interim measures should eventually be replaced by more appropriate federally controlled arrangements outside the control of the Therapeutic Goods Administration.

The Greens support the conclusion in the report of the Senate Standing Committee on Community Affairs that the government
should commit to further consultation with the industry in ‘a renewed sprit of openness and cooperation that will provide meaningful feedback … to ensure that the new system … is totally transparent and accountable’. Simply put, we believe health risk should be reduced and that this legislation improves public health outcomes for the nation as a whole and provides an appropriate form of regulation for complementary medicines, subject to the comments we have made. We are pleased to see the approach that has been taken on this. There are still some issues that we think need to be dealt with in the future but it is certainly a step in the right direction.

Senator XENOPHON (South Australia) (10.46 am)—When people think of medicine they may think of a chemist or a prescription. This debate might benefit from considering a broader definition of medicine, because the reality is the Australian people already do. Two-thirds of Australia’s adult population use at least one complementary medicine product each year and more than $2 billion is spent on complementary medicines annually. Yet, despite its increasing acceptance and use, the debate between conventional and complementary healthcare options continues amongst both experts and members of the public.

Personally, I see an acupuncturist as often as I see a medically trained doctor, and I visit my chemist for herbal supplements at the same time that I pick up my prescriptions. There is no question that public health and safety is paramount and that the regulation of all products and substances is crucial to ensure the health of all consumers. That must always be the fundamental, non-negotiable benchmark. No-one is questioning the need for appropriate scrutiny of health products, but should we be overregulating an industry to the extent that we cause it economic harm?

On the whole, complementary medicines stakeholders are supportive of the Therapeutic Goods Amendment (2009 Measures No. 2) Bill 2009. The Complementary Healthcare Council of Australia says that these amendments are long overdue and commends the government for progressing such changes. Similarly, the Australian Self Medication Industry says that the bill represents some important progress and offers its support. Among its measures, this bill will see two separate committees: one for the scheduling for medicines and one for poisons. It will require advisory statements to be included on labelling, where needed, to inform consumers and to raise awareness about the products. That is, of course, welcomed. These are positive changes to the legislation which will ensure the health and safety of the public. I commend the government for introducing these changes.

However, there remain concerns across the board about the lack of consultation that has taken place in the development of this bill and also the Therapeutic Goods Amendment (2009 Measures No. 1) Bill 2009, which was passed three weeks ago and to which I also spoke. It is fair to say that the complementary healthcare industry is worried about what consultation will or will not take place moving forward, given their concerns of exclusion so far. I understand that the measures of this bill will not commence until mid next year and that certain regulations and guidelines, particularly in regard to the advisory committee process, will be developed by the end of this year.

It is during the development of these regulations that representatives from the complementary medicines industry should be guaranteed adequate and thorough consultation for two reasons. Firstly, knowledge of complementary medicinal practices is very specific. Alan Stubenrauch, the federal vice president of the Complementary Medical
Association, wrote a letter to me in which he said, ‘Matters as complex and unique as complementary medicines do need the attention of people who are well versed and informed in their uses, benefits and contraindications.’ Secondly, the proposed amendments affect their industry and it seems only fair that they are allowed to have an input into these changes. It is also disappointing to hear from the Complementary Healthcare Council that, despite the promise to them of an independent review of the industry as a whole before changes were to be made, legislation is being put forward on what they consider to be a piecemeal basis and without any discussion as to what it might mean for the complementary medicines industry in the long term. Having said that, I have been grateful and pleased with the discussions I have had with the government, particularly with Mr Butler, who has the carriage of this in the other place, and his office. It has been a very useful exercise and I have taken some comfort from that, but I think the concerns of the complementary health industry are valid and need to be addressed.

As such, I will be moving amendments to this bill which will require guaranteed consultation with industry stakeholders during the development of the regulations around the new advisory committee on medicine scheduling later this year. Another issue that has been brought to my attention by concerned members of the complementary medicines industry is that there remains no provision for representation on the advisory committee. While I appreciate that the experts assigned to these committees are experts in science—and it is entirely appropriate that they are on the committee—it would also be logical and fair that someone with expertise in the field traditional medicine is also given a role on the committee, particularly when determining the scheduling of complementary medicine substances.

In its submission to the Senate committee, the Complementary Healthcare Council stated:

Complementary medicines have various paradigms, (e.g. differing uses and methods of manufacturing) and these should be taken into consideration when assessing and evaluating such substances.

As I have already stated, two-thirds of Australian adults consume or partake in some form of alternative therapy or complementary medicine each year. We need to address the opportunity that complementary medicine providers have for decisions to be reviewed by an independent body. Under the proposed changes the TGA secretary will, upon the advice of the advisory committee, make a decision about the scheduling of a substance and/or product. The Managing Director of Regulatory Solutions Pty Ltd, Doug Kentwell, understands that ‘the decision to amend a scheduling will rest with an officer of the Therapeutic Goods Administration, who can either accept, reject or vary a recommendation of the advisory committee’.

When I met with Mr Kentwell recently, he expressed his concern that, regardless of what the advisory committee decides, the decision ultimately will rest with a single member of the TGA. Following this, should a decision be contested, it is referred back to the TGA for review by a second person who was not involved in the initial decision-making process. The fact remains that the decision rests within the TGA. This concerns those who work in the complementary medicines industry, who feel that their case that is not always heard and that their concerns are not always listened to. There is no doubt that public health and safety is absolutely paramount, but, at the same time, we must be conscious not to restrict an alternative by putting regulations on industry that could seriously affect its viability without in any
way advancing the fundamental issue of health and safety.

Val Johanson, Principal Consultant of Johanson and Associates Consulting and a former executive director of the Complementary Healthcare Council, writes:

The original intent of the regulation of natural health care products in Australia was to provide a risk based system of control over the safety and quality of these products—a light touch approach that reflects their very low risk. The ongoing evolution and implementation of the Australian regulatory system has resulted in an industry that is hamstrung and hobbled by inappropriate and excessive regulation and escalating costs and a market that lacks innovation and precludes consumers from freedom of choice for their own health care and access to new, effective low-risk products.

The emphasis there is on risk—that there must not be any risk to consumers in the context of this, or with any medicines. But it is important that there is not unnecessary regulation that does not advance the issue of public health and safety but merely hampers and hobbles an industry unnecessarily, without good reason. Freedom of choice combined with assurances of safety is what it comes down to—providing Australians with safe health options from both conventional and other sources.

I believe it is crucial that we address the concerns not only of stakeholders from conventional medicine but of representatives from organisations like the Complementary Healthcare Council and the Complementary Medicine Association and persons such as Doug Kentwell and Val Johanson in the development of these new regulations. I will be seeking an amendment that requires independent review of these changes within three years of the proposed bill coming into effect and requires that that panel make recommendations for further changes to the scheduling regime so that we have in place a fair approach to complementary medicines.

I support this bill that the government has put forward. I commend the government on introducing positive changes which will further enhance and ensure public health and safety, but I do hope the government will be open to engaging stakeholders in appropriate consultation and to ongoing review of these changes to ensure that scheduling and regulation of complementary medicines is appropriate and fairly conducted.

Finally, I would like to commend the work of the committee, including Senator Siewert, who I think provided a very useful report in the context of looking at these changes. I think that has advanced the debate in a very positive way.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (10.54 am)—I thank all of those who have participated in the debate. As mentioned in the second reading speech, this bill amends the Therapeutic Goods Act 1989 in a number of ways. Most importantly, it implements new arrangements for the separate scheduling of medicines and chemicals. I am pleased to advise the Senate that the Senate Community Affairs Legislation Committee has inquired into the bill and recommended in its report of 7 August that it be passed without delay.

The committee identified two principal issues relating to feedback on consultations undertaken by the government and on the new scheduling arrangements and the constitutionality of the arrangements. As the Parliamentary Secretary for Health addressed these issues and the government’s response in his speech to the House, I will not repeat that detail here but instead provide a brief summary.

Since 2001, the Therapeutic Goods Administration, TGA, has undertaken a series of negotiations with both state and territory governments as key partners in scheduling as
well as consultations with industry. I am pleased to confirm that, following the most recent consultations in May, feedback on submissions made during the consultation has been posted on the TGA website. The government is committed to open and cooperative consultations with industry, and further consultations are set to occur with industry to finalise the details of the arrangements we established under this bill.

In regard to the constitutionality of the new arrangements provided for in this bill, the government has received legal advice confirming that the ongoing involvement of the Commonwealth in partnership with the states and territories in the scheduling of substances is supported by the Constitution. The bill also makes a number of smaller changes to the act to improve its operation. The amendments in this bill are the third instalment in an ongoing program of reform to the act. The government is committed to ensuring that the regulatory arrangements for therapeutic goods in Australia continue to meet the need of Australians to access safe and effective therapeutic goods. The bill continues that commitment. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CORMANN (Western Australia) (10.57 am)—I just wanted to make a few short comments on behalf of the opposition in relation to the matter of complementary medicines raised by both Senator Siewert and Senator Xenophon. The opposition did have discussions with the government because it was our understanding from the outset that this bill did not have any specific impact on complementary medicines. We just want to place on record that the government reassured us, in advice to the opposition, that the bill will have no specific impact on complementary medicines, that schedule 1 deals with scheduling of substances and is the subject of all the proposed amendments. The criteria for substances to be scheduled imply that there is some level of risk to their use. Complementary medicines are included on the Australian Register of Therapeutic Goods using the electronic listing facility, which involves a requirement that the substances in these medicines are low risk and hence not covered by scheduling. Furthermore, we were advised that there is no impact in the other schedules to the bill on complementary medicines beyond a minor change in schedule 3 to the rules around false advertising and medicine. Given those reassurances from the government, we just wanted to place on record that we do not share the concerns that were raised by Senators Siewert and Xenophon.

Senator XENOPHON (South Australia) (10.58 am)—I would like to move some amendments. The first amendment standing in my name is an amendment to schedule 1, item 7, which provides for consultation in relation to the development of regulations. I seek an amendment that requires, during the development of regulations for this framework, adequate and thorough consultation with all consumer health and therapeutic goods industry stakeholders, including representatives from the complementary medicines sector. As this proposed legislation will have an effect on the complementary medicines industry, it will only be appropriate that they have some involvement as to how the process will take place.

The ACTING DEPUTY PRESIDENT (Senator Trood)—Senator Xenophon, do you wish to move these amendments together or separately?

Senator XENOPHON (South Australia) (10.59 am)—If I may, I would like to move
amendments (1), (2) and (3) together and amendment (4) separately.

Senator SIEWERT (Western Australia) (11.00 am)—Could I respectfully suggest that we discuss amendments (1) and (3) together and discuss amendment (2) separately because the Greens have a different position on amendments (1) and (3).

The TEMPORARY CHAIRMAN—Is that acceptable, Senator Xenophon?

Senator XENOPHON (South Australia) (11.00 am)—Since Senator Siewert asked me respectfully, I will accede to that. I seek leave to move amendments (1) and (3) on sheet 5901 revised 2 together.

Leave granted.

Senator XENOPHON—I move:

(1) Schedule 1, item 7, page 4 (after line 15), after subsection 52A(2), insert:

(3) Before the Secretary makes a legislative instrument under subsection (2):

(a) the Secretary must ensure that adequate consultation has been undertaken with consumer health and therapeutic goods industry stakeholders; and

(b) having regard to that consultation, the Secretary must be satisfied that the proposed instrument will not have a negative impact on the therapeutic goods industry or on access by consumers to therapeutic goods.

(4) Before the Governor-General makes a regulation for the purposes of any provision in this Part:

(a) the Minister must ensure that adequate consultation has been undertaken with consumer health and therapeutic goods industry stakeholders; and

(b) having regard to that consultation, the Minister must be satisfied that the proposed regulation will not have a negative impact on the therapeutic goods industry or on access by consumers to therapeutic goods.

I have already indicated what amendment (1) is about. Amendment (3) provides for appropriate consultation to occur in scheduling decisions. On the scheduling of complementary products, I seek a provision which will ensure appropriate and thorough consultation is conducted and that the complementary medicines industry is approached to participate in these discussions to provide their input and knowledge.

Senator CORMANN (Western Australia) (11.00 am)—On behalf of the opposition I want to place on record that we share the observation put to us by the government that the whole point of scheduling is to impose restrictions on access to goods in the interests of public health and safety. The amendments moved by Senator Xenophon, requiring consultation and for the secretary to be satisfied that scheduling decisions will not have a negative impact on industry or access by consumers to therapeutic goods, might be an unachievable objective. As we said in our second reading comments, we very much urge the government to improve the quality of the consultation with industry and stakeholders. We do not believe that amendments
(1) and (3) appropriately achieve that. By way of example, if new evidence emerged that a medicine currently available over the counter in pharmacies could be used as a precursor to an illicit drug, this provision—this is what the government has explained to us and we agree with this—would not allow the secretary to take action to restrict its availability by changing it to a prescription-only medicine. Such a change would adversely affect the industry and access by consumers. I understand where Senator Xenophon is coming from in moving the amendments and I understand the focus on appropriate consultation. However, we think that the amendments can have unintended and negative consequences and, as such, we will not be supporting them.

Senator SIEWERT (Western Australia) (11.02 am) I find myself in the strange situation where I am agreeing with the opposition for the second time in a week.

Senator Cormann interjecting—

Senator SIEWERT—I know—the twilight zone twice in one week! The Greens also have issues with consultation, which I touched on earlier, particularly about feedback and the ongoing process of dialogue with industry and the sector. We think it needs to be improved. We have similar concerns with the amendments outlined by Senator Xenophon, where it says ‘the Secretary must be satisfied that the proposed instrument will not have a negative impact’. Unfortunately, it depends on how you view ‘negative impact’, but we also have to be aware—accepting Senator Cormann’s comments around possible illicit use of certain chemicals and drugs—that we are dealing with an extensive industry. There may be people who do not have the best intentions in providing a complementary medicine. We all know that false claims are made. If a decision were made, that could be seen as having a negative impact on the therapeutic goods industry. We have some concerns that that is a very broad statement. We understand the intent. The Greens are very concerned to ensure that complementary medicines are able to take their proper role in our healthcare system and are supported, but we think this is much too broad and may have an adverse impact on the industry rather than it being a positive approach. We applaud the intent but unfortunately cannot support the wording of the amendment.

Senator CONROY (Victoria—Deputy Leader of the Government in the Senate) (11.04 am) Subsection 52A simply provides that the secretary can expand the definition of a substance by legislative instrument to ensure that it can be subject to scheduling control. It has no regulatory impact unless a substance is then scheduled. Accordingly, there is no real need for consultation. Proposed new subsection (4), establishing a requirement for consultation on regulations, is superfluous and redundant. The Legislative Instruments Act 2003 mandates appropriate consultation with affected parties.

Amendment (3) is also redundant as part of the rescheduling process requires interested parties to be given the opportunity to make a submission to the relevant expert advisory committee. It is also against the very basis of the act to require the secretary to be satisfied that scheduling decisions will not have a negative impact on the industry or access by consumers to therapeutic goods. The whole point of scheduling is to impose restrictions on access to goods in the interests of public health and safety. Under these amendments, the secretary would never be able to make a decision to schedule previously unscheduled substances or up-schedule existing scheduled substances. For example, if evidence emerged that a medicine currently available over the counter in pharma-
cies could be used as a precursor to an illicit drug, this provision would not allow the secretary to take action to restrict its availability by changing it to a prescription-only medicine as such a change would adversely affect the industry and access by consumers. It was recognised in the Galbally review that these scheduling controls can have negative impacts on industry but are needed for the protection of public health and safety.

Senator XENOPHON (South Australia) (11.06 am)—I thank my colleagues for their indication as to where they stand in relation to these particular amendments. Could the minister advise, though, on the level of consultation that will take place in relation to scheduling in terms of an overall framework? Could he give me further details on what that will be? There is a concern amongst the complementary healthcare industry and professionals that there has been a lack of input. He has alluded to the fact that there will be a degree of consultation. If he could briefly outline what that will be, that would be quite useful. I will not be seeking a division. I do not think there is any point in seeking to divide in relation to these amendments, given that I am the last one standing in relation to it.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (11.07 am)—I am advised that we consulted for about a month on the scheduling process, which is the core of these changes, but we have also indicated that we are going out for another month or so later in the year on from the draft regulations. So we are being quite open to those consultations before and we have given a commitment to do so into the future.

Question negatived.

Senator XENOPHON (South Australia) (11.08 am)—I move amendment (2) on sheet 5901 revised 2:

(2) Schedule 1, item 8, page 4 (after line 25), after subsection 52B(3), insert:

(3A) The regulations must provide:

(a) for the Minister to appoint to the Committee a person with expertise in complementary medicines; and

(b) for that person to be a member of the Committee only for the purpose of the committee undertaking functions in relation to substances which are, or which contain, complementary medicines.

This amendment provides for committee membership to include a person of expertise in complementary medicines. This amendment provides for inclusion on the Advisory Medicines Scheduling Committee of a person with expertise in complementary medicines specifically during the scheduling of products which contain complementary medicine products. Public safety is absolutely paramount and greater awareness and consultation can only assist to ensure that the appropriate knowledge and background is gained in deciding the scheduling of these products.

Senator CORMANN (Western Australia) (11.09 am)—On behalf of the opposition, while we agree that people with appropriate expertise should be appointed to the various committees, we do not think it is actually a very good proposition to identify various, dare I say, interested parties to give them a guaranteed seat at the table. People should be identified based on their expertise and it should not be seen as representative of a particular lobby group representing a particular industry interest. Furthermore, given that there is only a very, very minor relevance of this scheduling process as far as complementary medicines are concerned, if one were to pick out a particular industry vested interest,
the opposition cannot really see why we should single out complementary medicines in particular, given that they are not actually covered by scheduling, as I mentioned in my opening remarks in the committee stage.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (11.10 am)—Members will be appointed to the two new committees on the basis of their expertise and not their representative affiliations. The scheduling policy framework endorsed by government already makes provision for each committee to include a member with expertise in industry matters. The inclusion of a member with expertise from each sector of the therapeutic goods industry would attract criticism from other groups with an interest in scheduling and an expectation that additional seats would be offered to them. The committee would be totally unworkable under these circumstances.

Senator SIEWERT (Western Australia) (11.11 am)—This is an amendment that the Greens do support, which is why I asked for it to be separated from amendments (1) and (3). I note—and Senator Xenophon, I am sure, will make this point too—that the amendment says ‘with expertise in complementary medicines’; it does not say ‘a representative of the complementary medicines industry’. It is in the same way that you have expertise in more traditional—‘traditional’ is not the right word—

Senator Xenophon—Conventional.

Senator SIEWERT—conventional, that is the right word, medicine. So this is not actually a representative. The Greens felt that this was an appropriate approach to ensuring that the issues around complementary medicines are included in decision making. Complementary medicines are increasingly becoming part of our healthcare system, as we have been discussing during this debate. So we felt that in fact it was an appropriate approach. The amendment is very clear about it not being a representative; it describes somebody with expertise. Somebody can have expertise in complementary medicine and in fact not be part of the industry or part of a particular commercial approach, if that is what both the government and the opposition are implying. They are implying that somebody may have a vested interest in complementary medicine. There are a lot of people with expertise in complementary medicines who in fact would not be a part of the commercial sector. We thought it was a valid approach and we will be supporting the amendment.

Question negatived.

Senator XENOPHON (South Australia) (11.13 am)—I hope it is a case of fourth time lucky. I move amendment (4) standing in my name:

(4) Schedule 1, page 9 (after line 16), at the end of the Schedule, add:

14 At the end of Part 6-3
Add:

52EC Review of scheduling regime
(1) The Minister must cause an independent review of the operation of this Part to be conducted, with particular reference to the amendments to this Part made by the Therapeutic Goods Amendment (2009 Measures No. 2) Act 2009 (the amendments).
(2) The review must:
(a) start not later than 1 July 2013; and
(b) be completed within 6 months.
(3) The review must report on:
(a) the system of access controls for goods containing scheduled substances established by this Part;
(b) the outcomes of the administration of scheduled substances by the Secretary and by the committees established by this Part;
(c) the effect of the amendments on the therapeutic goods industry and on individual parties within the industry;

(d) whether there are adequate avenues for review of decisions made by the Secretary and by the committees established by this Part;

and may make recommendations for further changes to the scheduling regime.

(4) The review must be conducted by a panel which must comprise not less than three, and not more than five, persons with relevant expertise, including a person with expertise in complementary medicines.

(5) As part of the review, the panel must invite and consider public submissions.

(6) The panel must give the Minister a written report of the review.

(7) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

This amendment relates to a review of the scheduling regime. It provides for review in 2013, three years after the proposed legislation takes effect. This review must be completed within six months and must be conducted by a panel which comprises no fewer than three and no more than five persons with relevant expertise, including a person with expertise in complementary medicines. As Senator Siewert pointed out in relation to the previous amendment, it does not have to include an industry representative; it is just someone who has an expertise in complementary medicines. This will ensure a thorough, open and adequate review. The panel must invite and consider public submissions. The panel must report on the provision of access controls for goods containing scheduled substances, the outcome of administration of scheduled substances, the effect of the amendments on the therapeutic goods industry, and whether there are adequate avenues for review of decisions.

I have had some very useful discussions with both the government and the opposition. I did take on board the feedback from the government that there ought to be six months to complete the review rather than three months, as I initially indicated, and I think that is a good suggestion, and also that there be some flexibility in the number of people that should be part of the committee—between three and five. I think it gives enough flexibility. But it is also important that there ought to be someone with some expertise in complementary medicines to be part of this review. That could be one of three or one of four or five. It is important that that be raised given the concerns of the complementary medicines industry, which is a significant industry that millions of Australians access each year.

Senator CORMANN (Western Australia) (11.15 am)—The opposition have had some very good discussions with Senator Xenophon and we are of a mind to support this amendment. There have been some discussions with both the government and Senator Xenophon about the exact terms of this amendment. We are nearly there, but there has been a last-minute addition in proposed paragraph 52EC(4), which had not previously been circulated to us given the time frames involved. These are the words ‘including a person with expertise in complementary medicines’ to be included on the review panel once it takes place after 1 July 2013.

The opposition support the review because we think it is important. However, we do not believe it is appropriate to single out one particular area of expertise above others. We urge the government, in their comments in this chamber as we are debating this, to
give some assurances as to how they will ensure that there is a proper balance of expertise on this particular committee. Through you, Mr Temporary Chairman, I indicate to Senator Xenophon that the opposition would like to support this amendment. However, we will have difficulty in supporting it if it continues to contain a specific requirement to include a person with expertise in complementary medicines—something that we were not aware of until it was circulated this morning.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (11.16 am)—The proposal is inconsistent with the report of the Senate Community Affairs Legislation Committee, which examined this bill and recommended that the bill be passed without amendment. The government does not consider the separate scheduling arrangements of medicines and chemicals to be implemented by this bill to be a major change. All they do is provide for the secretary rather than a statutory authority to be the decision maker and divide the current single committee into two expert advisory committees. However, given that these changes will not come into effect until the best part of a decade after the review by Mr Galbally, the government accepts that there may be merit in a further review of the scheme after it has been in operation for some time. However, there is no real case for the review panel to be required to include a person with expertise in complementary medicines. The overwhelming majority of the substances that are scheduled are prescription medicines or over-the-counter medicines. Complementary medicines are low risk and do not meet the criteria for scheduling. Therefore, I move an amendment to Senator Xenophon’s amendment (4):

Subsection 52EC(4), omit from the words “including a person with expertise in complementary medicines”

Senator CORMANN (Western Australia) (11.18 am)—I indicate on behalf of the opposition that we support the government’s amendment.

Senator SIEWERT (Western Australia) (11.18 am)—I indicate that the Greens support Senator Xenophon’s amendment. We would prefer to retain the reference to complementary medicine, but I can see that we are going to go down in a screaming heap, so we will not call a division. But, as I said, we support the original amendment proposed by Senator Xenophon and we just put on record the fact that we would prefer to retain the reference to a person with expertise. We are talking about someone with expertise, not somebody from the industry or a representative. We would prefer to keep that in.

The TEMPORARY CHAIRMAN (Senator Trood)—It may not be as severe a defeat as you think, Senator Siewert.

Senator XENOPHON (South Australia) (11.19 am)—Ditto in relation to what Senator Siewert has said. Would the minister indicate what level of consultation there would be to ensure that the complementary medicines industry does have a say in this process. If there is not a specific person with that expertise, will there be people who have a broad range of expertise both in pharmaceutical and complementary medicines in the context of this? I have had some private discussions with the parliamentary secretary and the minister’s office in relation to this, but it would be very useful if that could be elaborated on for the record.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (11.20 am)—I am advised that the consultations will include submissions, which I am sure will be from the complementary medicines sector. We envisage that there will be a chair with legal expertise, public health expertise and wide industry
experience, not just expertise in the complementary sector.

Senator Xenophon interjecting—

Senator CONROY—But not including a direct representative.

Senator Cormann—Someone with expertise.

Senator CONROY—Yes, somebody with expertise across the broad range—I am advised.

Senator Cormann—including complementary.

Senator CONROY—including complementary, but not a direct representative. That is the difference, which I think we are all happy with.

Senator XENOPHON (South Australia) (11.20 am)—That will do, Mr Temporary Chairman. Thank you.

The TEMPORARY CHAIRMAN—You are merciful; thank you. The question is that the amendment proposed by Senator Conroy to Senator Xenophon’s amendment (4) on sheet 5901 revised be agreed to.

Question agreed to.

Original question, as amended, agreed to.

Bill, as amended, agreed to.

Bill reported with an amendment; report adopted.

Third Reading

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (11.22 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

MILITARY JUSTICE (INTERIM MEASURES) BILL (No. 1) 2009

MILITARY JUSTICE (INTERIM MEASURES) BILL (No. 2) 2009

First Reading

Senator CONROY (Victoria—Deputy Leader of the Government in the Senate) (11.23 am)—I move:

That the following bills be introduced: A Bill for an Act to amend legislation relating to military justice, and for related purposes; and a Bill for an Act to amend legislation relating to military justice, and for related purposes.

Question agreed to.

Senator CONROY (Victoria—Deputy Leader of the Government in the Senate) (11.23 am)—I present these bills and 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 CONROY (Victoria—Deputy Leader of the Government in the Senate) (11.24 am)—I present the explanatory memoranda relating to the bills and move:

That these bills may now read a second time.

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

Leave granted.

The speeches read as follows—

MILITARY JUSTICE (INTERIM MEASURES) BILL (No. 1) 2009

The purpose of the Military Justice (Interim Measures) Bill (No. 1) 2009 (the Bill) is to reinstate the Military Justice machinery which pre-existed the establishment of the Australian Military Court. The Bill amends the Defence Force Discipline Act 1982, the Defence Force Discipline Appeals Act 1955, the Defence Act 1903, the Migration Act 1958 and the Judges Pensions Act 1968 to reinstate the provisions in each Act
which existed prior to the introduction of the Defence Legislation Amendment Act 2006 which established the Australian Military Court.

The previous military justice scheme which existed prior to 1 October 2007 is being reinstated as an interim measure following the High Court decision in Lane v Morrison which held the Australian Military Court to be invalid. The case involved a challenge to the constitutional validity of the Australian Military Court and the Director of Military Prosecutions. On the 26 August 2009, the High Court unanimously found that the provisions of the Defence Force Discipline Act 1982 establishing the Australian Military Court were invalid because the Australian Military Court was purporting to exercise the judicial power of the Commonwealth but did not meet the requirements of Chapter III of the Constitution.

The Australian Military Court was established in October 2007 by the former Government, following a series of Senate Committee reports recommending extensive changes to the system of military justice. Under the Australian Military Court, military judges presided over cases and operated outside the chain of command. However, the Australian Military Court stopped short of meeting Chapter III requirements such as those governing the appointment and tenure of judges. The Senate Committee recommended a Chapter III court with oversight by the Attorney-General, and greater independence from the military. The legislation establishing the Australian Military Court fell short of these recommendations.

As an interim measure, Defence is intending to broadly re-establish the service tribunal system that existed before the creation of the Australian Military Court by reinstating the Defence Force Discipline Act 1982 prior to the amendments in 2006. This will re-establish trials by Courts martial and Defence Force magistrates; reinstate the statutory position of Chief Judge Advocate, the Judge Advocate’s panel and the Registrar of Military Justice; reinstate the system of reviews and petitions in respect of both summary trials and trials by Courts martial or Defence Force magistrates; and reinstate the powers of reviewing authorities. The consequential amendments made in 2006 to the Defence Force Discipline Appeals Act 1955, the Defence Act 1903, the Migration Act 1958 and the Judges Pensions Act 1968 which make reference to the Australian Military Court will also be reversed.

Furthermore, the Bill will provide transitional provisions for all matters that have been referred on appeal to the Australian Military Court but were not concluded prior to 26 August 2009. The provisions will also address the AMC office holders, including among other things, provisions for their automatic transition to the relevant positions of Chief Judge Advocate, members of the Judge Advocates’ panel and Registrar of Military Justice.

The Government maintains its strong commitment to a military justice system that is impartial, a system that meets community expectations for transparency and independence, and one that at all times treats Australian Defence Force members fairly. In the interim, it is critical and urgent that the Australian Defence Force has a functioning military discipline system, particularly when it is engaged in operations overseas. After consideration of options, the Government will move to establish a Chapter III court as soon as possible. The temporary reinstatement of the military justice system which pre-existed the establishment of the Australian Military Court will not only address the hiatus in the disposition of higher level military discipline, it will also allow time for the establishment of a military court which meets the requirements of Chapter III of the Constitution including the introduction of appropriate legislation for this purpose.

I commend the Bill and the Explanatory Memorandum to the Senate.

MILITARY JUSTICE (INTERIM MEASURES) BILL (No. 2) 2009

On 26 August 2009, the High Court declared that the Australian Military Court, which had been established under the Defence Force Discipline Act 1982, was invalid. This decision had significant consequences for the administration of discipline in the Australian Defence Force. The main object of this Bill is to maintain the continuity of discipline in the Defence Force in light of the High Court’s decision.
The principal mechanism by which the Bill seeks to maintain the continuity of discipline within the ADF is by imposing disciplinary sanctions on persons corresponding to punishments imposed by the AMC and, to the extent necessary, summary authorities in the period between the AMC’s establishment and the declaration of invalidity by the High Court.

The Bill does not purport to validate any convictions or punishments imposed by the AMC. Nor does the Bill purport to convict any person of any offence. Rather, the Bill, by its own force, purports to impose disciplinary sanctions. The Bill does not purport to impose any liability in relation to imprisonment. Further, consistently with the exclusively disciplinary purpose of its provisions, the Bill is expressed to have effect for service purposes only.

The Bill recognises that there may be circumstances in which a person affected by a disciplinary liability imposed by the Bill wishes to contest whether that liability should remain imposed. The Bill gives affected persons a right to seek review of whether they should remain liable under the Act, and the reviewing authority is given power to discharge persons from such liability. In cases where the disciplinary liability imposed by the Bill relates to detention—a serious disciplinary measure peculiar to the ADF—the Bill requires automatic review by the reviewing authority to determine whether that disciplinary liability should be discharged.

I commend the Bill and the Explanatory Memorandum to the Senate.

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

BUSINESS

Consideration of Legislation

Senator CONROY (Victoria—Deputy Leader of the Government in the Senate) (11.24 am)—At the request of Senator Ludwig, I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Military Justice (Interim Measures) Bill (No. 1) 2009, and the Military Justice (Interim Measures) Bill (No. 2) 2009.

Question agreed to.

URANIUM ROYALTY (NORTHERN TERRITORY) BILL 2008
Second Reading

Debate resumed from 8 September, on motion by Senator Ludwig:

That this bill be now read a second time.

upon which Senator Ludlam moved by way of amendment:

At the end of the motion, add “but the Senate calls on the Government to provide for the orderly phasing-out of uranium mining in the Northern Territory”.

Senator IAN MACDONALD (Queensland) (11.25 am)—As my leader, Senator Minchin, has mentioned, the opposition will be supporting the Uranium Royalty (Northern Territory) Bill 2008 and I am pleased to say that the bill is actually a completion of work started by my Queensland Liberal colleague the Hon. Ian Macfarlane MP, when he was the Minister for Industry, Tourism and Resources. This particular bill before us today is a result of the processes started by Mr Macfarlane some years ago. We are pleased in the coalition to see the bill finally receiving parliamentary approval.

Australia is the world’s second biggest producer of uranium, which generated something like $658 million in export revenue in the 2006-07 year. It provided jobs for some 800 Australians, mainly in remote Australia, and there are opportunities for considerably more employment in the uranium industry particularly in Northern Australia. This leads me to inquire of the Australian Labor Party just what their position is in relation to uranium exports and uranium mining. As I have mentioned, there are already a considerable
number of jobs created and supported by this industry. But I am confused, as I think are most Australians, as to what is the government’s position in relation to uranium mining.

I thought that, rather than wait for an answer in this chamber, I should have a look at the website of the minister who I guess would be responsible, the Minister for Infrastructure, Transport, Regional Development and Local Government, who is the Leader of the House and the member for Grayndler. On his website is a statement entitled ‘Labor Party policy: uranium’. As I read down it I saw that, at paragraph 68, it says: In relation to mining and milling, Labor will: prevent, on return to government, the development of any new uranium mines …

I thought this, perhaps, might be out of date, but it is off the current website of the minister. I heard Senator Farrell’s speech on this and he was saying that the Labor party no longer has a three-mine policy. It is now, as I understand it, a four-mine policy. I am always very curious as to why there is a three- or a four-mine policy in place. Is uranium from three mines good uranium while uranium from a fourth or fifth mine is bad uranium? I simply cannot understand why a party, which now, regrettably, is in government in both Australia and in most of the states, will allow mining of uranium from some areas but not from other areas.

In reading the Labor Party policy on uranium, which, as I say, I extracted this morning from Mr Albanese’s website, I am even more confused. The Labor Party policy goes on to say, at paragraph 69: In relation to exports, Labor will: allow the export of uranium only from those mines existing on Labor’s return to government …

As I understood it, when Labor returned to government, they increased the number of mines that could be exporting uranium. The environment minister, Mr Garrett, who spent a lifetime opposing uranium and uranium mining, and singing songs about it, making millions of dollars from songs that he sang about how awful uranium was, just recently actually approved an additional uranium mine. I am not sure what South Australia has over Queensland, but it does seem to me that there is a bit of favouritism from the Labor Party when it comes to uranium mines. They are quite valuable, Senator Conroy, are they not? They create a lot of jobs as I indicated. Am I wrong, Senator Conroy? You are shaking your head.

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! Senator Macdonald, please address your remarks through the chair.

Senator IAN MACDONALD—I am interested in Senator Conroy’s formal interjection, but why, Senator Conroy, is this Labor Party policy on uranium on Mr Albanese’s website as of this morning? It seems rather curious.

The Labor Party is one and indivisible, as I understand it. I am told there are no factions, there are no different branches; it is just one indivisible party. Why is it then that the Labor Party, in its South Australian configuration, approves uranium mining and yet, in my own state of Queensland, the Labor Party refuses to allow uranium mining? This is in spite of, and flies in the face of, calls by the Labor member for the state seat of Mount Isa, Ms Betty Kiernan, to allow uranium mining. It also flies in the face of calls by the former Labor Party minister for mines, Mr Tony McGrady—who is now a lobbyist, as I understand it, for the uranium industry—for an extension of uranium mining in Queensland, and therefore in Australia.
I draw the Senate’s attention to a report in the *North West Star* of 7 May 2009, when all of the mayors representing the shires between Mount Isa and Townsville met in a group, which is called the Mount Isa to Townsville Economic Zone, MITEZ—they are part of that economic development zone. They all called for the Queensland Labor government to allow for uranium mining in Queensland, because, as those mayors rightly pointed out—and they would know, because they are the leaders of these shires—there is a considerable amount of uranium in North Queensland, and they would like to share in the prosperity that South Australians get in being able to mine uranium in the state of South Australia.

I am entirely confused. The head of our nation at the moment is Mr Kevin Rudd and the Treasurer is Mr Wayne Swan. Both of them come from Queensland, and I would assume that they are members of the Labor Party in Queensland that seems to be totally opposed to the mining of uranium. Yet Mr Rudd is the leader of a government which has just allowed another mine to operate in South Australia. You can understand, Mr Acting Deputy President, the cause for my confusion on just what the Labor Party policy is. I would indeed hope that someone might be able to explain it later in the debate.

I notice that Senator Farrell, in his contribution to this bill before us, did say that the opposition had misrepresented the Labor Party’s view and that they had changed their position. And yesterday in an interjection the government leader, Senator Evans, indicated to me that when he was the shadow minister, because he was a good shadow minister, he had changed the policy too. Why then is the Labor Party policy on uranium, which I extracted from no less than Mr Albanese’s website this morning, so different from what we are hearing? And why is Mr Garrett, who we all know has been a lifelong opponent of uranium, suddenly signing approvals for increased uranium mining and export from Australia?

I agree with the mayors in the north and north-west of Queensland that, if it is good enough for South Australia and the Northern Territory to mine uranium, why not Queensland? Senators may recall many years ago that Australia’s first uranium mine was at Mary Kathleen, up in the north-west mineral province of Queensland. It provided a lot of jobs for a lot people and a lot of wealth for the state. It eventually shut down because it ran out of resources, but since then a lot of companies have done a lot of exploration work. I should indicate here, although I do so in my senators’ interests, that I have some shares—not very valuable ones, I regret to say—in companies that are exploring for mining, but I do not want the thought that I might profit from any expansion of mining to be relevant. One might say that the companies I have shares in are much underrated. Notwithstanding that, it is a valuable resource and it is plentiful in Australia.

I understand from evidence given to the Senate inquiry into this particular bill that there is an ability to increase Australia’s uranium production from its current level of around 10,000 tonnes per year to some 30,000 to 40,000 tonnes per year by 2030. Will the Labor government permit that, or will they not? Will the Labor Party, in their iteration as a Queensland government, of which Mr Rudd and Mr Swan are two members, allow that or will they oppose that? Where does the Labor member for Mount Isa stand? Her electorate contains many potential sources of uranium for mining, production and export. I know the old Labor Party provision that if you cross the party line you are out on your ear. One wonders what Ms Kiernan’s future is in supporting that. Or perhaps she only just did that before the state election, when she knew that a lot of the un-
ions, miners and workers out in her electorate did in fact think that it was a pretty good idea to have a look at more uranium mining because it meant real jobs for Australians and it meant real wealth for that part of the country.

I would hope that someone might be able to assist me in just indicating where we are going in Australia with the uranium industry, particularly whilst this government is in charge. I can understand why the Queensland government is distracted and at odds and sods over its uranium policy. I suspect the Queensland government is perhaps more focused at the present time on some of the issues, which some call graft and corruption, happening in Queensland at the moment. We are all aware that a loyal member of the Labor Party, Mr Gordon Nuttall, was recently jailed for bribery offences. But I am horrified to see in today’s paper that, according to the Australian, one of the people who allegedly paid him the money has just today been awarded a Queensland government contract for a prison, I might say, up in the north—the Lotus Glen prison. Perhaps he has been given instructions to fix it up so that Mr Nuttall can serve out his time in a better constructed and better appointed prison. But how could that possibly be? I know that a lot of people say a lot of funny things happen in the state of New South Wales in relation to the Labor Party government, but could this be happening in my own state of Queensland?

As I indicated earlier, I support this bill, and the coalition will be supporting it. As I conclude, I make a further observation in relation to the bill: where mining occurs on Aboriginal land, the Commonwealth is obligated under the Aboriginal land rights act to make payments to the Aboriginal Benefits Account from the Consolidated Revenue Fund of amounts equivalent to royalties. This payment would be in addition to payments to the Northern Territory of amounts equivalent to the royalties collected by the Commonwealth from uranium in the Territory. I raise that simply to say that that is a system that does—I think appropriately—work, in relation to mining. But it does raise the wider issue of royalties and where they end up. In both Commonwealth and state areas around Australia a lot of the nation’s wealth comes

Senator Stephens—Mr Acting Deputy President, I rise on a point of order. I draw your attention to the legislation we are currently debating. I do not think that Senator Macdonald’s ramblings about Queensland state government issues are relevant to the Uranium Royalty (Northern Territory) Bill 2008. I think there is a matter of relevance.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Senator Macdonald, I simply remind you of the question before the chair.

Senator IAN MACDONALD—I can understand why my colleagues opposite might be a bit sensitive about these issues in Queensland. But the point I was making was that the Queensland government, I would hope, would be able to give us a clear lead on what it intends to do with the huge uranium resources in our state of Queensland. I was surmising that perhaps they cannot because they are distracted with these other things that are happening in my state of Queensland, which are somewhat beyond belief.
from mining—and therefore from royalties, company tax and income tax—generated in the north of Australia. It often seems unfair to me that the considerable amount of wealth that is raised in the north of our country, particularly in remote and regional parts of Northern Australia, is not returned to those people in the form of infrastructure in Northern Australia. We who live in Northern Australia, and particularly in Queensland and the Northern Territory are aware that governments never seem to recognise where the wealth of their states comes from. A lot of the wealth of Queensland originates in the north-west mineral province but the wealth ends up in the south-east corner of our state.

I think it is time that we as a nation had a closer look at this. I am delighted that Mr Barnett, the Premier of Western Australia, is addressing this issue in Western Australia by ensuring that some of the wealth from the north-west of Western Australia is actually returned into regional Australia, providing an equitable and fair distribution of moneys. I would certainly think that the Queensland government could well take a leaf out of Mr Barnett’s book in providing back to North Queensland and Northern Australia some of the very considerable wealth that flows to the state capital and, indeed, the national capital from the wealth created in those areas.

I am pleased to have been able to contribute to this debate. I am pleased that the Labor Party will have, by the passage of this legislation, completed the work commenced by my colleague the Hon. Ian Macfarlane some years ago when he was the resources minister. I am pleased that we are rationalising the payment of royalties in the Northern Territory. It appears that Mr Albanese will not be able to help me, but perhaps someone who is yet to speak from the government side could explain to me in pretty simple terms just what the Australian Labor Party’s policy is in relation to uranium, both across Australia and in my own state of Queensland. I know that I and many workers and other people in the north who understand the benefits of uranium mining would be very pleased to get a significant and definitive statement from the Labor Party on what the future of the uranium industry in Australia is.

Senator EGGLESTON (Western Australia) (11.45 am)—First of all, I would like to pick up on the closing remarks of Senator Macdonald about the need to return some of the wealth that comes from Northern Australia to Northern Australia. It is a very salient point. Last year in Karratha there was a conference called ‘Riding the boom’ that was about this very issue of improving community infrastructure in the Pilbara in Western Australia, which is an area from which a great deal of Australia’s export income is derived. A huge percentage of Australia’s export income comes from off the Pilbara coast, from Port Hedland down to Karratha and Dampier. It comes in the form of exports of iron ore and gas. And yet those towns in that area are very deficient in community infrastructure. One of the points that was made at the ‘Riding the boom’ conference was that these towns are no longer transient towns. The Pilbara iron ore industry was established in the 1960s. These towns have been there for 50 years. It is time that some of the money generated in that area came back into the area, because it is quite obvious that these towns are going to be there for another 50 years—and maybe 400 or 500 years, given the huge resources that are in the Pilbara.

That conference was attended by Gary Gray, who is now the parliamentary secretary responsible for Northern Australia. Regrettably, in response to calls for more funding to go into the area, Gary Gray described these calls as being ‘mere whingeing’. That was a very bad misjudgement on his part, because there is, as Senator Macdonald has said, a
very justifiable case for returning more of the huge income that is derived in the form of royalties and in taxation payments from the great companies which exist in the minerals industry across the whole north of Australia—not only the north of Western Australia but also the Northern Territory and Queensland—to developing the towns and cities in the north of Australia so that they become better places for their citizens to live in. We need to ensure that we attract people to live in the north as permanent residents and not just as transients, because we very much need as a matter of national priority to populate the north.

Turning to this report on the proposal to covert to a profit based royalty system all future uranium mines in the Northern Territory, the coalition senators on the economics committee supported the concept of moving to a profit based royalty system. We were of the opinion that there would be no detriment to the flow of income to Indigenous communities, as was alleged by some witnesses at the hearings, as a result of this move. In fact, we supported the contention of the Northern Land Council that overall there was no real difference likely in the sum of royalties which would be paid to Indigenous communities if a profit based system was adopted.

One of the features of this hearing was that a number of witnesses expressed great concern about the further development of the uranium industry in Australia and were very critical of it. They seemed to be opposed on the basis that uranium is a mineral that can be used for the development of nuclear power and nuclear weapons. So I would like to make some general remarks about Australia’s uranium industry and nuclear power prospects. Uranium, in summary, is part of Australia’s mining heritage. Although only three mines are currently operating, there are many more proposed. We in fact have some of the largest, if not the largest, uranium reserves in the world in Australia. We are in fact the Saudi Arabia of the world in terms of uranium deposits. Just as Saudi Arabia had the largest reserves of oil, we have the largest reserves of uranium. Uranium and nuclear power have to be part of the solution in terms of future electricity generation for the world as concerns about carbon based fuels grow.

Australia’s uranium is used solely around the world for electricity generation. It is supplied to other countries—in fact, quite a lot of other countries—under arrangements that ensure that none of our uranium finds its way into nuclear weapon production. In the five years to mid-2008, Australia exported over 50,000 tonnes of uranium oxide concentrate with a value of almost $3 billion. Australia at the moment does not generate nuclear power. But, given the concerns about the future of fossil based fuels in terms of carbon emissions, we have to face up to the fact that nuclear power generation is definitely something that we in Australia are going to have to consider.

On the question of royalties, Aboriginal people in Australia receive, in general terms, royalties of 4.25 per cent on sales of uranium from the Northern Territory mines. The total received by Indigenous communities from the Ranger mine alone is now over $207 million, while some $14 million in royalties from Nabarlek have also gone to Indigenous communities. As far as the general economic benefit of uranium mining to the Australian community is concerned, around 1,200 people in Australia are employed in uranium mining, another 500 in uranium exploration and about 60 in the regulation of uranium mining. So it is a significant but not large employer. Nevertheless, uranium mines generate about $21 million in royalties each year. In 2005, Ranger produced $13.1 million in royalties, Beverly produced $1 million and the Olympic Dam mine produced

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$6.9 million, while corporate taxes from the uranium mining sector amounted to some $42 million. So uranium mining is making a significant contribution to the Australian economy—those royalties are going back into the Northern Territory and the Northern Territory government and providing services that benefit the Indigenous community of the Northern Territory as well as other components of the Northern Territory population.

In each of the last three years, Australia has exported, on average, almost 10,000 tonnes of uranium oxide. Our mines provide about 22 per cent of the world’s supply of uranium. Uranium exports comprise about 35 per cent of Australia’s energy exports. I suppose the most important other supply of energy from Australia to the world is gas exports. Australia’s uranium is sold strictly for electricity generation. As I said earlier, safeguards are in place to ensure that our uranium is not used for nuclear weapons production.

The countries that purchase our uranium are many and various. They include: the United States, which imports about 4,000 tonnes of uranium a year from Australia and which has 104 nuclear reactors supplying 20 per cent of its electricity; Japan, which takes 2,500 tons per year and has 53 reactors supplying about 30 per cent of its electricity needs; South Korea, which takes 1,000 tonnes per year and has 20 reactors supplying 35 per cent of its power needs; and, most interestingly, the European Union, to which we export about 3,500 tonnes of uranium per annum. I would like to specifically mention France, which has 59 reactors and generates 77 per cent of its power from nuclear reactors. In that context, it is interesting to know that France has the lowest carbon emissions profile in the European Union. There is perhaps a message in that for Australia in terms of our future generation of power. We are also the preferred uranium supplier in East Asia, where demand is growing rapidly. In 2006, a bilateral agreement was concluded with China, enabling Australia to export there. Australia could readily increase its share of the world market because of its low-cost resources, its political and economic stability and the fact that many countries are now turning to nuclear power as an answer to the problem of carbon emissions.

So what do we have to consider in Australia when it comes to the question of whether we could go to a nuclear future for the production of electricity? At the present time, coal provides about 78 per cent of Australia’s electricity. That is a very high percentage given that coal is a major producer of greenhouse gases. As it happens, in the next 15 years or so, Australia is going to need to replace its oldest quarter of thermal power stations—that is, coal power stations—simply because these power stations are getting too old and need replacing. Perhaps this is a point where we need to start giving consideration to the possibility of turning to nuclear power.

The advantages of nuclear power in terms of carbon production are very obvious: nuclear power does not have a carbon footprint. It is all very well for us to talk about emissions trading schemes compensating for carbon production, but it would be so much more sensible, one would have thought, to go down the road that France has gone down and ensure that our power generation comes from a means of production which produces a very low level of emissions. As I have pointed out, France has the lowest level of emissions in the European Union, and that is something that we should surely be giving some consideration to.

A lot of people object to the development of nuclear power because of what is described as the waste disposal issue, but a few years ago the House of Representatives—the
In the economics committee, I think—did a report on nuclear power. They thought the waste disposal issue was quite grossly exaggerated. In fact, I recall going to a presentation in Parliament House in Perth where Harold Clough, who was the head of Clough Engineering, discussed nuclear waste disposal. He thought that, from an engineering point of view, building a facility to handle nuclear waste produced in Australia would be a fairly simple and easy thing to do and that it could be done while providing very long-term security to Australia from any adverse effects from storing nuclear waste.

In fact, very little waste is produced from nuclear plants, and the size of the facility required to store the nuclear waste which might be produced from nuclear power generation in Australia is not great. In fact, a very small facility would handle nuclear waste produced in Australia over many years. So really the waste disposal issue is not one that we need to give too much consideration to. From my reading of the House of Representatives report, and from the comments Harold Clough made at that meeting I went to in Perth, I think the concern about it is very grossly exaggerated.

In conclusion, the uranium industry is a very important industry. It is an industry which I am sure will become more important to this country as time goes on because of the need to reduce carbon emissions. It is certainly an industry which I hope that we in this parliament will not be averse to giving further reasoned and sensible consideration to.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.01 pm)—I table an addendum and a correction to the explanatory memorandum relating to the Uranium Royalty (Northern Territory) Bill 2008.

I thank all the senators who have spoken, for their contributions to the debate. As is so often the case in this place, the quality of the contributions varies greatly.

Senator Ian Macdonald—You haven’t answered my question as to what the Labor Party policy is. Come on!

Senator STEPHENS—I thank Senator Eggleston for his contribution, because I think it does begin the conversation again. People want to have this conversation and I think that it is helpful that a reasoned argument like that is on the public record to enable that to happen.

To Senator Macdonald, I say that Labor’s policy is very clear. All he has to do is refer to the party platform. Labor supports uranium mining with the world’s best practice environmental safeguards in place. It is very clear. If you go to the ALP website you will find it in the national platform, Senator Macdonald.

This bill is directed at applying a royalty regime to all new mining projects in the Northern Territory containing uranium and other designated substances such as thorium—an issue that I know is of interest, particularly to Senator Heffernan—and that is consistent with the royalty regime that applies to other minerals mined in the Northern Territory. Therefore I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—The question is that the second reading amendment moved by Senator Ludlam be agreed to.

Question negatived.

Original question agreed to.

Bill read a second time.
In Committee

Bill—by leave—taken as a whole.

Senator LUDLAM (Western Australia) (12.04 pm)—As I foreshadowed during the second reading debate, I have a number of amendments. I will discuss them in three blocks dealing with the three different aspects that I spoke about earlier. I would just like to begin with some broader questions relating to the consequences of passing a bill like this through the Senate. I will put a couple of questions to the minister if I can. Is the minister aware of how many nuclear reactors are currently operating in China?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.04 pm)—Thank you for that question, Senator Ludlam. I understand that there are about 11 at the moment.

Senator LUDLAM (Western Australia) (12.04 pm)—And I believe there are about the same number under construction, and perhaps 30 or 40 foreshadowed, depending on who you believe. Is the minister aware of how many nuclear armed or capable ballistic missiles are deployed by China?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.05 pm)—Senator Ludlam, you are asking me to answer a hypothetical question and I really cannot do that in the context of this debate.

Senator LUDLAM (Western Australia) (12.05 pm)—Perhaps you could at least answer the second question: how many nuclear armed or capable ballistic missiles are deployed by the Chinese government? And perhaps you could tell us the range of those weapons and then, I suppose, in a non-hypothetical sense we can do the numbers for ourselves.

I will move to the first amendment, which deals with clauses 20, 21 and 22. I will just speak to that briefly and then seek some advice from the minister. I will certainly be seeking the support of all sides of the chamber.

The first amendment deals with the establishment of a remediation fund, specifically to deal with the consequences of uranium mining and the extremely long-lived toxic waste streams arising from this kind of mining. I would just like to remind the Senate, by way of context, that this year in the Commonwealth budget there was $8.3 million set aside to rehabilitate one single uranium mine which is quite small by today’s standards.

I am obviously referring to the Rum Jungle mine, which operated from 1954 to 1971. It was one of Australia’s earliest radioactive sacrifice zones. It is not far from Batchelor in the Northern Territory. For many years, mine
wastes were simply discharged onto a flood plain. After a period of some years, crude tailings dams were constructed; some of the tailings were returned to the mine voids and some were pumped into these crude tailings dams, which overtopped during heavy wet seasons and later collapsed. The AAEC’s Dr Warner at the time referred to it as a ‘minor local pollution problem’. We hear very much the same language around uranium spills today. Of course, it was much more serious than that. A Senate inquiry in 1963 suggested:

One of the major pollution problems in the Northern Territory is that caused by copper and uranium mining at Rum Jungle. The strongly acidic effluent from the treatment plant flows via the East Finniss River into the Finniss River, making the water unsuitable for either stock or human consumption for a distance of 20 river miles. Vegetation on the river banks has been destroyed and it will be many years before this area can sustain growth.

That was in about 1963. Nearly 40 years after that mine ceased operations, the Australian taxpayer is still paying for the clean-up because there were no remediation funds put aside by the mine operators at the time. About $1.8 million was spent in 1990-91. Today the bill is up to about another $8 million. The South Alligator Valley too, also in the Northern Territory, continues to require taxpayer funding to contain tailings that were discharged into flood plains. There are very high gamma radiation counts still persisting in some of those areas. In the 2006 budget, one of the last Howard budgets, Australians set aside $7.3 million for the cleanup of these abandoned mines. The Mary Kathleen mine is still a problem. About one million litres of radioactive effluent from evaporation ponds were deliberately released in 1984 and, to lower the cost, mildly radioactive waste rock was used to cover tailings instead of an engineered fine soil or clay. This has increased the risk of groundwater contamination and has led to more public expense. When the Nabarlek mine was closed, 95 per cent of the bond money was returned to the operator despite no final agreed and approved mine closure plan. I note the chair is smiling; this is very serious business.

The remediation fund amendment is a means to create a dedicated royalty stream to provide for environmental rehabilitation and post-closure monitoring, to responsibly deal with the impacts of uranium mining and to stop the need for contributions from the public purse long after the mining companies have departed. This is a responsible measure. It is a wise contingency measure. Past history—not theory but actual operating experience—has shown the necessity for such a measure. If uranium mining is meant to be such a grand success and such an enormous boon taking off across the Northern Territory then this dedicated stream will be absolutely essential. It will ensure an adequate response to an accident, an incident or the kinds of discharges that we have seen in the past—or that are occurring at the Ranger operation even now—and provide for long-term responsible planning.

The idea of this remediation fund was repeatedly raised during the inquiry because uranium, as I said in my speech on the second reading, is not like any other mineral. The tailings—and this may come as a surprise to some senators—contain around 80 per cent of the radioactivity of the original ore body. So the mine wastes are not stripped of all the radionuclides. In fact, most of the original radioactivity in the ore body remains in the waste streams. Post mining, they are vastly more bioavailable and mobile than they were when they were locked up in the geology prior to mining. In 2003 there was a cross-party Senate inquiry into the uranium sector. That was the last time that this chamber had a good look at the industry, and it did not find a pretty picture. It found a pattern of
underperformance and non-compliance with environmental regulations at Australia’s existing uranium mines. I note that the operations at Roxby Downs were excluded from that inquiry. The Senate committee in its report said it:

... viewed tailings management as among the most serious challenges facing uranium miners and, indeed, the entire nuclear energy industry in the future. It will also continue to be a major preoccupation for regulators and scientists as well.

The government has recognised the unique nature of uranium mine tailings in setting a standard for the Ranger mine in the Northern Territory. That is the mine that has been leaking around 100,000 litres of contaminated radioactive water a day into Kakadu. The standard set for Ranger, though, is that all tailings must be physically isolated from the environment for a period of at least 10,000 years and that any contaminants arising from the tailings will not result in detrimental environmental impacts for 10,000 years. That is an extremely long time. It is actually not long enough, if you take seriously the fact that these isotopes are around for such long periods of time, but it is a pretty good start. The idea of a remediation fund for mines, as is explained in these amendments, is in recognition of the need to mitigate these very long-term impacts. The government needs to have the ability to ensure that environmental protection costs post mine closure are assured through this fund. I may well be criticised by future generations for not setting aside nearly enough. I do not know how the miners at the Ranger mine intend to isolate their waste for a period of 10,000 years. That amount of time would take us right back to the beginning of city based agriculture and human civilisation. Nonetheless, at least there is a start.

The 2006 House of Reps inquiry, which I think was referred to in a contribution earlier, recommended:

... the Australian Government provide adequate funding to ensure the rehabilitation of former uranium mine sites ...

We are giving that legislative effect today. I do not believe that that cost should be borne by the public purse. So we are proposing, fairly simply, an amendment that will quarantine five per cent of the net value of the commodity in a remediation fund. I seek advice from the minister and from the opposition, if Senator Minchin cares to make a contribution, on the merits of setting aside a long-term remediation fund for uranium mining in the Territory. I move:

(1) Page 12 (after line 19), at the end of the bill, add:

20 Uranium Mine Remediation Fund
Establishment of Fund and Special Account

(1) The Uranium Mine Remediation Fund is established by this subsection.
(2) The Uranium Mine Remediation Fund Special Account is established by this subsection.
(3) The Fund is a Special Account for the purposes of the Financial Management and Accountability Act 1997.

Credits to the Fund

(4) There must be credited to the Fund amounts equal to the amounts of remediation payments received by the Commonwealth under section 21.
(5) If interest is received by the Commonwealth from the investment of an amount standing to the credit of the Fund, an amount equal to the interest must be credited to the Fund.

Administration of the Fund

(6) The Fund is to be managed by the Minister.
(7) Monies from the Fund are to be applied to management, rehabilitation and monitoring of the sites of mining operations to which this Act applies.
(8) Monies from the Fund are to be paid from funds appropriated by the Parliament for the purpose.

21 Rate of remediation payment

(1) A remediation payment is payable as an additional royalty amount in respect of any designated substance obtained from a production unit in any financial year.

(2) The holders of mining tenements that form part of a production unit are jointly and severally liable for the payment of royalty in respect of the production unit.

(3) The remediation payment is 5 percent of the net value of a saleable mineral commodity sold or removed without sale from a production unit in a financial year.

(4) For the purposes of subsection (3), the net value in a financial year is calculated in accordance with the following formula:

\[ GR - (OC + CRD + EEE + AD) \]

Where:

- GR is the gross realisation from the production unit in the royalty year;
- OC is the operating costs of the production unit for the royalty year;
- CRD is the capital recognition deduction;
- EEE is eligible exploration expenditure, if any; and
- AD is the additional deduction, if any, under section 4CA of the applied law.

22 Remediation

(1) Despite any other law, any agreement between the Commonwealth or the Northern Territory (or both) and another party or parties allowing mining operations on land in the Northern Territory to obtain any designated substance must be made subject to the conditions specified in subsection (2).

(2) The conditions are that the other party or parties to the agreement:

(a) recognise the timeframe and toxicity associated with uranium mining by ensuring that the tailings from any such mining operation are physically isolated from the environment for at least 10,000 years, and that any contaminants arising from the tailings will not result in any detrimental environmental impacts for at least 10,000 years; and

(b) agree to pay the amounts payable under section 21 as a contribution to the management, rehabilitation and monitoring of the sites of any such mining operations.

Senator MINCHIN (South Australia)

(12.13 pm)—I indicate to the chamber and to Senator Ludlam that, on all of his amendments, our approach is that we have to keep in context what the Uranium Royalty (Northern Territory) Bill 2008 is about. This bill is not about approving uranium mining in the Northern Territory. Uranium has been mined in the Northern Territory for decades. This bill is relatively simple in its scope. It simply seeks, appropriately, to bring the arrangements regarding royalties with respect to uranium into line with the royalty arrangements for other minerals in the Northern Territory. That is an appropriate and sensible thing to do in our view, based on the steering committee’s report that I referred to yesterday. We as an opposition do not believe that we should be encumbering this bill with other agendas. We are satisfied with the arrangements that have been in place for decades with respect to uranium mining in the Northern Territory, as they pertain to remediation, accountability, the supervising scientist and the other matters to which Senator Ludlam’s amendments refer. Even if there were matters, hypothetically, that needed attention, this would not be the bill for that purpose. This bill has a very simple purpose, as I said. It is one that we support. This bill should not be encumbered with other agen-
Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.15 pm)—Senator Ludlam, the amendments you have proposed to the Uranium Royalty (Northern Territory) Bill 2008 are absolutely outside the scope of the bill. For that reason, the government is opposed to all those amendments. I would like to reiterate that the government’s intention is that the royalty regime applicable to uranium in the Territory be consistent with other minerals, thereby providing certainty for all stakeholders. But you have raised some important questions for me and I would like to respond to some of the issues you have, particularly in this first amendment, and then I presume you will want to go through the others.

The first group of amendments you raised seek to establish a new remediation fund. You have proposed a five per cent remediation royalty stream. I am advised that, at a uranium price of US$30 per pound, the Greens proposal would raise about $59 million over 20 years. At a price of US$36 per pound, approximately $136 million would be raised. While there is much to commend this approach in obtaining funds to secure that the necessary rehabilitation is undertaken, if this amendment were defeated, the regime that is currently in place and operates at the present time means that the Northern Territory actually requires mining operators to submit a security bond that covers 100 per cent of the cost of rehabilitating the site. That security is held by government as cash or a bank guarantee and is updated annually.

I assume that your proposal in this amendment is not that a miner would pay twice for the same rehabilitation, because that would be, I think, quite an outrageous expectation. But, on the basis of this, a real advantage of the Greens amendment is that the payments by the miner would match their cashflow and this would be a great benefit in encouraging the mining operations. If I could be persuaded that there were no disadvantages from an environmental perspective from such an approach, I would support it. However, the problem is that the total monies raised in any point in time may be less than the cost of rehabilitation at that same time. There could be circumstances which would potentially again leave the taxpayer to pick up the cost. Because the current system requires a bond to cover 100 per cent of the estimated cost of rehabilitation associated with that mine, most importantly, this cost is reassessed annually and the required bond is updated. I am advised that the bond currently held for Ranger is actually $146 million. In other words, while the intent is there, what is actually being proposed in practice is a system that may well result in miners potentially contributing less to the true cost of rehabilitation. The Labor government is very clear in its support for uranium mining, but only with the thorough environmental protection processes in place.

Senator IAN MACDONALD (Queensland) (12.19 pm)—I will not prolong the debate much further. I am interested in the issues that Senator Ludlam has raised. I come back to the questions I raised in my speech in the second reading, to which the minister responded, ‘Well, look at the ALP website and you will see what it is all about.’ I just had my staff check on the ALP website in my home state of Queensland, which is where I first looked, it being the home branch of the Prime Minister and the Treasurer. When you click on the website it says that this is secret; you have got to be an ALP member to do it. It says that you are not authorised to look at this site but, if you want...
authorisation, contact the membership officer, join the party and then you can look at what the uranium policy is in the state of Queensland. Having come to a blank wall there, Parliamentary Secretary, perhaps—it is a pretty simple policy—you can just tell me what the ALP policy on uranium is and what policy the Queensland Labor Party, along with the South Australian Labor Party, will be adopting. I guess it is pretty simply policy.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.20 pm)—I say to Senator Macdonald that it is very clear in the party platform. Perhaps if you went to the national website you might be able find it, but I will ask the minister to provide it to your office. The Labor government is clear that it is supporting uranium mining as long as there are thorough environmental protection processes in place.

Senator LUDLAM (Western Australia) (12.20 pm)—I would like to make a couple of comments and put some questions in response to the minister’s answer there. Thank you very much for providing that information to us. I am certainly not proposing that this amendment replace the way that media-
tion bonds are held by the Territory government; I am not sure that is even within the power of the Senate to do. In fact, this is intended for long-term care and maintenance of the kind we are still seeing where the taxpayer is having to cough up for rehabilitation of sites that were mined up to 40 years ago. Indeed, this is in addition to the way that bonds are set aside at this time. I want to talk about the reason I am suggesting this. You put the case to us about the money set aside by the Ranger operation. That mine has conditions that were set quite early on, after a very fierce debate, that it would need to be isolated from the environment for a period of 10,000 years if you would want to apply for long-term care of the volume of radioactive tailings that is being produced at Ranger right now. Is the minister aware of whether this condition has been subject to any proposed future uranium mines in the Territory or whether it is under discussion at any level?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.22 pm)—I can advise Senator Ludlam that there are no other mines in the Northern Territory under consideration that have got through the very rigorous environmental impact assessment processes, so we are not at that stage of having to consider those issues.

Senator LUDLAM (Western Australia) (12.22 pm)—This might be something that would need to be forwarded to the environment minister then. Is the Commonwealth considering 10,000-year isolation conditions for mine waste from uranium mines in the territory—or anywhere else, for that matter?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.23 pm)—Senator Ludlam, the requirement that you have suggested assumes that one size fits all. The Commonwealth is actually required to consider the conditions around any of these issues on each individual case’s merits and circumstances.

Senator LUDLAM (Western Australia) (12.23 pm)—I just put on the record now that the Greens will not oppose 20,000- or 50,000-year conditions if what has been set aside for Ranger is later found to be inadequate. I would put to you that the particular
elements that are of greatest concern, with the longest half-lives in this case, uranium 238 and its daughter isotopes, are relatively common. There are some differences, obviously, in mine geology and chemistry at each deposit, but the key elements that we are concerned about here—and I would not have jumped up to have this debate about nickel or gold mining—are common right across all sites, so it is not quite good enough to say that one size does not fit all. Certainly 10,000 years may be found to be grossly inadequate. I will put the question to you again: in the case that we are dealing with elements that have the same characteristics no matter where uranium is mined in Australia or in the world, will the Commonwealth will be insisting on these sorts of provisions—very, very long term care and maintenance of these waste streams—which would justify a separate remediation fund as we are proposing here?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.25 pm)—Thank you, Senator Ludlam, for your patience; you do understand that this is not my portfolio area so I am seeking some advice. I am advised by the department that it is the responsibility of the minister for the environment to consider each case on its merits and to be satisfied that long-term environmental impacts are appropriately and adequately addressed.

Senator LUDLAM (Western Australia) (12.27 pm)—My point, and the reason that we have dwelled on this for a few minutes, is that I cannot think of another uranium mining operation—or anywhere in the world—that has a 10,000-year mine waste isolation plan attached to it and a Commonwealth government department looking over its shoulder. I would like to know, either now or a little bit later in the debate, what we actually mean by ‘world’s best practice’. To my knowledge, it is Com-
monwealth departments specifically set up to look over the shoulder of the mining companies, in this case the Office of the Supervising Scientist—which was established at the same time as the Ranger operation—and 10,000-year site conditions. That is world’s best practice. If it is being done better somewhere else, I would be really interested to hear about it.

**The ACTING DEPUTY PRESIDENT (Senator Marshall)**—The question is that Australian Greens amendment (1) be agreed to.

Question negatived.

**Senator LUDLAM (Western Australia)** (12.28 pm)—That is such an awful shame. The second amendment which I will be moving relates to accountability, which I am sure the minister will be interested in helping us improve. The inquiry into the bill raised quite a few questions about how profit is calculated and shown, which is a very important matter when royalties are calculated on a profit basis. Obviously the mining company has to declare how many tonnes it is shifting and how many tonnes of product it is refining and moving from the site, and that is a matter of record, obviously. The way that profits are calculated, on the other hand, can be quite obtuse.

There are two amendments here. I will move them as a block, but there are two substantive components to what I am seeking to do here—firstly, having the Auditor-General take a role in the way that profits are declared and recorded and, secondly, having the Office of the Supervising Scientist play a much greater role in the development of the industry in the region, with Supervising Scientist reports being subject to tabling in parliament and being passed to the responsible minister in the Northern Territory and the relevant land council to which royalties are being paid. I would be willing to split this amendment in two, should either of the major parties indicate support for the proposal. I also will not be holding my breath.

One of the drawbacks raised during the inquiry on the profit based royalty system, which held hearings in Darwin, was the possibility for companies to hide profits by various ways and means or to continue to plough profits back into capital investments and so on so that the company makes very few or even no royalty payments at all. The most commonly cited example—and I know they get a bit cross about seeing their name up in lights all the time—is the Xstrata mine at McArthur River, which paid royalties to the Territory government for the very first time in 2007 after operating since 1996. My amendments have the express purpose of providing additional support to the Territory government. No offence is intended to Xstrata in this case and no accusations are being made at this point. I simply state that that supervision is absolutely essential, particularly as the government seems intent on encouraging smaller and more marginal operators to get projects up and running.

What we are doing here is creating a more robust scrutiny of the calculation, payment and collection of amounts payable via the office of the Commonwealth Auditor General. That is the first part. That relates to clauses 23 and 24. Clause 25 seeks to extend the role—and make it an intervention role, if necessary—of the Supervising Scientist’s office. The Supervising Scientist currently operates to provide government oversight of the mine at Ranger. It does play a role—I think almost on a consultancy basis—in advising the government and companies elsewhere in the country. We are trying to formalise that by way of this amendment.

The 1977 Fox report into uranium mining recommended that a supervising scientist be established, having both administrative skills
and scientific expertise to report to the environment minister of the day and to provide an annual report on the government’s monitoring program of the Ranger mine. At the time, the inquiry recommended that the office be legally empowered to require relevant information from Ranger operations and any agencies participating in research and monitoring of the site and be able to physically inspect the site and its operations. It was envisaged that that office would be a place where research and monitoring staff would work together. It was established in 1978 as a statutory authority under the Environment Protection (Alligator Rivers Region) Act 1978.

The Greens have been quite critical of this office. I have been critical of it myself in recent times—for example, over the adequacy of the office’s handling of a 10,000-litre a day leak from under the Ranger tailings storage facility. But it is a good model as these things go. Having the office, having the scientific and technical capacity up there, on site in Jabiru and Darwin, and having the oversight of the Ranger mine, I think you would be hard pressed to argue that it has not at least improved the performance of the company up there. It has served to remind the company of its obligations, of the standards, of the letter of the law and the spirit of the law. It has also kept this parliament informed of what is going on. I have had some very interesting and useful exchanges with the Supervising Scientist himself here at a number of estimates hearings. It is quite a good model. It is certainly better than the way we regulate the operations at Roxby Downs.

If this office was seen as necessary at the Ranger mine in the Territory, what we are proposing here is that that same oversight and audit function should be entirely appropriate for other uranium mines in the Territory and indeed across the country. The amendments that I am moving now allow the Supervising Scientist to have access to all uranium mining, processing, storage and transport operations in the Northern Territory—that is, data flowing from the companies—in the same manner as is recorded at the Ranger operation. That would empower the scientist to report on the mine sites—the radiological monitoring of the sites, the future rehabilitation of the sites and any research activities that are undertaken.

In the NT Mining Management Act there is a section that says the Territory must consult with the Commonwealth before it takes any approval action on a project that involves uranium or thorium. There are a number of agreements and memoranda in place between government parties which provide that the Supervising Scientist is the first point of contact in those instances. So the NT government is restricted from making any approval with regard to Ranger without having consulted with the scientist and sought his opinion of that approval. I think that is a particularly good model in this regard. I am seeking some feedback from the government and opposition as to whether you would support the concept of the Supervising Scientist having an expanded oversight role and, if not, why not?

Senator MINCHIN (South Australia) (12.34 pm)—As I said in relation to amendment (1), our general view is that this bill is not the appropriate mechanism for these additional functions. This is a bill about the royalty arrangements relating to uranium and should not be encumbered by other agendas. The defeat of the Greens first amendment renders this second amendment partly redundant in that, in relation to the Auditor-General’s functions, it refers to the ‘adequacy of the remediation fund’, which of course has not been established because that amendment has been defeated. I do not think
the amendments can any longer stand the way they are, from a practical point of view.

I do not believe it is appropriate to draw the Auditor-General into this purpose. It is not the function of the Auditor-General. The Auditor-General’s role is in relation to direct government programs and direct government spending, not ensuring that profits or income from mining operations are adequately reported. All uranium is exported and all sales contracts have to be provided to the government. I think that the arrangements at the moment are adequate. Certainly it is not the role of the Auditor-General to get involved in that matter. In any event, as I said, this amendment is made redundant by the defeat of the first amendment.

Again, this is not the vehicle for seeking to expand the responsibilities of the Supervising Scientist. I note and welcome Senator Ludlam’s remarks about the Supervising Scientist, given that it was the Fraser coalition government that established that office in 1978. I agree with him—I think it was a good policy initiative that has, by and large, worked very well. There is only one uranium mine in the Northern Territory. Were any additional mines to be established then the role of the Supervising Scientist in relation to any future mine and any approval processes for an additional mine could be considered at that time. But this is not the appropriate vehicle to address that question.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.37 pm)—I indicate to Senator Ludlam, as I said earlier, that the government is not supporting any of your amendments. But, if I could respond to the issues that you have raised in your amendments, that perhaps would give you some clarity.

What we are seeking here, through these amendments, is to give the Commonwealth Auditor-General a specified role in checking that the royalties payable to the Northern Territory are correctly calculated. The real impact of that is to impose on the Northern Territory a degree of supervision that is not imposed on states. You suggested in your remarks that there is no evidence of financial manipulation by companies but it is certainly something that governments would have an incentive to ensure does not occur. As the law presently stands, the onus is on the company and not the government to prove that the price is valid. So, if the Northern Territory Treasury questions the price being paid for the uranium in the royalty return, the payer has to disapprove that department’s view—and the Northern Territory process is subject to similar oversight by its Auditor-General. So, to the extent that the Auditor-General already has the power to review the Commonwealth department administering payments to the Aboriginal Benefits Account, we believe that this is adequate.

All uranium producers in Australia require uranium export permission, and this requires that copies of all uranium contracts are submitted to the Commonwealth. Companies are also required to declare to the Commonwealth all shipments, which includes declaring the quantities, the prices, the customer and the shipping routes. Accordingly, the Auditor-General already has the capability to do what is proposed. Therefore, we believe that the amendment adds nothing to prudential supervision and so we are not supporting it.

In relation to the proposal in item 25 of the amendment which seeks to expand the function of the Supervising Scientist in relation to uranium mining in the Northern Territory, again that is imposing on the Territory a degree of regulation that is not applied to the rest of the country. Also, the legislation we
are presently considering goes to the issue of taxation; the relevant legislation for approval, monitoring and rehabilitation of uranium mines in the Northern Territory is the Territory’s Mining Management Act 2001, which will apply to any new uranium mines in the Northern Territory and has the appropriate mechanisms to regulate all aspects of Northern Territory uranium mines. In any event, as Senator Minchin said, the Commonwealth has a very substantial role in relation to the Supervising Scientist’s work and in relation to the environmental regulation of uranium mining through the EPBC Act. If, Senator Ludlam, you wish to change what is already a very comprehensive environmental regulatory regime with respect to uranium mining, that is where the amendments should be sought—to that act, not this bill. So we are not supporting either part of that proposed amendment.

Senator LUDLAM (Western Australia) (12.40 pm)—Obviously, I disagree with the proposition that this is not the right place or time to consider these matters. I certainly would not qualify Senator Minchin’s comments as support, but at least there was a willingness to consider the possibility, down the track, of expanded OSS oversight of uranium mining companies in the Territory. I would welcome the expansion of that oversight to proposed mines in Western Australia, South Australia and Queensland, but I suspect here is certainly not the place to do it.

I wonder, Parliamentary Secretary Stephens, whether you would be able to put on the record for us whether the government would consider or is considering, if not in this bill then at another place or time, an expanded role for the OSS. This is not an academic or a hypothetical question, because there are mines in various stages of environmental assessment and approval in the Territory right now. There is the Angela-Pamela site on the outskirts, within the water catchment of Alice Springs, for example, where Paladin Energy and Cameco are finishing a drilling campaign today, I believe, to prove up the resource there. Cameco is certainly a very serious global player in this industry. That is not a hypothetical development.

If we are not expanding the position of the Office of the Supervising Scientist to review the way that these very real proposals are being established, then I wonder when that would happen, given that—as we have just been through in this part of the debate—the office was set up at the same time as and was part of the assessment of the Ranger operations. It was not set up as some sort of afterthought; it was actually an implicit part of uranium mining being allowed to occur in the Kakadu region in the first place. So I just wonder if the parliamentary secretary can provide us with any information at all that would indicate whether an expanded role for the office is being contemplated, because Senator Minchin certainly seemed to indicate that he would at least consider those ideas on their merit if they were brought before us.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.42 pm)—Thank you, Senator Ludlam. The government certainly values the role and function of the Supervising Scientist in relation to uranium mining in the Northern Territory. I am not speaking for the minister when I say this, but I am sure that, as those new proposals are proven up more substantially, the Supervising Scientist’s oversight and administration role in those uranium mines will be a factor the minister takes into account in terms of his advice and his consideration. I have advice that the expansion of the Supervising Scientist’s role in administrative arrangements is under consideration, but the minis-
ter has yet to determine the extent to which that will occur.

Senator LUDLAM (Western Australia) (12.43 pm)—Parliamentary Secretary, could you just clarify what you mean by those last comments. I did not quite catch them.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.43 pm)—I just said, Senator Ludlam, that the expansion of the role of the Supervising Scientist in terms of administration of these issues is being considered, but that has not been determined at this stage.

Senator LUDLAM (Western Australia) (12.44 pm)—That obviously falls very well short of what we are proposing today, but it is a relief to hear that at least that thought has occurred to the minister. And the office which we have in place—lest I be accused of perhaps being a little bit too cheerful about its operations—did not prevent and has done very little to make proposals for remediation of a various serious leak out from underneath this alleged world’s best practice uranium mine, so there is obviously still a long way to go as far as the way the Office of the Supervising Scientist operates. However, at least it is part of a model. I move Greens amendment (2) on sheet 5797:

(2) Page 12 (after line 19), at the end of the bill, add:

23 Accountability

(1) Despite any other law, any agreement between the Commonwealth or the Northern Territory (or both) and another party or parties allowing mining operations on land in the Northern Territory to obtain any designated substance must be made subject to the conditions specified in subsection (2).

(2) The conditions specified by this subsection are that the other party or parties to the agreement agree to cooperate fully with any requirement:

(a) of the Auditor-General, undertaking any of his or her functions under this Act, including by providing full access to all financial and administrative records; and

(b) of the Supervising Scientist, undertaking any of his or her functions under this Act, including by providing full access to all mining, processing, transport and related operations, and to all related sites.

24 Auditor General’s functions

(1) The Auditor-General’s functions include the functions set out in this section.

(2) The Auditor-General’s functions include auditing:

(a) the arrangements for the calculation, payment and collection of any amount payable under this Act or under any applied law or corresponding law;

(b) the adequacy of the remediation fund established by section 20 to meet its objectives;

(c) the adequacy of contributions to the remediation fund.

(3) In performing these functions the Auditor-General:

(a) may perform or exercise any of the functions and powers conferred upon him or her by the Auditor-General Act 1997; and

(b) may seek, and must be granted, access to all financial and administrative records of any party to any agreement relating to mining operations to which this Act applies.

(4) As soon as practicable after completing any report on any audit performed under this Act, the Auditor-General must:

(a) cause a copy to be tabled in each House of the Parliament;
25 Supervising Scientist’s functions

(1) The Supervising Scientist’s powers and functions are expanded as set out in this section.

(2) To the extent that, under the Environment Protection (Alligator Rivers Region) Act 1978, the powers and functions of the Supervising Scientist are constrained by reference to a particular geographic region, those powers and functions are expanded so that the Supervising Scientist may perform and exercise any of those functions and powers in relation to:

(a) any mining operation to which this Act applies; and
(b) any region affected by any such mining operation.

(3) In performing these functions the Supervising Scientist may seek, and must be granted, access to all mining, processing, storage, transport and related operations, and all related sites under the control of any party to any agreement relating to any mining operation to which this Act applies.

(4) The Supervising Scientist may report to the Minister on any matter relating to any mining operation to which this Act applies, including:

(a) supervision, inspection and audit of operations and sites; and
(b) radiological, biological and chemical monitoring of sites; and
(c) rehabilitation and mine closure; and
(d) research activities;

in relation to both present and past uranium mining activities.

(5) As soon as practicable after the Minister is given a report made under subsection (4), the Minister must:

(a) cause a copy to be laid before each House of the Parliament;
(b) give a copy to the responsible Northern Territory Minister;
(c) give a copy to the any Land Council which is a party to any arrangement to receive any royalty under this Act.

Question negatived.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Ninth International Congress on AIDS in Asia and the Pacific

Senator MOORE (Queensland) (12.45 pm)—Last month I attended the Ninth International Congress on AIDS in Asia and the Pacific, which was held from 9th to 13th August in Nusa Dua, Bali, in Indonesia. More than 4,000 delegates from across the region and other parts of the world came together at that conference, whose theme was ‘Empowering people, strengthening networks’. The conference was officially opened by the President of the Republic of Indonesia, Dr Susilo Bambang Yudhoyono. This was the ninth international conference. The inaugural event was held here in Canberra in 1990. In fact Australia is the only place that has hosted more than one of these conferences, also hosting a conference later in Melbourne. The next conference is going to be in Korea.

I attended in my capacity as Chair of the Parliamentary Group on Population and Development. The Asian Forum of Parliamentarians on Population and Development, of which our group is a member, worked in collaboration with UNAIDS to support 20 parliamentarians from across the Asia-Pacific to
attend this conference and to participate in two major panel discussion events. My parliamentary colleagues attending included my good friend Dame Carol Kidu, Minister for Community Development from Papua New Guinea; Francesca Semoso, Deputy Speaker from the Bougainville Autonomous Government; the Minister for Health from Samoa; and parliamentarians from Pakistan, Malaysia and the Cook Islands.

The conference had a noble goal and vision. It talks a little bit in the UN speak but I will give you the vision. The vision of the conference was:

A vibrant community of empowered people, linked by strong networks that reach across Asia and the Pacific and beyond to mobilize a holistic and effective response, based on the latest best practices and scientific evidence, to the specific and cross-border challenges of the HIV pandemic faced by countries in the region today.

As a result of this quite noble vision, we also had a goal, which was:

To promote scientific excellence and inquiry, provide a forum for meaningful dialogue, foster accountability, and encourage individual and collective action for addressing HIV/AIDS in Asia and the Pacific and ensure the sustainability of the response.

The conference opening included calls for strength and commitment to achieving universal access to HIV-AIDS prevention and treatment. They linked back to the UN process and, as so often in this area, we were focused on the Millennium Development Goals. We speak often of those goals in this place but we need to make them a dynamic, active process rather than just rhetoric. In one of his statements the UNAIDS Executive Director Michel Sidibe said:

We must transform the AIDS response in Asia so that it works for people—people who have been marginalized and without a voice.

This means protecting sex workers, men who have sex with men, transgender drug users and their intimate partners.

A key element of the process was to have a meeting of the AIDS ambassadors from across the region, one of whom was our AIDS Ambassador, and the AusAID Deputy Director-General, Murray Proctor. He had a leading role in this conference and was involved in many of the sessions, being part of a keynote plenary. Indeed one of the things that was most encouraging and which made me very proud attending this conference was the high calibre of the Australian participation and also the deep respect with which Australia was held by so many people attending the conference. In fact it was wonderful to walk through many of the demonstration areas and see so many Australians who were there in their capacity as researchers and people who work in the AIDS network, and to see the way their knowledge and their skills were being deeply respected by people from across the world.

Mr Murray Proctor in his plenary session linked again Australia’s aid response to our commitment to the MDGs. Throughout the conference there was a theme around the MDGs. The theme was: ‘1+2+3=6’, referring to the MDGs. As we all know, MDG 1 refers to poverty, MDG 2 refers to access to education and MDG 3 refers to genuine gender equality. So the process is: we could work together to build this.

Mr Proctor came up with one that I support: ‘4+5 is greater than 6’. That seemed to me to be linking back to so much of the work that we do in this place. MDG 4 refers to child mortality and MDG 5 refers to maternal and child health. So as we know, the specific MDG looking at the issues around HIV and diseases is No. 6. So the theme, the process and the involvement were very much linked to an international commitment to the MDGs.
It was an extremely vibrant and colourful conference. There were 150 presentations in five plenary sessions, three keynote speeches, 24 symposia, 31 skill-building sessions, 339 oral presentations and 1,122 poster sessions. The poster sessions involved people from a wide range of organisations coming along and displaying posters that showed the work they did. To see the pride with which people came and talked about the work that they were doing in their local communities, whether from a small Pacific country or somewhere in Scandinavia, or in Australia with our own AusAID presentations, was impressive.

The way the conference operated really showed that there was deep government commitment to the processes, which is so important. The Indonesian first lady, who is one of Indonesia’s key AIDS ambassadors, Her Excellency Ani Bambang Yudhoyono, and other AIDS ambassadors urged nations to work towards implementing the declaration of commitment adopted at the UN General Assembly special session on AIDS in 2001 and the following political declaration in 2006. This was being recommitted in the midst of the pressures of the global economic crisis. As so much of AIDS funding comes from charitable trusts and donations from across the world, the conference looked at how we could maintain the necessary effort in the midst of this tightened economic crisis.

Key presentations recognised the need to scale up HIV prevention for men who have sex with men and sex workers; the increasing feminisation of HIV-AIDS across the planet, particularly in the Asia-Pacific area; the role of civil society; the fear of increasing HIV epidemics in Papua New Guinea and the Indonesian provinces of Papua and West Papua; and the need for sexual and reproductive health activities to be completely integrated into HIV-AIDS policies and programs.

We know there are more than five million people currently living with HIV-AIDS in the Asia-Pacific region. Approximately nine million people have been infected with HIV and more than 380,000 new infections are estimated to occur every year. The region has witnessed more than 2.6 million men, over 950,000 women and almost 330,000 children die of AIDS related diseases since this virus was identified 20 years ago.

In the Pacific, epidemics are relatively small, except for in Papua New Guinea, where the number of people living with HIV increased from 10,000 in 2001 to 54,000 in 2007. The evidence indicates that, within the Pacific, HIV-AIDS is predominantly spread through unsafe heterosexual intercourse. People are still confronted by that. We seem to have in our minds a view of what this issue is about, but we still have not clearly understood that in 2009 those horrific statistics I just read out show that the spread of AIDS in our community is mainly through unsafe heterosexual intercourse.

The parliamentary panels, which included parliamentarians from across the areas through the sponsorship of the parliamentary groups on population and development, naturally talked mostly about reproductive health. As the feminisation of AIDS moves the epidemic into the domain of sexual and reproductive health, our challenge must be to integrate HIV-AIDS knowledge and research with sexual and reproductive health. HIV-AIDS across the world has become almost unique in its ability to mobilise support and funding. There is a general awareness of the seriousness of this epidemic and, although some of the issues relating to HIV-AIDS are contentious—and I will not go into my concerns about the Vatican’s statements—funding commitments remain strong for this
issue. However, this is not always the case for sexual and reproductive health.

The value of approaching the spread of HIV through a sexual and reproductive health framework is evident as the disease spreads increasingly to women and young adults. At the same time, the advantages provided by the strong funding base for HIV could well be integrated into a broader sexual and reproductive health approach, having the effect of providing extra funding for causes such as maternal deaths, unsafe abortions, unwanted pregnancies and the massive spread of sexually transmitted diseases across our area of the world.

HIV-AIDS has become undeniably a matter of sexual and reproductive health. Women’s rights are an end in themselves, and every woman deserves to live in good health and free from disease. This statement alone should be compelling enough to push us to act to improve the status of women and girls in our area and in the world generally.

We talked with people from the Australian delegations at this conference and we met with people from the HIV Consortium for Partnerships in Asia and the Pacific, which has visited this building a number of times. The HIV consortium is a collaboration of nine Australian HIV organisations. It was formed to foster strategic partnerships and linkages between Australia and the Asia and Pacific regions. The organisations who are members of this consortium seek to develop long-term relationships with counterpart organisations. This spills across the whole of our region so that we can, through our combined knowledge and strength, put up a stronger fight to face up to the challenges of HIV. The overarching goal of the program is to strengthen the role of organisations and individuals in the Asia and Pacific regions to contribute to the effective responses to HIV.

A number of strong, independent research and industry groups with HIV knowledge in Australia are part of this consortium. They had a high profile at the conference. They talked about further building their knowledge and funding base to increase awareness of what the issues are in our country.

AusAID, which was a sponsor of the conference, took strong leadership at the conference. Consistently in all of the programs we saw the Australian government crest reinforcing to all 4,000 delegates that our government has a positive view about where we are moving in this area. Minister Smith had in April this year launched a new AusAID strategy entitled ‘Intensifying the Response: Halting the Spread of HIV: Australia’s International Development Strategy for HIV’. This strategy looks at the rapidly escalating rate of HIV infection amongst men who have sex with men in all major cities in Asia, which is becoming a major driver of expanding epidemics in the region.

It also looks at the necessity of having appropriate access to drugs in the area. Some of the more devastating statements made at the conference were about the availability of drugs. We saw that, for a relatively small monetary investment, drugs could be provided across the whole of the Asia-Pacific region. This could save so many children who are born with the infection and give them a chance for a healthy life with a future. Once again we were looking at what we believe is an appropriate response to the Millennium Development Goals.

The conference drew together knowledge, commitment and hope. Certainly one key aspect of this conference was showing that we can have the confidence to move forward and there is real hope for the future. That is a big movement in this issue that has been facing the world in the 20 years since HIV was first identified as a virus. We have an active
role to play. AusAID has been leading the way, with our international aid commitments. We have the parliamentary group on HIV, which is now part of the process in this place, to raise awareness. I hope that, at the conference in two years time in Korea, Australia will again take a strong leadership role.

**Child Protection**

**Senator KROGER** (Victoria) (1.00 pm)—The dialogue, debate and discourse that bounces across this chamber is frequently reflected in the daily headlines of media outlets, and so it should be. We as legislators, in fulfilling our obligations to the Australian people, must ensure that the decisions we make ensure that the best interests of all are served. This responsibility is no more profound than it is today during National Child Protection Week, established some 15 years ago to raise awareness of the increasing incidence of child abuse and neglect in our own country and the devastating, lifelong impact it is having on so many families and communities. It is an absolutely disgraceful blight on our country, and yet it is not one that we commonly read about on the front pages of our daily news journals. Sadly, it is only the tragic circumstances of beautiful, vulnerable children like Darcey Freeman, the gorgeous, golden haired four-year-old who was thrown from the West Gate Bridge in February this year, that galvanises the hearts and minds of our country.

Child abuse and neglect is a subject too shocking for many of us to turn our minds to, yet if we do not do so we destine so many innocent children to unspeakable futures—and for many, like Darcey, tragically shortened ones. This is a mainstream issue, not one to be dismissed as a product of economic disadvantage or a manifestation of cultural or social dysfunction. In the last year alone, more than 30,000 individual children were proven to be abused or neglected in Australia. As if this is not bad enough, we know that it might be just the tip of the iceberg, as there has been a total lack of resourcing invested in any comprehensive studies. Child abuse and neglect is a subject that is frequently swept under the carpet.

To every colleague in this place and the other place: I ask you to take off your shades and look around you in your neighbourhood or in your electorate. I regret to say that you will probably discover someone well known to you who has been either directly or indirectly affected by abuse. The statistics speak for themselves. One in four girls and one in seven boys are sexually abused before the age of 18. For those of you with children at school, take a close look around your child’s classroom and think about who the victims might be. I can tell you they will be close.

On Tuesday morning this week the National Association for Prevention of Child Abuse and Neglect, NAPCAN, launched a nationwide survey in order to better understand and respond to the complexities of child abuse and neglect. It is the largest ever survey of community attitudes, conducted with the aim of learning more in an endeavour to safeguard our children. This survey is a joint effort of NAPCAN, the Australian Institute of Family Studies, the Australian Research Alliance for Children and Youth and many other leading agencies in the sector. The survey encourages broad engagement in a conversation that our community not only needs to have but must have. The purpose of the survey is threefold: to collect data on community attitudes to child abuse and neglect, to raise awareness of the issue within the community and to engage as many people as possible in ongoing involvement and action.

The fact is that child abuse occurs right across Australian society. And the long-term personal, social and economic costs of child...
abuse and neglect are immense. The Australian Productivity Commission found that the direct costs of the child protection system alone are $1.7 billion annually. I encourage you all in the strongest possible way to consider completing the survey. It will take as little as five minutes of your time and it is incredibly important.

I am pleased to be a convenor of Parliamentarians Against Child Abuse and Neglect. Re-established in October 2008, PACAN aims to increase awareness of and take positive action to eliminate the serious issue of child abuse and neglect. As parliamentarians we have a responsibility to work towards zero tolerance of any activity that is abusive or neglectful and against the best interests of children. PACAN supports the important work of NAPCAN as well as other organisations and individuals. PACAN has hosted regular briefings during each sitting period, with speakers such as the Reverend Tim Costello, who discussed the issue of child slavery; representatives from the Australian Federal Police, who spoke on child sex tourism; and, more recently, Father Chris Riley, who is from Youth Off The Streets. I am happy to report that these briefings have attracted much interest from senators, members and their staff. I offer my thanks to all those who have attended for their tremendous support and encouragement.

Renowned expert Dr Joe Tucci, CEO of the Australian Childhood Foundation, has warned that the number of child victims of abuse and domestic violence will possibly jump by at least 10 per cent in the current year. Research shows that economic trouble and financial and emotional pressure are leading triggers for family violence and, more disturbingly, for child abuse. If we want to protect children from abuse we need to do everything we can to make it easy for their parents to enjoy economic security so that they have time to spend with their children. The importance of family is significant for me. I have said in this place before that the reason I get up in the morning is for my two boys. They challenge and continue to inspire me.

But we would all agree that parenting is not easy. There is no simple formula. A sense of self-identity and confidence, which is so important in the development of children, is not something that can be found in a book. It can only be nurtured through years of care, direction and playful interaction with other family members. It takes time.

If our society is so driven by the need for two parents to work just to cover a mortgage, the time for leisure within family life will be severely diminished and, with this, the time for strengthening the bonds within the family will also diminish. As legislators, we need to consider the impact of economic decisions on the family unit. As labour markets become more flexible, couples often find themselves living a long way from other family members who might be called upon for extra assistance in times of stress. The so-called nuclear family is in many ways a fragile model of family life.

Between the state and the individual there are many extremely important voluntary associations which make up that body we call, and know as, society. It is in the interests of the state that these voluntary associations are as strong and self-sufficient as possible. The family is very much a paradigm of a voluntary organisation. As an institution, not only does it provide clothing and shelter for its young and care for its elderly but, above all, it is responsible for the emotional and cultural capital of successive generations.

The carers in families, whether they are a parent or an elder sibling, need to consider the impact of modern technologies and their impact on children. With the rapid increase in internet use, our society has been afforded
many new opportunities. We are able to connect with other people in a new, efficient and exciting way. From personal communications to businesses, the internet has largely benefited our community.

But we also need to be mindful and aware of the safety risks involved with this medium. The internet has become a tool for potential criminal activity. Sexual predators are using the internet as a clearing house for sex tourism. It has become easier to swap and distribute explicit information with less risk. It is too easy for predators and sex offenders to find and groom new victims. This is an extraordinarily disturbing situation.

Cyberbullying is also a cause for concern and one that must be addressed. The internet has vaulted bullying from the playground to internet chat rooms. This has become a growing concern for parents, teachers and many community leaders. In late July this year we saw a great tragedy in Victoria where four teenagers from two different Geelong schools died. As we speak, the Victorian coroner is investigating whether cyberbullying contributed to these tragic deaths.

In the most recent case, 14-year-old Chanelle Rae committed suicide just hours after being bullied online. I can only send my heartfelt best wishes and prayers to her family as they deal with it. I really commend Chanelle’s brave mother, Karen, who went on radio shortly after, not to point the finger at any particular person nor to blame anyone for the loss of her daughter’s life, but rather to beseech all parents to be aware and to monitor their children’s use of the internet and how it is being used as a medium in their lives. This heartbreaking case highlights the urgent need to talk about how the cycle of bullying and abuse can be broken.

National Child Protection Week is only one week which is dedicated to highlighting child protection. It is incumbent upon us all in this place and in other jurisdictions to encourage open and frank discussion on the topic of child abuse and neglect. Once again, I urge all to consider going to the site to log on to the survey so that they can participate in that process.

In conclusion today, I am acutely aware that we do have to keep open this dialogue on how we can continue to strengthen the protection of our children. We must act in the interests of those who have no voice. We must act in the interests of the future of our nation. It is our children who are the future of this country and it is incumbent upon us all as members of this place to ensure that we have their futures at heart.

Climate Change

Senator MILNE (Tasmania) (1.13 pm)— It is absolutely incumbent upon us to make sure that we have the future of young people at heart and that is the subject I want to talk about today in relation to climate change. As we know, we only have until 2015 for global emissions to peak and then come down or else we face going over the two degrees of warming that will lead to catastrophic climate change.

That would certainly deliver to the next generation a far worse life than the one which we have enjoyed. It is sobering as legislators to realise that we are the first generation of people to hand on to our children a world less robust than the one into which we were born. That is a tragedy that is occurring because of the underpinning ecosystem collapse that we are seeing as a result of habitat loss, climate change, alien invasive species and so on.

The thing about the young people of Australia is that they understand this tragedy better than most adults in the community. In Tasmania, there is an incredible cohort of young people from primary schools, secondary schools and into the senior secondary
years who are working very hard to study what is happening with climate change and who go out and try to change people’s attitudes and make changes in their homes and in their communities. I want to particularly talk about some of those schools today. For many years, the Don College in Devonport has had a climate program. Its students have held many events and have also gone to Hobart to look at the CRCs on marine studies and climate change. For example, students have visited the Antarctic CRC to look at the impacts of climate change on marine ecosystems. At Hellyer College there is a very active group as well. I had breakfast with them just recently to talk about what they are doing at their school.

Recently, some young students from Ulverstone High School, which is along the coast, took it upon themselves, with the support of the school of course, to organise a full day of activities around climate change. They bussed in students from schools right along the north-west coast, including Miandetta Primary School from Devonport, in order to talk to them about what they might be able to do about climate change. At schools such as Latrobe High School and Blackman’s Bay Primary School in the south, there were tree plantings and the students talked about all of the issues associated with ecosystems, climate change and building resilience.

But the school that I particularly want to talk about today is Huonville High School, in the south of Hobart, in the south of the state. Over three years, students at Huonville have conducted a survey on climate change. The students have learnt about the carbon cycle, carbon chemistry; they have looked at alternative energy sources and the ways of reducing the carbon footprint; but, more particularly, they have started this exercise of surveying Tasmanians on the issue of climate change. Over three years, they have surveyed around 1,300 people in the north and the south of the state. Each year, a survey was conducted over three days. The students raised the money to enable this survey to be done. They also travelled to the north-west of the state to look at the wind farms at Woolnorth.

The survey was conducted from 2007 until 20094 and the results are really encouraging. Basically, the students went out and asked people: ‘Were they aware of climate change? Do they think human activity is responsible?’ They asked people when they thought the impacts of climate change would be a major risk to lifestyle. They asked about how quickly something should be done about it. They talked about what lifestyle changes they might have made to reduce the impact of climate change. They talked about the things that people might do to solve the problem. They also asked whether they believed that the process of addressing climate change would end up costing money. The three things that they wanted to emphasise at the end of the survey were that the people of Tasmania are overwhelmingly aware, concerned and already doing a great deal to combat climate change. They indicated that there is a growing trend for people to be aware of climate change but that people are also starting to voice their concern that not enough is being done quickly enough to address it. They concluded by saying that this is too important an issue not to act on or to act too slowly in relation to it.

I have circulated their report titled, The climate is changing to all the whips of the various political parties in the Senate. I will be seeking leave at the end of my contribution in order to table this work so that all senators can be aware of the work being done in schools to raise awareness of climate change but, more particularly, to become aware of the results of this survey. It was developed and conducted in a professional
way. It is the first example that I know of where a school has conducted a three-year study that asks people about their views on climate change. It is extremely impressive. We hear a lot about students and what goes on in schools, and I certainly want to be on the record saying that what is going on in Tasmanian schools in relation to the science of climate change and the responses to climate change is very impressive indeed.

The values being exhibited by the students in these schools are ones of intergenerational equity, of generosity and of genuine interest in learning. It is also bringing students to the notion that they must go on with their education. Recently, there was a science competition on the north-west coast of Tasmania and in the south. Several of the projects related to responses to climate change—for example, looking at various designs of blades for wind turbines. There was a young student from Latrobe High School who did some work on that, Sam McCall, who won second prize in the grade 10 section. I am very delighted to see his interest in this area. Right around the state, people were looking at issues such as building resilience in agricultural systems and how we respond to those challenges. It is a very impressive body of work being carried out in Tasmanian schools.

As I indicated at the start, one of the questions the students asked in the survey to which I refer is: ‘What lifestyle changes have you made to reduce the impacts of climate change?’ Whilst the most popular things that people had changed in their lives were things like the amount of electricity they used at home and their use of transport, the least popular climate change action was to move to solar, and that was because of its cost. That is where I want to take this work. The students pointed out that people wanted to take advantage of renewable energy but it was the upfront cost that prohibited them from doing so, which is why the Greens have argued so strongly for a comprehensive and internally consistent framework to roll out renewable energy, to retrofit Australia’s houses and then to move on with the roll-out of renewables. I was distressed to see a big announcement saying:

First Solar today announced a memorandum of understanding (MOU) with the Chinese government to build a 2 gigawatt solar power plant in Ordos City, Inner Mongolia, China.

It went on to say:

This major commitment to solar power is a direct result of the progressive energy policies being adopted in China to create a sustainable, long-term market for solar and a low carbon future for China.

The head of the project said:

The project will operate under a feed-in-tariff which will guarantee the pricing of electricity produced by the power plant over a long-term period.

He went on to say:

The Chinese feed-in tariff will be critical to this project. This type of forward-looking government policy is necessary to create a strong solar market and facilitate the construction of a project of this size, which in turn continues to drive the cost of solar electricity closer to ‘grid parity’ where it is competitive with traditional energy sources.

So here we have the announcement of this huge solar plant in China and at the same time, in Australia’s press today, we have Solar Systems going into voluntary administration because it cannot raise the capital to continue the work on a project which the government recognised was an important project for Mildura.

The point here is that China has put in place the legislative framework to encourage private sector investment in the rollout of large scale renewables; Australia has not. It is almost as if the government are determined not to have a gross feed-in tariff in Australia in order to hold back the commercialisation of large-scale renewable energy. I
can only assume they are desperate to hold it back because of their huge investment in so-called ‘clean coal’. They have invested billions of dollars in technology which, as Four Corners demonstrated on Monday night, does not have a hope of coming to fruition in the next 20 or 30 years, if ever.

We have a legislative framework in the Senate which can drive this technology. I introduced legislation for a gross feed-in tariff and saw the government and the coalition combine to send it to COAG in order to try to kill it. They succeeded in burying it at COAG. That legislation is still here on the books. Should the minister want to, I am ready to debate and pass it tomorrow, so that we do not experience the hideous collapse they are having at the moment in certain parts of the world. In the US and China, solar is going ahead in leaps and bounds and the country with the greatest source of solar energy, Australia, is going backwards. How can that be the case?

Not only is the government in Australia holding back renewable energy but we have complete hypocrisy from the Minister for the Environment, Heritage and the Arts in responding to the threats currently posed to our wildlife and ecosystems. Just recently, Mr Garrett said that, in addressing species—and it is Threatened Species Week this week—we can no longer concentrate on individual species but should be looking at whole ecosystems. At the same time he is saying that there is wholesale logging in Tasmania of ecosystems of native forests and primary forests which, in many cases, have never even seen an axe. They are being clear-felled because there is this ridiculous subsidising of primary forests, while hypocritically giving Indonesia $200 million not to log their forests and subsidising forest companies in Australia to destroy our own.

The Tasmanian government are going from bad to worse, promoting a logging road in the Tarkine in north-west Tasmania, through the largest tract of temperate rainforest in the Southern Hemisphere. It is at the moment and will be in the future one of the greatest attractions in the north-west. It will underpin the economy in the north-west because it will give substance to the claim that this is an area of great natural beauty, fantastic forests and great opportunities. And here we have the Tasmanian government prepared to spend $23 million to destroy that area while not having the money to build a new hospital. These are really warped priorities when you see this preference for destroying ecosystems. It is critically important because this road will open up the area to road kill for the Tasmanian devil. We have major projects now trying to save the devil because of devil facial tumour disease. This area has the only devils at the moment showing any genetic resistance to the disease and the Tasmanian government are going to open it up to possible death by road kill for the Tasmanian devil. We have major projects now trying to save the devil because of devil facial tumour disease. This area has the only devils at the moment showing any genetic resistance to the disease and the Tasmanian government are going to open it up to possible death by road kill for the devil. It is just madness and ought not be allowed. I would certainly encourage everyone out there, the minute this is referred to the federal minister, under the Environmental Protection and Biodiversity Conservation Act, to say, ‘This is an unacceptable project. Stop it immediately!’ There is no point spending a fortune on research on devil facial tumour disease while opening up a whole new area to possible death by road kill.

At the same time people should be cognisant of the fact that through this Senate we have the renewable energy target which will allow the burning of Tasmanian native forest woodchips in furnaces at Gunn’s pulp mill in the southern forest. This is outrageous. If we are going to address climate change, we have to protect ecosystems and forests. We have to protect our species, particularly our native species in Tasmania. We are not seeing that
happening. At least I have faith in young people. As I indicated before, I have circulated previously to the whip the report from Huonville High School *The climate is changing: why don’t you?* I seek leave to table that report.

Leave granted.

**Voluntary Student Unionism**

*Senator WORTLEY (South Australia)*

(1.28 pm)—This past week, I have been in contact with the three universities in my home state of South Australia. The message I have received from all three is that student amenities and support services are a significant and worthwhile part of the university experience and that ultimately they result in better student outcomes. Since the introduction of the VSU by the former coalition government, the universities have worked very hard to maintain some of these important support services in the short term. It is clear, however, that in the long term their ability to do this is not sustainable. Students attending all three universities in South Australia have had to accept significant winding back of their amenities and support services and there is no doubt that it is impacting on their broader university experience.

I have previously referred to my own experiences in the education sector and it is these that have strongly influenced my views and beliefs with regard to the role and values of tertiary education. My recent discussions with the vice-chancellors of the University of South Australia, the University of Adelaide and Flinders University have further informed the remarks I make here today.

Along with many of my colleagues in government and many of those opposite, I enjoyed the advantage of access to a multitude of activities on campus. Among services and amenities offered were subsidised health care; financial, legal and personal counselling; and student and emergency loans. There were also employment placement and careers counselling services, child care, sporting clubs and the use of grounds and facilities, student advocacy and representation, food and beverage outlets and clubs and societies. As we all know now, the introduction of the VSU legislation means that those days are gone. Those services and amenities are either no longer available or available in truncated form, available at a cost or available due only to the diversion of funds that would otherwise have been allocated to teaching, staffing, research facilities and library materials.

We have already heard about the ways in which the introduction of the VSU has impacted negatively on the provision of amenities and services to university students. We have heard that its greatest impact is at smaller and regional universities and campuses. We have heard, too, that the introduction of the VSU by the previous government had forced rationalisations and that current arrangements, some made possible by the diversion of funds, were not sustainable in the medium to long term. There are shared views, too, that the capacity for student advocacy and democratic representation has diminished markedly and that the VSU has resulted in a decrease in the vibrancy and diversity of campus life. This is particularly the case with clubs and societies, where VSU has necessarily resulted in fee increases. The number of clubs and societies and their membership has decreased and the impact has been significant.

The University of Canberra has noted that prices for students have increased by 20 per cent, while clubs and societies have decreased by nearly 50 per cent. The University of Western Sydney has made reference to the impact of the VSU as disastrous, with student organisations, newspapers, and social and sporting clubs not within its funding resources. One particular example provided by
the university was that the shuttle bus services at night, so important to the safety of young people on a very sizeable campus, were cancelled. Another regional institution, Charles Sturt University, has stated that within 10 months of the VSU legislation being enacted the student associations of the university dissolved.

The National Liaison Committee for International Students in Australia is on the record stating that the VSU meant that regional campus branches of the student associations have been lost, and funding changes have impacted negatively on overseas student associations’ ability to run events and projects and to communicate with and represent overseas students. This is a really shocking state of affairs. We welcome these students and then it appears we cut them loose from what were ideal sources of support and representation. The matters to which I have referred represent only the tip of the iceberg when it comes to the concerns of universities across Australia.

I now turn to the universities in my state of South Australia and the predicament they face in the current circumstances. The July 2008 report *The impact of voluntary student unionism on services, amenities and representation for Australian university students* shows that the University of South Australia was in receipt of more than $4.5 million for student services and amenities before the introduction of the VSU. At the time submissions were made, it was able to contribute only $615,000 to these areas. The ramifications of this include reduced staffing, closure of student association shopfronts and commercial shops and the loss of the student employment, loans and accommodation services, subsidised child care and legal advice. The Vice-Chancellor and President of the University of South Australia, Professor Peter Hoj, told me just last week:

There is no doubt that … VSU greatly impaired our ability to provide all the services we would like to provide for students. While we have used other cash flow to provide some services on an ongoing basis, this is not sustainable as it detracts from what we really should invest in—our core learning and teaching services and facilities.

We support the new agenda for greater participation. With that agenda there will be an even greater need for student-focussed facilities, services and a home away from home. The magnitude of that task will not be met with current cash flows, and we believe a smart Australia will recognise the need to restore our ability to meet students’ social and study needs to a much greater extent.

The Vice-Chancellor and President of the University of Adelaide, Professor James McWha, concurs. The University of Adelaide was in receipt of more than $3.5 million for student services and amenities pre VSU. At the time submissions were made, it was able to contribute less than one-third of that amount to these areas. This is still the case. The ramifications of this include loss of staff, including welfare and advocacy staff, loss of honoraria, a decreased level of engagement with the community, increased isolation for international students and a decline in participation in representative positions. As well, the university has assumed the management of Union House and the food and beverage outlets.

The university also funds, from diverted financial resources, maintenance and capital upgrades to sporting fields and facilities. Existing services are struggling to meet current levels of demand. The decline of campus club life and the support campus structures it provides students is arguably the most insidious impact. As Professor McWha remarked:

The [recent] failure [of the draft legislation] is a major blow to student life and especially to the provision of sporting activities and important student services.
It increases the danger of students falling through the cracks while also damaging the quality of teaching, as universities divert funds to maintain at least a minimum level of student support.

The report shows too that Flinders University was in receipt of nearly $3 million for student services and amenities pre VSU. At the time submissions were made it was able to contribute only one-third of this amount to these areas. The ramifications of this include a reduction in student representative bodies from six to one; the closure of 60 clubs and societies and 11 sports and recreation clubs; the loss of education research and advocacy officers; the loss of the international student support officer; the loss of occasional child care; the loss of the student newspaper; the loss of honorariums; and the loss of the university’s free employment service, which is now user pays. As the Vice-Chancellor and President of Flinders University, Professor Michael Barber, told me just this morning:

With the introduction of VSU, the university lost significant funds which had been used to enhance the student experience of tertiary education. The effect has been that a lot of the broader student experiences have had to be wound back. While the university has maintained catering and student health and counselling services, many of the associations which formerly supported student’s interests have been reduced.

Money available through a student services and amenities fee would enable increased student support, and would enrich the university experience for students, providing much more of a living learning environment ultimately leading to better student outcomes.

Professors Hoj, McWha and Barber are eminent academics. They are enormously concerned with the welfare of their students, with the provision of educational experiences of the highest quality, with continuing high-calibre teaching and research, and with their institutions’ reputations both domestically and internationally. On that final point, let us not forget that tertiary education is Australia’s third largest export industry. It is imperative that Australian universities offer high-quality education experiences and dynamic living and learning environments, conducive to the achievement of the highest educational outcomes.

I urge those senators opposite to contact their universities in their home states and ask them about the impact of the loss of these amenities and support services. When the opportunity to vote to restore many of them is again presented in this place, I urge them to make an informed decision based on the universities in their home states and the impact that such legislation will have on those universities.

**Australian Bill of Rights**

Senator BOSWELL (Queensland) (1.41 pm)—The matter of public interest I wish to raise is the prospect of this nation bringing in a bill of rights. The National Human Rights Consultation Committee will report to the Australian government on the options to promote human rights in Australia by 30 September 2009—a couple of weeks away. I remember when this issue was raised over 20 years ago in this place. There was a fierce public debate and my office was inundated with a groundswell of protest from ordinary Australians who were definitely opposed to a bill of rights. I do not believe that sentiment has changed in the intervening years. The matter was comprehensively settled then. The current revisiting of this issue has more to do with offering a sop to the extreme left supporters of the government than reflecting genuine need or desire for such a significant change to the way this country is democratically governed.

A bill of rights is really a bill of frights. It is a frightening situation when you take power from the elected representatives and hand it over to unelected judges. The job of judges is to interpret the law, not to make it.
That is why you have parliament elected by the people. Governments can be voted out; judges cannot. Let judges judge and legislators legislate. Once you mix them up you undermine the very basis of our Westminster system of representative parliamentary democracy.

What is a bill, or charter, of rights? It is a list of general, nice-sounding statements about the rights a person has. Smart, rich people can then use those rights in the courts to allow them to get away with wrongs. A statutory bill of rights is essentially a set of declaratory statements about individual rights contained in an act of parliament. My colleague the former senator Bill O’Chee stated recently:

By relying on courts and lawyers for reinforcement, rights become the luxury of the educated and the rich. Rights should, however, exist for the protection of the marginalised and the poor.

As soon as we create a list of rights we create a competition between rights, because they will overlap. That means that there has to be a hierarchy of rights. Someone has to weigh up which right comes before the other. For example, does the right of free speech get priority over the right to be protected from pornography? When you create a hierarchy of rights you also have to work out how to resolve the conflicts of rights within the same class of rights. That all means that you have to create an endless source of income for lawyers and opportunities for activists.

Already in Victoria a parliamentary inquiry is putting basic religious freedoms at risk by suggesting that religious organisations should employ people who do not share their beliefs. This is despite public expression of religion being specifically protected by article 18 of the United Nations International Covenant on Civil and Political Rights. And it is despite Christians being at the forefront of protecting the human rights of society’s most vulnerable.

The distribution of power in a democracy is key to the effective working of that democracy. Once you have a charter or bill of rights, you bring in a competitive framework for power parallel to the system of representative democracy. Australia is the Australia we know and love because our founding fathers got the location of power pretty well right. A charter of rights would threaten that finely balanced location of power. Everybody in Australia supports greater recognition of human rights, just like we support motherhood. But the question is: how do we go about it? Do we turn our back on democracy and the parliament to embrace a world of courts, lawyers and judges, none of whom are elected or accountable to the people? And I remind the Senate of the existing elements of parliament that deal with human rights. First of all, we have the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. The Joint Standing Committee on Treaties looks at treaties, amongst other things, from a human rights point of view. Both of those parliamentary committees look at international instruments and overseas issues. We have the Senate Standing Committee on Regulations and Ordinances, which deals with delegated legislation. And the Senate Standing Committee for the Scrutiny of Bills is specifically tasked by the Senate’s standing orders to look at legislation from the point of view of individual rights, liberties and obligations.

When you talk about rights you are talking about fundamental political values that are currently in the safekeeping of our democratic institutions. Once they are taken out of that arena then there is no parliamentary scrutiny. The coalition supports establishing a parliamentary committee that will bring together and take to a higher point the existing mechanisms of human rights in Australia.
The option we propose has the advantage of locating greater emphasis on human rights at the heart of the political system itself, while it is free of the potentially undemocratic consequences of placing unprecedented power to resolve essentially political questions in the hands of the judiciary.

My colleague from Queensland Senator Brandis made the following point in a recent address about the proposed bill of rights. He said:

It is a claim to take the received opinions of one random point in time—2008—and say that we alone, not the founding fathers, not those who built the nation over successive generations, not all the generations yet to come, have the right to say what is fundamental to being an Australian.

He quoted Justice Keane:

Our Framers were not indifferent to the rights of individuals; they were, however, content to entrust those rights to a legislature composed of citizens with an equal stake in individual rights as a check upon executive governments which depended for their existence upon the continuing confidence of the legislature … In embracing this ideal our Framers were taking a gamble on the political wisdom of future generations. They were, at this same time, exhibiting a modest appreciation of their own wisdom. That is to say, they were not so arrogant as to attempt to trenches their own views and priorities whatever the wishes of future generations. Had they done so, we might still be wrestling with the White Australia Policy.

This is a very important point: who are we to say that we hold all the cards on rights for now and into the future?

The Australian Chamber of Commerce and Industry point out that there is already a wide range of existing mechanisms for Australians with human rights grievances including: federal and state parliaments, courts, tribunals, statutory bodies and parliamentary committees, with accompanying legislation, industry codes and adopted international treaties covering this area. There is no political consensus in favour of a bill or charter of rights. The coalition opposes it, as do many influential members of the Labor Party including the Keating government Minister for Justice Father Michael Tate, the former Premier of New South Wales Bob Carr, and that state’s current Attorney General, John Hatzistergos. Without bipartisan support, a proposal to radically change the existing constitutional structure does not deserve to proceed. The judiciary themselves have grave concerns. Many of Australia’s most eminent judges are either outright opponents or at least deeply sceptical. They include the current chief justices of New South Wales and Queensland.

Another problem is that once you start making a list of rights you are bound to omit some. For example, the ACT Human Rights Act makes no mention of the right to own or enjoy the use of property, nor does it mention any other form of protection of economic relationships—for instance, the right to participate in commerce. By attempting to codify rights, a statutory bill of rights might actually limit the scope of defined rights and omit and thereby devalue others. When you remove from the parliament the ultimate power to resolve fundamental questions about political and social values, you are actually undermining a fundamental human right recognised by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights to participate in the conduct of public affairs through freely chosen representatives.

In effect, a charter of rights hands over the people’s political power to judges. The judiciary takes over the job of parliament. There is no longer a separation of powers. The experiences of the United Kingdom, Canada and New Zealand show that the introduction a bill of rights will inevitably involve judges resolving political controversies. Mr Jack Straw, the British Justice Secretary—a life-
long bill of rights advocate—declared recently that a decade’s experience of the UK Human Rights Act had convinced him that it was a villain’s charter. It inevitably increases the costs and length of court proceedings, allowing accused criminals to plead the bill of rights in addition to existing defences. The most high-profile individual who has so far relied on the Victorian Charter of Human Rights is Tony Mokbel.

British Columbia sought to encourage more rural doctors to the province through a scheme of incentives to attract new graduates. This measure was challenged successfully in the Supreme Court on the grounds that it violated the provisions of the Canadian Charter of Rights and Freedoms under section 6, Mobility Rights, and under section 7, Life, Liberty and Security of Person. In New Zealand an increase in public housing rental was challenged under their Bill of Rights Act on the ground that it was a violation to a tenant’s right to life.

The rights which we Australians enjoy are to be found in many sources of our law. The Constitution expressly provides a number of rights. For instance, section 80 guarantees the right to trial by jury for indictable offences against Commonwealth law. Section 51 guarantees non-discriminatory taxation, and that the acquisition of property must be on just terms. Section 116 guarantees religious freedom. The Constitution provides a number of other rights—for example, the right to freedom of political communication.

Common law recognises most of our fundamental rights and freedoms, such as those protecting freedom of expression and belief, the right to liberty and security of the person, the right to freedom of movement and the right to a fair trial. Additionally, the Commonwealth parliament has enacted specific legislation which guarantees certain rights. Bob Carr said:

A bill of rights is an admission of the failure of parliaments, governments and the people to behave in a reasonable, responsible and respectful manner. I do not believe that we have failed. Neither do I.

My final point is that the existence of a bill of rights is no guarantee that those rights will be respected. Examples of this are the Nazi bill of rights, which guaranteed ‘the dignified existence of all people’, and the bill of rights of modern Zimbabwe.

Sitting suspended from 1.55 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Economy

Senator COONAN (2.00 pm)—My question is to the Minister representing the Treasurer, Senator Sherry. Will the minister confirm that $40 billion of the total massive spending stimulus since the 2008 budget is unspent and not due to be rolled out until after 1 July next year?

Senator SHERRY—Thank you for the question. The stimulus is divided into three categories—that is, short, medium and long term. We have already seen a significant proportion of what I describe as the short-term stimulus—namely, the cash payments. As I understand it, they peaked in the June quarter. In the September quarter we will see further cash payments in a variety of forms. In the medium to longer term, our stimulus provides for important investments in infrastructure areas such as ports, roads and broadband and other important economic investments. That is the nature of the stimulus in the short to medium term. It is designed to phase down those cash payments. That is an important part of the stimulus.

As to the exact dollar proportion of the stimulus spent as at today, I do not have that figure in front of me, Senator Coonan. I am not aware of whether your claimed figure of, I think, $42 billion is correct, so I am more
than happy to take that on notice and come back to you with a precise answer. There will obviously be an opportunity, I think next Monday, to question Dr Henry about the stimulus package. (Time expired)

Senator COONAN—Mr President, I ask a supplementary question. Given that the Reserve Bank governor has recently signalled that interest rates will not remain at current levels, with some economists predicting that a rise could be as early as November, will the minister now guarantee that this excessive Labor government spending will not fuel rising interest rates?

Senator SHERRY—What I will indicate is that I do not accept the assertion of a link between government debt and interest rates. I do not accept that assertion. We know that interest rates are at record lows. They are at a 50-year low, which is the lowest since March 1960. We know that the cash rate is three per cent and that official interest rates have been cut by 4.25 per cent since August 2008. The average standard variable mortgage rate is 5.78 per cent. Why are interest rates so low? The reason is that they are at emergency levels.

Senator Coonan—So why are they going to go up? That is the question.

Senator SHERRY—I am getting to that, Senator Coonan. They are at emergency levels because of the world financial and economic crisis. Interest rates will go up, but not for the reasons that you claim. (Time expired)

Senator COONAN—Mr President, I ask a further supplementary question. I note that the minister was not able to provide any guarantee about rising interest rates. With $40 billion of the total stimulus not due to be spent until 1 July next year, the government’s stubborn refusal to acknowledge that the economic emergency is receding and the disturbing reality that no federal Labor government has ever managed to have an operating surplus on leaving office, is it not inevitable that the Rudd Labor government will be responsible for rising interest rates, rising taxes and crippling debt as a legacy of their economic mismanagement?

Senator SHERRY—Even the former Liberal government left us with $58 billion in gross debt.

Senator Minchin—How much net debt?

Senator SHERRY—Senator Minchin knows the truth. Even the former Liberal government left $58 billion in gross government debt. Through you, Mr President, the reason that Senator Minchin says, ‘How about net debt?’ is that the Liberal opposition does not use net government debt to illustrate the current level of debt. It uses gross government debt. Therefore, I think it is perfectly reasonable for me to highlight the fact that the Liberal party left us with $58 billion in gross debt.

Opposition senators interjecting—

Senator SHERRY—You use gross debt; I will use gross debt. We are as one on the gross debt front. You left us with $58 billion. (Time expired)

Education

Senator CROSSIN (2.06 pm)—My question is to Senator Carr, the Minister for Innovation, Industry, Science and Research. Can the minister inform the Senate how Australia ranks against international educational benchmarks? In particular, how has public support for education been affected by the policies of the past few years? What implications has this had for our performance in school and university education and in research training? Is there evidence that we have made insufficient investment in early childhood education, literacy, numeracy, quality teaching or higher education? How is the government addressing this shortfall, and what expenditure does this involve?
Senator CARR—I thank Senator Crossin for the question. The OECD’s *Education at a glance* report for 2009 is a timely reminder of just why Australia needs an education revolution. It confirms that the Liberals’ years in office were lost years for education. Public expenditure on education fell from five per cent of GDP in 1995 to 4.6 per cent in 2006. It is now well below the OECD average of 5.3 per cent. Not surprisingly, we are also below the OECD average for the number of people with upper secondary qualifications, the growth in the number of people with tertiary qualifications and the rate at which domestic students enter advanced research programs. The OECD confirms that the Liberals invested too little in reward quality teaching, too little in the basics of literacy and numeracy, too little in higher education and far too little in early childhood education.

Australia still has a good education system, but the report highlights several areas that need improvement. That is why this government’s education revolution is so important. That is why we are investing $16 billion in early childhood education and child care, $2.2 billion in computers for schools, $2.5 billion in trades training centres and that is why we are investing $550 million to attract, train and retain quality teachers. We are investing $540 million in literacy and numeracy programs. *(Time expired)*

Senator CROSSIN—Mr President, I ask a supplementary question. I would like to give the minister an opportunity to finish his answer to my first question and I also ask: can the minister advise the Senate what contributions the education revolution and the government’s innovation agenda are making to research and to research training? What additional support is the government providing to research trainees? What new fellowships have been established for researchers and what are the principles underpinning the design of those fellowships? Do these fellowships address the gaps in the career paths open to researchers, which have frequently forced Australians to pursue careers overseas in the past? And what efforts have been made to give our research effort a more international focus?

Senator CARR—The education revolution is building viable career paths for Australian researchers. That is why we are doubling the number of Australian postgraduate awards for research trainees and increasing the stipend. That is why we have introduced the Super Science Fellowships for early career researchers, the Future Fellowships for mid-career researchers and the Australian Laureate Fellowships for senior researchers. It is my pleasure this afternoon to announce the first cohort of some 200 Future Fellows. The government has committed $844 million to fund 1,000 Future Fellowships over five years. This is an important element of our program to internationalise Australia’s research effort. One-fifth of the inaugural Future Fellows are either Australian expatriates coming home or overseas scholars. Their desire to work in this country— *(Time expired)*

Senator CROSSIN—Mr President, I ask a further supplementary question in relation to innovation. Can the minister inform the Senate how the government’s investments in education and innovation are helping to cushion the Australian economy against the worst effects of the global recession and position us to take full advantage of the global recovery? What is the relationship between private and public sector investment in research, particularly during these downturns? What steps has the government taken to ensure that the research and innovation pipeline in Australia does not shut down as a result of the crisis? How does Australia’s innovation
capacity and performance compare internationally?

Senator CARR—We know that private sector spending on research and development follows the business cycle—it increases when GDP rises and contracts when GDP falls. The government has acted to counter this cycle by investing an extra $3.1 billion in research and innovation in this year’s budget, and that does not include the new R&D tax credit, which is worth $1.4 billion a year to business. This investment is designed to ensure that Australia retains and increases its R&D capabilities through the global downturn. Australia has risen from 18th to 15th in the latest World Economic Forum global competitiveness index, thanks mainly to the improvements in macroeconomic stability delivered by this government. Yet the index suggests that we are still underperforming on innovation, thanks mainly to 12 years of Liberal Party neglect. Our investment in the national innovation—

Building the Education Revolution Program

Senator MASON (2.12 pm)—My question is also to the Minister representing the Minister for Education, Senator Carr. I refer to Abbotsford Primary School in New South Wales, which is refusing its $2.5 million grant under the Building the Education Revolution Program because they have been told to knock down an existing four-classroom building so that taxpayers’ money can build another four-classroom building to replace it. Will the minister explain to the Senate why the government ignored this school community to the point where they feel the only appropriate thing to do is to boycott the program? Does this show that individual schools are more fiscally responsible than the Rudd government?

Senator CARR—I thank Senator Mason for his question. As a matter of general principle, Senator Mason, I know as a result of the practices of the past, where you have been called upon either to do the outsourced work for the Australian or the outsourced work for the member for Sturt, to always check the facts. Senator Mason, I do suggest you check the facts. In regard to the particular school you have mentioned, the New South Wales Department of Education and Training has provided advice to the minister. The nomination was put forward by the New South Wales government on behalf of the school. It was accepted by the school community on 25 May. Subsequently, the school community indicated that it wished to have additional classrooms constructed. The department is unable to amend the construction plan at this stage. The project had already gone through to tender and has progressed through the statutory plan. I understand that Senator Mason has been put in this extraordinarily invidious position of being advised that certain events have occurred when, if you check the facts, it turns out that the claims being made are not correct. In this circumstance, we have a situation where the time frames for the implementation of Building the Education Revolution were in fact very tight. The proposal at Abbotsford Primary School involves demolishing a current building—

Senator Abetz—To build another one.

Senator CARR—Because of its age, Senator Abetz. It was built in the 1950s, not the 1970s as reported. The poor condition—

Opposition senators interjecting—

The PRESIDENT—Order! When we have order, we will proceed.

Senator CARR—As distinct from the media reports on this matter, the building was put together in the 1950s and is in poor condition. It would need to be greatly im-
proved to meet the standards for school facilities today. *(Time expired)*

**Senator Mason**—Mr President, I ask a supplementary question. I refer to Evesham State School in Queensland, where the principal said that she was not going to spend a $250,000 grant because it would be, to use here word, silly to build a library for the one student enrolled in the school. Why does the Rudd government need schools to explain to them that it is silly to grant a school of one student $250,000 for a library instead of figuring that out for themselves?

**Senator Carr**—Senator Mason, I appreciate the dilemma that you are faced with. You have been given incorrect information.

**The President**—Senator Carr, address the chair.

**Senator Carr**—The facts in this matter are as follows. Evesham State School is located within the central western education district on a property called Evesham. The school was opened in 1967. The nearest schools are Longreach State School, 72 kilometres away; Muttaburra State School, 118 kilometres away; and Winton State School, 124 kilometres away. The Queensland department reports that the sudden drop in enrolments was unprecedented and related to the personal circumstances of some families at the school. *(Time expired)*

**Senator Mason**—Mr President, I ask a further supplementary question. I refer to the Tasman District School in Nubeena Tasmania, which has missed out on a new science laboratory that was promised by the Rudd government. Will the minister confirm to the Senate that the reason that schools like Tasman District School are missing out is that this poorly targeted vote-buying program has suffered a cost blow-out?

**Senator Chris Evans**—Mr President, I rise on a point of order. In this series of questions, the senator has sought to seek information on three different issues in three different states and pretended that they are supplementary to the major question. Clearly, they are not supplementary when he is seeking that sort of information. The idea of supplementary questions is to elicit further information on the topic of the primary question. I accept that they are legitimate questions, but they are not legitimate supplementary questions. If the opposition want to ask questions on issues in three different questions they should use three separate primary questions. This is a misuse of the supplementary question system.

**The President**—There is no point of order. I will allow the question to stand.

**Senator Carr**—Third time lucky—but you fail again, Senator. In regards to the situation of the Tasman District—

**Senator Faulkner**—That would make him third time unlucky, actually.

**Senator Carr**—Well, he did make an effort. I did indicate how invidious his position was, Senator Faulkner, in having to repeat these ridiculous claims without checking the facts.

**The President**—Senator Carr, address your comments to the chair.

**Senator Carr**—Mr President, the Tasman District School received $206,000 for the construction of a new kindergarten and $590,000 for the refurbishment of existing classrooms and amenities under the Primary Schools for the 21st Century element of the Building the Education Revolution program. Within Tasmanian schools generally, government schools received some 71 per cent, some $31 million; Catholic schools received $8.8 million, some 20 per cent of the funding; and independent schools received $3.6 million, or nine per cent of the funding. *(Time expired)*
Magill Youth Training Centre

Senator HANSON-YOUNG (2.21 pm)—My question is the Minister representing the Attorney-General and the Minister for Youth, Senator Wong. Is the minister aware of reports surrounding the appalling conditions of juvenile justice detention centres around Australia, and in particular reports about the Magill Youth Training Centre in her and my home state of South Australia that young people are being detained with no privacy and poor training and rehabilitation options?

Senator WONG—Perhaps I should first clarify that I do not represent the Minister for Youth; Senator Arbib represents the Minister for Youth. I represent the Minister for the Status of Women, but—

Senator Ferguson interjecting—

Senator WONG—I am older than Senator Arbib, that is true. I think I am younger than you still, Fergie!

The PRESIDENT—Order! It is disorderly during question time to trade ages! Senator Wong, the first thing is that you are entitled to be heard in silence; the second thing is that interjections are disorderly.

Senator WONG—I will take that interjection as someone of Chinese descent. We do have a different view of age—it is something to be venerated. So there you go, Senator Ferguson!

Senator Abetz—Was that your attitude to John Howard?

Senator WONG—Senator Abetz continues to try to convince himself that Mr Howard is still the Prime Minister, but anyway! Senator Hanson-Young, I have gone into the question in my capacity as Minister representing the Attorney-General. I am aware of an article in the Advertiser from a few days ago on the Magill Training Centre. As senators may or may not be aware, that is a detention centre for young people who have been arrested and refused bail or been before a court and remanded in custody. The article makes a range of assertions about the conditions of the training centre.

Obviously, some of those allegations are of concern. The training centre, as I understand it, is the responsibility of the South Australian government. In fact, Senator Hanson-Young, I think you made some comments in that article in relation to that issue. As I said, there are some concerning suggestions made in that article by people who are in that training centre and the government is aware of that in that context, but I again make the point that these are—(Time expired)

Senator HANSON-YOUNG—I thank the senator for the clarification. I know that she used to be responsible for representing the Minister for Youth. Of course, before, there was an even younger senator on the front bench here. Thank you, Senator Wong, for answering those questions, particularly those relating to your role representing the Attorney-General, because I do believe that this is an important justice issue.

I have a supplementary question. Is the minister aware that the conditions of the Magill youth training centre have been described as ‘a living children’s rights abuse hell’ by the Australian youth representative to the United Nations? They are said to be in breach of the United Nations Convention on the Rights of the Child, a convention to which Australia is a signatory. It must, therefore, be an important issue for the federal government. It is a breach because it does not comply with health and safety standards and does not provide a standard of living adequate for a child’s physical, mental, spiritual, moral or social development, let alone the ability to help these young people to be rehabilitated—(Time expired)
Senator WONG—I am aware that Australia is a signatory to the Convention on the Rights of the Child. As I said, this is a centre that, as I understand it, is operated by the state government. I note that Senator Hanson-Young has suggested—I am not sure if that was one of the questions in the range of questions she asked me—that this should be part of the stimulus spending. I reiterate that there were very clear guidelines around the nature of the facilities that the stimulus package would be expended upon. In the context of the education aspect, it was very clear that it would be spent on schools. I can advise the senator that the Attorney-General’s office is aware of these issues and that the government will consider the concerns that have been raised and, if appropriate, raise these issues with the South Australian government—that is, if they are appropriate. *(Time expired)*

Senator HANSON-YOUNG—Mr President, I ask a further supplementary question. Given the fact that the federal government has responsibility for ensuring that we are not in breach of the conventions to which Australia is a signatory, will the Minister for Youth or the Attorney-General consider leading a delegation to visit the site themselves, to see exactly what the conditions are like and to put that on the public record so that the Australian public knows what types of conditions we are detaining young people in?

The PRESIDENT—Minister, you can answer only that part which relates to your capacity.

Senator WONG—I am asked about the Minister for Youth. Senator Hanson-Young will have to address that question to Senator Arbib. As I said, the government will look into the concerns and, if appropriate, raise those concerns with the South Australian government. But I again reiterate: as I understand it, this is a centre operated by the South Australian government. I also understand that the South Australian government had previously committed to building and new centre but that, unfortunately, as a result of financial constraints in the current economic climate, it is unable to fulfil that commitment at this time.

Australian Biosecurity Cooperative Research Centre

Senator BACK (2.27 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Given that the minister has discontinued funding for the Australian Biosecurity CRC, can he tell the Senate whether the government is aware of that none of the field veterinary work associated with the Hendra virus outbreak is undertaken by CSIRO and but by scientists in Queensland whose work is funded by the Australian Biosecurity CRC?

Senator CARR—Senator Back, I can inform you that the work undertaken in Queensland is done by the CSIRO. It is true that in the past some funding for that research was undertaken by the CSC but, as I indicated to you yesterday, the CSIRO is—

Senator Ian Macdonald—Careful, Kim!

Senator CARR—Senator Macdonald, taking advice from you on care would, I think, be a foolhardy exercise.

The PRESIDENT—Senator Carr, ignore the interjections. Interjections are disorderly. Address the chair.

Senator CARR—I indicated to you yesterday that the CRC for biosecurity failed in its bid in the 11th round; it chose, for whatever reason, not to present for the 12th round. They were one of 10 CRCs in the 11th round that did not go to the second stage. The decision was made by the expert selection committee of the CRCs. The CRC for biosecurity is one source of advice in terms of research on Hendra but in my view
the CSIRO is better equipped—given the Australian Animal Health Laboratory in Geelong and given the amount of money we have invested in that laboratory—and better placed to undertake research in this field. Furthermore, the CSIRO has indicated that it is providing additional resources for research into Hendra. It is the CSIRO, in my view, that is better equipped to deal with this matter. But when it all comes down to it, it is as simple as this: I cannot intervene in the CRC selection process under the current guidelines. You would appreciate that matter.

Senator Abetz—That isn’t what you were saying about the other CRC. Remember that?

Senator CARR—Senator Abetz, if you knew anything about this you would know that there was never a claim about the rights of the government to intervene in the selection of individual CRCs. In the previous government—(Time expired)

Senator BACK—The field veterinarians doing the work are employed through the Queensland DPI. They will be interested to know that they are now being employed by the CSIRO! Mr President, I have a supplementary question. Can the minister inform the Senate who will fund this vital Hendra fieldwork for both human and animal diseases once the Australian biosecurity CRC for new and emerging diseases ceases to exist in 2010?

Senator CARR—As I indicated yesterday, it is just plain wrong to assume that the biosecurity CRC is the only way in which the government addresses critical national biosecurity issues. Research into Hendra virus has, for some years, primarily been the responsibility of the CSIRO, which is the nation’s premier public research agency. CSIRO currently conducts most of the research into Hendra in Australia. This goes through the Australian Animal Health Laboratory, which attracts competitive grants—not just support from the Australian government but support from the US government through the US National Institutes of Health. The laboratory is a facility which is world class and has the highest possible security rating, allowing for top-level research on highly infectious diseases. The Animal Health Laboratory’s capacity has been strengthened—(Time expired)

Senator BACK—Mr President, I have a further supplementary question. The minister stated in this place yesterday that the CRC’s application for continued funding was not of a high enough quality to earn continued funding. Can the minister then explain how the CRC received a letter to this effect whilst, in the same post on the same day, it was congratulated by the CRC review committee chairman for its excellent intellectual property policies and effectiveness? Will the minister now call the advice of his review committee into question and have it independently assessed?

Senator CARR—you are aware, surely, of the process which is undertaken by the selection panel. You may well question the judgment of the selection panel—as you obviously have—but the fact remains that under the current guidelines the minister does not have the capacity to intervene in the selection process.

Senator BACK—Change the guidelines.

Senator CARR—I have been urged to change the guidelines. It was the previous government that changed the guidelines to withdraw public benefit support as the basis for selection in these rounds. What we have undertaken to do is to provide the assistance we have for the CRC program. There has been an extensive review but, at the end of the day, there were 10 other CRCs that did not get through that particular round on the basis of the advice of the expert panel. (Time expired)
Infrastructure

Senator FEENEY (2.33 pm)—Mr President, my question is to the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, Senator Conroy. Why is investment in infrastructure important for our economy? How are the government’s stimulus packages meeting the long-neglected need for infrastructure investment in Australia?

Senator CONROY—I thank my very good friend Senator Feeney. The Rudd government understands that investment in nation-building infrastructure is critical to set Australia on the path to boosting productivity and prosperity. Australia’s productivity performance has lagged in the past decade, as critical investment in infrastructure was neglected. We are addressing the supply pressures and infrastructure bottlenecks that those opposite left and failed to address in their 11 ½ years in government. In the face of the worst global recession in 75 years, the government stimulus packages were carefully designed to provide appropriate staged support to the economy while providing a plan for the renewal of Australia’s long-neglected infrastructure.

Phase 1 provided immediate stimulus to boost consumer demand. Phase 2 commenced work on important infrastructure investments that can be delivered quickly. And phase 3 focused on longer-term infrastructure investments, which are supporting jobs now and will continue to provide benefits to the economy well into the future. The stimulus measures put in place by the Rudd government will leave a legacy of improved infrastructure in a range of areas right across Australia. (Time expired)

Senator FEENEY—Mr President, I have a supplementary question. Can the minister advise the Senate on the range of infrastructure and local government projects that are being commissioned across the country? How many projects under the Regional and Local Community Infrastructure Program have commenced and what is the process for funding-approval for that program? Can the minister also inform the Senate of the progress of community and transport infrastructure projects that will improve road and rail transport across Australia?

Senator CONROY—The Rudd government is delivering record funding for regional and local infrastructure to support jobs, stimulate local economies and deliver long-lasting benefits in communities. All projects and funding have been approved for the Regional and Local Community Infrastructure Program and almost 3,000 projects had commenced as at 30 June 2009—3,000 projects! The government has already committed over $3.2 billion—100 per cent of program funding—to over 4,300 community and transport infrastructure projects across the country. Construction of four of the 14 major road projects has commenced. (Time expired)

Senator FEENEY—Mr President, I ask a further supplementary question. Can the minister outline to the Senate the ways in which infrastructure spending supports Australia’s short-, medium- and long-term economic performance? How does investing in infrastructure contribute to productivity and how does it support economic performance in the face of a global economic downturn?

Senator CONROY—Infrastructure spending boosts the supply side of the economy, increasing the ability of the economy to grow without triggering inflationary pressures. It sets the foundation for future economic growth and productivity. The government’s infrastructure plans will allow Australians to benefit from better service delivery and higher productivity growth in future
years. The global economy remains fragile, and the outlook shows there will be challenges, but we need to support jobs and growth now by investing in a new generation of prosperity built on firmer foundations than the last one. When those opposite advocated doing nothing to support the jobs of Australians in the face of the worst global recession in 75 years, this government acted quickly and decisively. *(Time expired)*

**Broadband**

Senator MINCHIN *(2.39 pm)*—My question is also to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Further to Senator Feeney’s questions, I ask: how can the government possibly justify its irresponsible refusal to conduct a full cost-benefit analysis of its biggest infrastructure project, the $43 billion NBN mark II proposal, despite its clear undertaking in last year’s budget: Where governments invest in infrastructure assets, it is essential that they seek to achieve maximum economic and social benefits, determined through rigorous cost-benefit analysis …

Senator CONROY—Can I congratulate Senator Minchin on his question. Senator Minchin and those opposite prefer stunts, press releases and scare campaigns to actually developing a broadband policy. They prefer stunts to policy. To show just how uninterested Senator Minchin is in his own portfolio, he has Glenn Milne out there touting around to get him promoted—in his mind—out of the portfolio.

The PRESIDENT—I draw your attention to the question, Senator Conroy.

Senator CONROY—Thank you, Mr President. Unfortunately, Glenn Milne has belled the cat on Senator Minchin. He is not interested in a broadband policy. He is not interested in anything other than trying to call for more studies—another cost-benefit analysis.
clear: we intend to deliver on our election commitments. We are exceeding—

Opposition senators interjecting—

The PRESIDENT—Order! When we have silence, we will proceed.

Senator CONROY—We are exceeding our election commitments with the plan that we are currently implementing. The CEO of Foxtel, Kim Williams, pointed out in his recent National Press Club speech:

I think most of the response to the broadband initiative has been positive and in fact most of the negative commentary has really come, essentially, of a political nature rather than in terms of the operators and the landscape.

Optus CEO Paul O’Sullivan has said—(Time expired)

Senator MINCHIN—Mr President, I ask a further supplementary question. Is the minister aware that respected economic consultancy Concept Economics conducted a rigorous cost-benefit analysis of the proposed NBN, which found that its costs would exceed its benefits by between $14 billion and $20 billion? Doesn’t this finding necessitate a full cost-benefit analysis by the government before it borrows up to $40 billion to pay for its optical fibre rollout?

Senator CONROY—The whole premise of that question was false. The government are not going to be borrowing $40 billion. We have made it absolutely clear.

Opposition senators interjecting—

The PRESIDENT—Order! The time for debating these issues is at the end of question time.

Senator CONROY—As for the ‘respected’ economic commentators Concept Economics, they are the advisers you hired for your tax policy that has vanished without trace. Frankly, they should take this analysis and put it in the same place you put their tax advice.

Mr Guy Campos

Senator FIELDING (2.45 pm)—My question is to the Minister representing the Attorney-General, Senator Wong. I refer to the multiple reports aired on Today Tonight regarding the government’s seemingly unwillingness to bring Guy Campos, a self-confessed child beater and alleged war criminal and murderer, to justice for crimes committed against the East Timorese. Can the government confirm that, after dragging its feet on the issue of bringing this man to justice for over a year, it has now decided to shirk its obligations under the Geneva convention and has instead asked Mr Campos to voluntarily leave the country by 18 September rather than prosecute him for alleged war crimes?

Senator WONG—I thank Senator Fielding for the question. He did ask me a question earlier this year in relation to Mr Campos. I would like to start by expressing what I am sure everybody in the chamber would agree with, which is that these are tragic events. The allegations of what has occurred, and in particular the death of Francisco Ximenes, have been the subject of public discussion and no doubt continue to be extremely difficult for his family. As I have previously indicated, allegations such as these do give rise to complex legal and factual issues. I have previously indicated—I think in this place to you, Senator Fielding—that the AFP is currently investigating allegations relating to the conduct of Mr Campos in the 1990s. But I reiterate that under our system decisions in relation to investigation, arrest or prosecution of any individual are matters for the Australian Federal Police and the Commonwealth Director of Public Prosecutions, who are the independent statutory authorities. These are not decisions for ministers or for the government. I again express to you that that is as it should be within our system of law.
Senator FIELDING—Mr President, I ask a supplementary question. I notice that there was not really any confirmation about whether the government has asked Mr Campos to voluntarily leave the country by 18 September. Is it a fact that the Attorney-General is considering issuing a criminal justice certificate that would allow Mr Campos to stay in Australia after 18 September while investigations into his alleged war crimes continue, but that this would do nothing to stop him from leaving the country to escape prosecution, and that the only way for the government to make sure that Mr Campos is brought to justice is, once and for all, to charge him for the horrific crimes which he is alleged to have committed?

Senator WONG—Again I take issue, if I may, with Senator Fielding’s last assertion where he talks about the government charging people. We do not have a system of law in this country where the government charges people. Charges are laid by independent statutory authorities. In relation to the issue of Mr Campos’s visa status, details of those questions should be addressed to Senator Evans as the Minister for Immigration and Citizenship. In general terms, the Attorney-General is able to issue a criminal justice stay certificate that enables the stay of a removal of a noncitizen. That is a determination the Attorney-General can make. As to the appropriateness of the issue of such a certificate once a person’s visa has expired, a criminal justice stay certificate will be—

(Time expired)

Senator FIELDING—Mr President, I ask a further supplementary question. Does it seem odd for this government to allow alleged war criminals to roam freely in our streets and then allow them to leave the country to escape prosecution without the government making any attempt to try to bring them to justice and to fulfil our obligations under the Geneva convention?

Senator WONG—Again I say this: currently, as I understand it, Mr Campos is on a valid bridging visa. Again I reiterate that the Attorney-General does have the discretion to issue criminal justice stay certificates in relation to persons once their visas have expired. Such a certificate would ensure that such a person is not able to be removed from Australia and the Attorney-General could only do so if he was satisfied that the person should remain in Australia for the purpose of the administration of criminal justice in relation to a Commonwealth offence. Again I say that it is a matter for the Australian Federal Police as to whether there is sufficient information available to the Attorney-General in relation to this case for that consideration to be made. More broadly, issues as to prosecutions decisions are not matters for the minister; they are matters for the independent statutory authorities to which I have referred. (Time expired)

Indigenous Communities

Senator SCULLION (2.50 pm)—My question is to the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, Senator Evans. Details released in the Strategic Indigenous Housing and Infrastructure Program report reveal that the total budget—either allocated for the first three packages or already spent—equals $182.54 million, or 28 per cent of the total program work budget. Given the contracts let to date will deliver only around seven per cent of the required houses and 1.5 per cent of the rebuilds, will the government now concede that their promise of 750 houses and some 2,730 refurbishments and rebuilds cannot be delivered through the existing Strategic Indigenous Housing and Infrastructure Program budget?

Senator CHRIS EVANS—I thank Senator Scullion for the question. I suppose the
first thing to say is: leave the maths to the mathematicians. I read your release and it does not add up, so your criticisms are not right. You made some mistakes in your assumptions and, therefore, your conclusions are wrong as well. I am happy to take you through those. But I am informed by Ms Macklin that the maths is wrong because some of the assumptions are wrong. So let me take you through some of that. I understand your calculations assume—

Honourable senators interjecting—

The SPEAKER—Order! It is Senator Scullion’s question; he is entitled to hear the answer.

Senator CHRIS EVANS—I understand in Senator Scullion’s release he assumes that all of the $45 million spent under the SIHIP—

Senator Abetz—No, it’s a question.

Senator CHRIS EVANS—Senator Abetz, I am trying to do my best to answer his question. If you would belt up I will have a go at it.

The SPEAKER—Order! Interjections are disorderly. Ignore them, Senator Evans.

Senator CHRIS EVANS—The calculations attached to Senator Scullion’s press release assume that all of the $45 million spent under SIHIP up to 30 June 2009 was on program management costs. But, as the review clearly showed, less than $18 million of that expenditure at that time was for program management. It also appears that you have not appreciated that the $128 million allocated for the first three packages on the Tiwi Islands, Groote Eylandt and Tennant Creek will be spent on improving essential services infrastructure, delivering power, water, sewerage and roads. Finally, I am advised that the press release of Senator Scullion states that there will be 37 refurbishments and upgrades provided under the first three packages; however, there will actually be 308 rebuilds and refurbishments in the first three packages. (Time expired)  

Senator SCULLION—Mr President, I ask a supplementary question. I thank the minister for that information and will be checking that. The original Strategic Indigenous Housing and Infrastructure Program budget allocated $350,000 per house. The first houses funded for Groote Eylandt and the Tiwi Islands are alleged to have cost around $560,000, and the revised budget provided by the government for all future houses is $450,000. Given the budget blowouts, how can the government continue to claim all promises can be met within existing allocations?

Senator CHRIS EVANS—The simple answer to the question is that the minister, Ms Macklin, has made it very clear that the commitments will be honoured—the commitments to building 750 new houses and performing 230 rebuilds and 2,500 refurbishments by 2013 will be met. That is the answer—that she will meet those requirements. I am sure at the up and coming estimates we will be able to take you through all the detail about the expenditure and the cost of houses et cetera. I suspect we will spend quite a bit of time on it, and I look forward to that. But the key response to you is to make it very clear that Ms Macklin and the government will deliver on the commitment made in relation to the number of houses, the number of rebuilds and the number of refurbishments. The government is committed to delivering on those assurances.

Senator SCULLION—Mr President, I ask a further supplementary question. Given the minister’s confirmation that 750 houses will in fact be built and given that the government have invested some $45 million in what would have to be the largest consultation of all time, will the minister now pro-
vide a list of how many houses will be built community by community?

Senator CHRIS EVANS—If I am able to help Senator Scullion with a list of the number of buildings per community I will, but I will have to take it on notice. I do not know whether that is available—if it is, I certainly do not have a copy of it with me. But I am certainly happy to take that on notice and provide what information I can.

WorldSkills International Competition

Senator McLUCAS (2.56 pm)—My question is to the Minister for Employment Participation, Senator Arbib. Is the minister aware of the WorldSkills competition in Calgary, Canada, where international youth from 50 countries around the world gathered to compete against each other in 26 trade and service events? Can the minister inform the Senate of whether Australia was represented at the event and, if so, the results that the team achieved?

Senator ARBIB—I thank Senator McLucas for that question. I am very happy to inform the Senate that, yes, Australia was represented at the WorldSkills competition.

Honourable senators interjecting—

The SPEAKER—Order! When there is silence, we will continue.

Senator McLUCAS—Mr President, I ask a supplementary question. I wonder if the minister could continue to tell us about those students who did so well. Also, in light of the Australian team’s performance at the international competition and of the report released last week by the National Centre for Vocational Education Research, which shows a small decrease in the number of apprentices and trainees in training, can the minister inform the Senate what measures the Australian government is taking to ensure that the next generation of Australians have adequate training and apprenticeship opportunities?

Senator ARBIB—I was also saying in response to Senator McLucas that silver and bronze medals were won in the fields of manufacturing—(Time expired)
wall and floor tiling. It is a great credit to those competitors, their coaches and the support staff but also a great credit to our TAFE institutions. It is a great credit to all the teachers in our TAFEs who put the hours and hours of work into training young apprentices and trainees. This is an extremely important part of what the government is trying to achieve at the moment. During a global recession you obviously have the effect of unemployment, but you also have the effects on skills and apprentices. We have seen apprenticeship numbers go down—there is no doubt about it—during the global recession, but the government is acting. In terms of the stimulus, we have put in place a 10 per cent figure on total contract labour hours for apprentices. (Time expired)

Senator McLucas—I thank the minister for his answer. Mr President, I ask a further supplementary question. Can the minister further inform the Senate on what improvements the federal government is making to vocational education and training in order to address the skills crisis in Australia? And can the minister please advise how the benefits of the Australian government’s improvements to vocational education and training will improve our country’s productivity?

Opposition senators interjecting—

Senator ARBIB—I thank Senator McLucas for the question. I take on board one of the interjections. I do congratulate the employers who were involved in the work. They had a role to play and they allowed those apprentices to take the time, get the extra training and attend, so I do thank those employers. On the stimulus, as I said, we understand that we must now prepare for the future. We must skill up the country and skill up our apprenticeships for the future, and that is what we are doing. That is why we have the 10 per cent figure for apprentices. That scheme is actually working. Recently I went to Seven Hills and saw a pre-apprenticeship scheme at one of our community housing programs—young apprentices working to build a stimulus house. It will take almost 12 months off their apprenticeship. This is the work that the Labor government is doing. (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

Australian Biosecurity Cooperative Research Centre

Senator BACK (Western Australia) (3.03 pm)—I move:

That the Senate take note of the answer given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to a question without notice asked by Senator Back today, relating to the Australian Biosecurity Cooperative Research Centre for Emerging Infectious Disease.

It is a shame that this so-called expert committee that advised the minister was so inexpert in the quality of its advice, but I was not surprised when I learnt that the CRC’s application was in fact not peer reviewed but reviewed—

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! Would the senators standing in the aisles please quickly move out of the chamber.

Senator BACK—I was making the point that the so-called expert advisory committee which advised the minister did not in fact have a single member competent in infectious diseases, quarantine, biosecurity, veterinary medicine or environmental or wildlife issues associated with disease emergence. It is little surprise, then, that that committee firstly advised the minister that AQIS had nothing to do with this biosecurity
CRC when it is simply a service of the Department of Agriculture, Fisheries and Forestry. Secondly, it advised the minister that Customs was not associated with the bid when Customs is not involved at all in research into infectious diseases. The committee completely failed to comprehend the concept of one health approach to infectious diseases, recognising the interspecies relationship between wildlife—animals and birds—and humans.

This is a critically important question. We have deaths of humans and animals. We have the circumstance in Australia, as do our neighbours to the north, in Malaysia and now in Bangladesh, of deaths as a result of bat-borne diseases—through other animal species to humans—and, we believe, possibly directly from bats to humans in Bangladesh. I cannot emphasise sufficiently the importance of this. I am surprised that it is not being taken with the seriousness it should. Only last week we had the death of the second of my veterinary colleagues from the hendra virus in the last 13 months.

The minister was quite right when he drew attention to the CSIRO Australian Animal Health Laboratory in Geelong. It is world’s best practice. It is the envy of the rest of the world. It is an institution that is approached by countries asking if they can be involved in antiterrorism biosecurity research. What is interesting is that half of the hendra virus and Nipah virus work at the Animal Health Laboratory in Victoria and the work being done in the field—I repeat: in the field—by the Queensland DPI is at least 50 per cent funded by the Australian Biosecurity CRC for Emerging Infectious Disease. Given the fact the minister is continually only talking about the relationship with CSIRO and the AAHL, I ask him: will he guarantee continued funding for work into these viruses when the CRC ceases to be funded?

The Australian Biosecurity CRC for Emerging Infectious Disease brings together a host of Australian, international, Bangladeshi, American, British, state, CSIRO, government agricultural and other research organisations. You just do not dismantle the sort of network that has been developed since the early part of this decade without impacts on the excellence of the outcome. I certainly will be interested to learn whether or not the minister thinks that CSIRO will be expanded sufficiently to pick up the very, very necessary work that is undertaken.

In defence of the committee and its advice to the minister, I will make the observation that this advice came down and the decision was taken to discontinue this CRC before the swine flu pandemic hit Australia in the middle of this year. It also, therefore, of course, occurred before there was a transfer of that particular flu virus from humans to swine in New South Wales. Thirdly, it occurred before the recent hendra outbreak. I concede that the advisory committee was not aware of those circumstances, but surely those three are an example that the minister should take the responsibility that is allowed him under the CRC guidelines. He is responsible for this particular activity and should see the committee as advisory only and have its recommendation assessed independently.

**Senator STERLE** (Western Australia) (1.08 pm)—I rise to contribute to this take note of answers debate and the motion moved by Senator Back. Before I go any further, I would like to clarify a few things. As part of my role on the Senate Standing Committee on Rural and Regional Affairs and Transport, I, along with my colleagues Senator O’Brien and Senator Back, visited the Australian Animal Health Laboratory in Geelong about five or six weeks ago. It was an opportune visit for us and an experience that certainly enabled us to take away with us a knowledge of the great work that is be-
ing done down there by the good folk. We were welcomed. The only thing I must say—and I think it is important that we clarify this—is that it is a bit concerning that, when we have a lot of rural and regional affairs inquiries we are swamped by the number of coalition senators who cannot wait to get their heads in there and have something to say about agriculture, because they are the gatekeepers of all intelligence on the farms, it seems. Or they think they are.

Senator Ian Macdonald—Hear, hear!

Senator STERLE—Hear, hear? Well, listen to this. Why weren’t any of you down there except Senator Back? Where were the rest of them? They could not be bothered. Were they too busy? Are they not interested in biosecurity or Australian animal health? It is absolutely disgraceful. And you stand up there and lecture us.

The good work being done down at the Animal Health Laboratory in Geelong should not go underestimated. It was opportune, because at the time we were there—and I think Senator Back would recall this, as would Senator O’Brien—there was a sample being analysed that was taken from a horse from Queensland. It was a suspected hendra virus case. We were only there for about four hours. It is a shame that we can turn it into a political argument. This shocking disease is something that we should not politicise. That it claims the lives of vets and horse workers is concerning.

It is completely wrong to think that the biosecurity CRC is the only way that the government addresses critical national biosecurity issues. Research into the hendra virus has for years been primarily the responsibility of the CSIRO, the nation’s premier public research agency—and no-one would argue with that—as the CSIRO does conduct most of the hendra related research in Australia. It does this through the Australian Animal Health Laboratory, as we were saying, which also attracts competitive grants, which Senator Back did mention, from other research agencies, including the US National Institutes of Health. I would reiterate Senator Back’s comments that it is world’s best practice down there. That is something that we should be very, very proud of. Not only the Americans but also the Brits hold highly favourable views of it. This facility is world class. There is no argument about that. It has the highest possible security rating, allowing top-level research on highly infectious diseases.

The Animal Health Laboratory’s capacity has been strengthened over the last 18 months with a new $5.5 million diagnostic emergency response laboratory, which was announced in July 2008, and a new research partnership with Deakin, which was announced in August 2008. The management of emerging infectious diseases, such as the hendra virus, in the long term is also being addressed as part of the government’s response to the Beale review of Australia’s quarantine and biosecurity arrangements. The government is now considering its detailed response to the review, including working more closely with state and territory governments, which is very, very important. We have to work with state and territory governments—there is no argument about that—and we have to establish a national biosecurity agreement and establish a national biosecurity commission.

The CSIRO will continue its biosecurity research and estimates that its total annual expenditure on research into bat-borne diseases, including hendra, is approximately $2 million per annum. I must bring to the attention of the Senate that it was actually a Labor government that created the CRCs. By June 2010 the Australian Biosecurity CRC for Emerging Infectious Disease will have received $17½ million of funding over seven
years. The CRC applied for an extension of this funding in the 11th round of the program. (*Time expired*)

Senator SCULLION (Northern Territory) (3.13 pm)—After a series of questions over two days and an excellent contribution from Senator Back it is very sad to see that those on the other side just do not get it. I have a list of the CRCs before me. There are 55 of them. They are very, very important. We have cotton catchment, dairy products, industry innovation, weeds management, sustainable tourism, smart services and automotive technology, but I would put it to you, Mr Deputy President, that there are five that are fundamentally important to human beings on this planet. They are, of course, the CRCs for Aboriginal Health, Asthma and Airways, and Cancer Therapeutics, the Bushfire CRC and the Australian Biosecurity CRC for Emerging Infectious Disease. The last is the one we are talking about.

We all know of, and we have spoken often about the history of, the hendra virus. The hendra virus is part of the *Henipavirus* family. We know, because they are ‘zootic’ in nature—that is, they are communicable from animals to humans—

Senator O’Brien—Zoonotic!

Senator SCULLION—Yes, zoonotic. It is an area of human health that has been the focus of so much science around the world. Before the move to cancel the CRC on biosecurity in 2010, Australia ran this area. We do not run it because we are the smartest; we run it because we have the best relationship with the smartest in the country. We now have the emergence of the Nipah virus, and the great tragedy in Australia is that we are so vulnerable because we have all of the vectors here. We know with the hendra virus it is about bats, it is about horses and it is about people—that is all we know. We have a vast amount to learn. With the Nipah virus we have a far wider range of vectors. We have everything from ferrets and pigs to horses and cats. Where I come from we have flying foxes in close proximity to all of those animals.

This is not just a small disease that comes through and gives people a cold. Between late 1988 and March of the following year, the Nipah virus was responsible for some 105 deaths. Between 1998 and 1999, it spread from Nipah at the northern end of Malaysia down to the southern end of Asia, and by the time that epidemic came over, 260 people had been affected, of which 105 died. This is an absolutely savage disease and, again, it is part of the Nipah virus family. This is a family that we need to really carefully look at. I note in the almost flippant answer given by the minister today to the very sensible and serious question from Senator Back that he said: ‘Look, one source of advice is all we need. CSIRO are far better equipped.’ That is what he said today. The Australian Biosecurity CRC consulted with the Queensland Department of Primary Industries and Fisheries, CSIRO, the US Centers for Disease Control and Prevention, the Consortium of Conservation Medicine of New York, the international Wildlife Trust, the International Centre for Diarrhoeal Disease Research Unit of Bangladesh, the Veterinary Laboratories Agency in the United Kingdom, regional and country veterinarians, and infectious diseases physicians. It goes on and on because it was a coalition of individuals that had the intellectual horsepower and the capacity to continue to deal with one of the most significant threats to this country—that is, zoonotic diseases.

We have already heard about swine flu, and I have great concerns that in New South Wales we have seen the virility of the disease as it returns from people back to pigs. We had a group of people who were absolutely dedicated to this, but we just told them:
‘Don’t bother. In 2010 it’s all over.’ I am sure they are not even sitting around at the moment; they are scurrying around trying to find another job. We have a minister who flippantly says: ‘Look, we don’t need all those people. We’ll just use one of them that’s already there, and they’re going to provide us with scientific answers to protect Australians—not only their health but in fact their lives.’ This is a CRC that has far more importance in the current context of biosecurity threats in this country than any other CRC, but the fact is the minister has said, ‘I’ve left it to this independent inquiry,’ which has absolutely no expertise in the matter, and so there is not a lot of probity involved. But I can tell you right now, Mr Deputy President: Australians will not forget the day that this minister ignored the biosecurity future of this country and, in fact, the lives of Australians.

Senator O’BRIEN (Tasmania) (3.18 pm)—It is unfortunate that the opposition wants to play politics with this issue and to focus on the hendra virus as the reason for it. As Senator Sterle pointed out, he and I and Senator Back visited the high security facility at Geelong run by CSIRO—the premier facility of that sort in the world—where research into and diagnosis of the presence of hendra virus takes place. It does not really matter in a sense what others are doing, because the only place I would want the virus being researched in any way, given its consequences in infecting humans with an over 60 per cent fatality rate, is at that Geelong facility and nowhere else. And I am sure the CRC would have felt the same way.

It is self-evident from the fact that we were there and they were researching it that research is going on at that facility into that virus and into the transmission of that and other viruses, and we have received some very interesting information about the role that bats potentially play in the transmission of diseases such as hendra but also avian influenza—another matter that was raised with us—and that bats may well be the vector for a range of other diseases. I would want that sort of research to be conducted in a facility where we are virtually guaranteed there can be no escape from the facility of the vectors we are trying to research—it is prevented from entering or spreading in our environment.

In terms of the CRC situation, it was the Howard government that introduced the competitive model for CRCs. It introduced a system where there was effectively a bidding process for funding. That has been continued, and so I am a little bit surprised that the coalition are now criticising the continuation of a process that they initiated and supported.

Senator Scullion—This is a special case.

Senator O’BRIEN—If we recognised that process, then I am not sure why they are criticising it. If it is suggested, as was interjected by Senator Scullion, who is not in his seat, that it is a special case and the hendra virus should have been kept with that CRC, then that is utterly wrong. The research is continuing. I just demonstrated it. Senator Back nodded his head when I indicated the research is continuing now at the facility it should continue at. If you have a biosecurity CRC that goes into a tender for research without the support of the Australian Quarantine and Inspection Service and Australian Customs—the border agency that assesses goods for import and export and the border agency managing biosecurity—then you would have to assume that it would be weakened. And, indeed, it must have been. It failed.

There has been another round where the CRC could have applied for funds, which was the 12th round, but they did not apply. One has to take the view that they were not confident in the strength of their own case if
they were not prepared to look at their submission for the 11th round to see what failings they might have had and try to address them. They did not do that. To criticise the government over the CRC application, which failed and was subsequently not pursued by that organisation, is just playing politics, let’s be frank—

Senator Back interjecting—

Senator O’BRIEN—I really would urge members of the coalition, other than Senator Back because he has availed himself of the opportunity, to have a look at the facility in Geelong. Let me tell you that it may be a little uncomfortable. We all had to go through a process where we had to disrobe and put on their clothes and make sure that we did not carry anything into the secure area that we could not carry out. I had to disinfect my glasses on coming out. They have a very, very secure protocol in terms of managing the possibility of exit of some of the organisms that they deal with there, so important is their role. (Time expired)

Senator IAN MACDONALD (Queensland) (3.23 pm)—You can tell from the half-hearted attempts by Senator Sterle and Senator O’Brien to defend a very incompetent minister in Minister Carr that not even they believe that he is defendable. The website of the CRC program administered by the government says in its first line, ‘The Minister for Innovation, Industry, Science and Research has overall responsibility for the Cooperative Research Centre’s program.’ Yet, all Senator Carr could do at question time today was try to abrogate his responsibility and blame someone else. It is quite clear that Minister Carr is responsible, not some group that he tried to blame.

The only thing in the defence by Labor senators that made any sense to me was the comment by Senator Sterle, and I quote him roughly, that ‘all wisdom in relation to rural and regional Australia is on this side of the chamber’. I agree with Senator Sterle on that. If you have a look around you will see that on this side of the chamber there are senators who understanding rural and regional Australia, who come from rural and regional Australia, who have made their livings from rural and regional Australia and who understand the issues in rural and regional Australia. Regrettably, all of my colleagues opposite live in capital cities and really have little interest and certainly no knowledge—

Senator O’Brien—No, they don’t. Why don’t you tell the truth?

Senator IAN MACDONALD—I thought you were from Hobart, Senator O’Brien. For the rest of your term here perhaps you should upgrade your interest in rural and regional Australia.

Senator O’Brien—You are a mug.

The DEPUTY PRESIDENT—Order! You will withdraw that comment, Senator O’Brien.

Senator O’Brien—I withdraw.

Senator IAN MACDONALD—Thank you, Mr Deputy President, I appreciate your protection. I did not hear it, but anything that came from Senator O’Brien would not worry anyone, certainly not me. The issue here was clearly explained by my two colleagues who spoke previously in this debate and who clearly have a very intense knowledge of this disease and of the research that is necessary to address it. The issue is that the current government is cutting back funding that is so essential for research into this disease.

As a Queenslander, two of my former constituents are those who have suffered as a result of the Hendra virus, and I feel for and sympathise with their families. There is nothing we can do or say today that will overcome the distress and sadness experienced
by the families of those two very highly regarded and wonderful men who succumbed to this disease in the course of their work. What we have to do is ensure that this does not infect nor affect other vets and people working with this program.

I will just give Senator Carr a bit of a clue. In our time in government, the CRC system suggested we should no longer have a reef CRC or a rainforest CRC. Accordingly funding was cut. What did the Howard government do? They had good representatives in Far North Queensland, in North Queensland and along the Queensland coast who were interested in this and who petitioned the Howard government—all Liberal people, I think—to ensure that a completely new research institution was set up to be permanently funded, apart from the CRC program. That is what you do, Senator Carr, if you are interested in this. It might have missed funding in the CRC that you are responsible for, but you set up another organisation, as we did with MTSRF, the new organisation that was set up to investigate and continue the research into the reef and the rainforest.

What we are saying on this side is that everyone is concerned about the disease. There is no question about that. What we are angered about is that the time when this CRC should be increasing its work, at the time when the CSIRO should be increasing its work, the Labor government of Mr Rudd has cut funding to this CRC and at the same time has cut back funding to the CSIRO in the last budget. You cannot argue with me about that. Have a look at the budget papers. This is the concern we have on our side and the government must increase funding for this research.

Question agreed to.

PETITIONS

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

Early Childhood Education Award
To the Honourable President and members of the Senate in Parliament assembled:
The petition of the undersigned shows:
The current Award Modernisation — Educational Services (Other than Higher Education) (AM 2008/33) which seeks to bring Early Childhood teachers currently working under the Early Childhood Education Award under the same award as those employed under the Child Care Award. In this case we will see tertiary trained degree professionals being paid the same as 1 year TAFE trained staff.

Positioning our C&K teachers under this award will make it very difficult to retain qualified Early Childhood teachers within our kindergartens. The wages and conditions available in schools and other areas will be more attractive and thus sort more by our highly respected and qualified teachers. Furthermore, and even more importantly the educational outcomes for children within the kindergarten program will be severely affected.

Your petitioners request that the Senate:
Seek to allow Early Childhood teachers working in non government pre-schools and kindergartens and in long day care services to main under the award of the Early Childhood Education Award rather than be merged with child care workers under the Child Care Award.

by Senator Hogg (from 22 citizens)
Petition received.

NOTICES
Presentation
Senator Bob Brown to move on the next day of sitting:
That the Senate—
(a) supports the protection of farming and conservation areas from coal exploration and mining and its effects in the Galilee Basin in Queensland;
(b) declares that it does not support the massive increase in coal exports flowing from the Galilee Basin through Abbot Point and Hay Point because of the climate change ramifications of burning more coal; and
(c) expresses concern about the potential impact of the industrialisation of Abbot Point on the Caley Valley wetlands and the endangered and vulnerable bird species that depend on that area.

Senator Siewert to move on the next day of sitting:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by the last sitting day in February 2010:

Hearing health in Australia, with particular reference to:

(a) the extent, causes and costs of hearing impairment in Australia;
(b) the implications of hearing impairment for individuals and the community;
(c) the adequacy of access to hearing services, including assessment and support services, and hearing technologies;
(d) the adequacy of current hearing health and research programs, including education and awareness programs; and
(e) specific issues affecting Indigenous communities.

Senator Siewert to move on the next day of sitting:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by the last sitting day in April 2010:

The impact of suicide on the Australian community including high risk groups such as Indigenous youth and rural communities, with particular reference to:

(a) the personal, social and financial costs of suicide in Australia;
(b) the accuracy of suicide reporting in Australia, factors that may impede accurate identification and recording of possible suicides (and the consequences of any under-reporting on understanding risk factors and providing services to those at risk);
(c) the appropriate role and effectiveness of agencies, such as police, emergency departments, law enforcement and general health services in assisting people at risk of suicide;
(d) the effectiveness, to date, of public awareness programs and their relative success in providing information, encouraging help-seeking and enhancing public discussion of suicide;
(e) the efficacy of suicide prevention training and support for front-line health and community workers providing services to people at risk;
(f) the role of targeted programs and services that address the particular circumstances of high-risk groups;
(g) the adequacy of the current program of research into suicide and suicide prevention, and the manner in which findings are disseminated to practitioners and incorporated into government policy; and
(h) the effectiveness of the National Suicide Prevention Strategy in achieving its aims and objectives, and any barriers to its progress.

Senator Cormann to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) Australia has an ageing population, which will cause a significant increase in demand for aged care services over the coming decades, including aged care facilities,
(ii) the Federal Government has direct responsibility for the provision of aged care, while the states have responsibility for a range of matters, including the provision of education,
(iii) the Rudd Government has failed to do anything to tackle the capital funding crisis in the aged care sector,
(iv) the Rudd Government’s reckless and irresponsible inaction, if left unaddressed, means that the current crisis in aged care will only get worse into the future, and
(v) the Rudd Government has wasted significant sums of money on the poorly-designed and poorly-implemented Building the Education Revolution program, while failing to tackle the significant challenges faced by the aged care sector;

(b) is very concerned that the failure of the Rudd Government to act and address the significant challenges ahead in aged care means that elderly Australians will not be able to get access to affordable, high-quality aged care places in the future; and

(c) calls on the Government to take decisive action forthwith to address the significant challenges facing aged care.

Senator Ludwig to move on the next day of sitting:

That the government business orders of the day relating to the Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008 and the Federal Justice System Amendment (Efficiency Measures) Bill (No. 1) 2008 may be taken together for their remaining stages.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (3.29 pm)—I move:

That consideration of government business continue from 6.50 pm to 7.20 pm today.

Question agreed to.

NOTICES

Presentation

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes:

(i) that United States of America company, First Solar, has signed a memorandum of understanding to build a 2GW solar power station in China and that this single plant will be eight times larger than projects called for by the Solar Flagship Program (the program),

(ii) that the program depends for success on significant levels of private sector capital,

(iii) that the global financial crisis is exacerbating difficulties Australian companies are experiencing in accessing private sector capital for innovative renewable technologies,

(iv) that, in Australia, Solar Systems has gone into voluntary administration because of a lack of investment capital, and

(v) the lack of a comprehensive or coherent policy framework to encourage private sector investment in renewable energy; and

(b) calls on the Government to underpin the success of the program by:

(i) providing loan guarantees for commercial-scale demonstration projects,

(ii) implementing a gross national feed-in tariff for small to utility scale renewable energy projects, and

(iii) planning and funding electricity grid extensions to connect remote utility scale projects.

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

That the Senate calls on the Minister for Home Affairs (Mr O’Connor), the Minister for Defence (Senator Faulkner) and the Minister for Immigration and Citizenship (Senator Evans) to conduct a review of the current protocols for the interception of Suspected Illegal Entry Vessels in Australian waters and report back to the Senate by 26 November 2009.

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 2 standing in the name of Senator Siewert for today, proposing the disallowance of the Threat Abatement Plan for disease in natural ecosystems caused by Phytophthora cinnamomi (2009), postponed till 16 September 2009.
Business of the Senate notice of motion no. 3 standing in the name of Senator O’Brien for today, proposing a reference to the Economics References Committee, postponed till 10 September 2009.

COMMITTEES

Legal and Constitutional Affairs
Legislation Committee

Extension of Time

Senator O’BRIEN (Tasmania) (3.33 pm)—I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on annual reports tabled by 30 April 2009 be extended to 15 September 2009.

Question agreed to.

Fuel and Energy Committee

Meeting

Senator PARRY (Tasmania) (3.33 pm)—At the request of Senator Cormann, I move:

That the Select Committee on Fuel and Energy be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 10 September 2009.

Question agreed to.

Education, Employment and Workplace Relations References Committee

Reference

Senator BARNETT (Tasmania) (3.34 pm)—I seek leave to amend business of the Senate notice of motion No. 4, standing in my name for today and proposing a reference to the Education, Employment and Workplace Relations References Committee, in the terms circulated in the chamber.

Leave granted.

Senator BARNETT—I move the motion as amended:

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

(a) consideration of the Federal Government’s Primary Schools for the 21st Century program, with particular reference to:

(i) the conditions and criteria for project funding,

(ii) the use of local and non-local contractors,

(iii) the role of state governments,

(iv) timing and budget issues, including duplication,

(v) requirements for school signs and plaques,

(vi) the management of the program; and

(b) other related measures.

Question agreed to.

NOTICES

Withdrawal

Senator MARSHALL (Victoria) (3.36 pm)—I withdraw business of the Senate notice of motion No. 5.

Presentation

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

That the Senate calls on the Government to ensure alleged war criminal Mr Guy Campos remains in Australia until investigations into the allegations about his actions in occupied Timor Leste are completely finalised.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator PARRY (Tasmania) (3.37 pm)—On behalf of Senator Coonan, I present the 10th report of 2009 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 11 of 2009, dated 9 September 2009.

Ordered that the report be printed.

Senator PARRY—I move:

That the Senate take note of the document.

Question agreed to.
Senator PARRY—I seek leave to incorporate Senator Coonan’s tabling statement in Hansard.

Leave granted.

The statement read as follows—

In tabling the Committee’s Alert Digest No. 11 of 2009 and Tenth Report of 2009, I draw the Senate’s attention to provisions in the following bills:

Crimes Amendment (Working With Children – Criminal History) Bill 2009;

Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009; and

Foreign States Immunities Amendment Bill 2009.

With respect to the Working With Children – Criminal History Bill, the Committee has noted that Schedule 1 contains provisions amending the Crimes Act so that criminal history information relating to ‘spent’, pardoned or quashed convictions can be exchanged with prescribed bodies for the purpose of child-related employment screening. Proposed new Subdivision A of Division 6, to be inserted by item 6 of Schedule 1, contains a number of provisions allowing for exclusions for the purpose of assessing the suitability of persons for working with children.

Under principle (1)(a)(i) of its terms of reference, the Committee has regard to whether provisions in bills trespass unduly on personal rights and liberties. The Committee has noted that, despite its divergence from the general rule that a person does not have to disclose information about his or her criminal history where a conviction is ‘spent’, pardoned or quashed convictions can be exchanged with prescribed bodies for the purpose of child-related employment screening. Proposed new Subdivision A of Division 6, to be inserted by item 6 of Schedule 1, contains a number of provisions allowing for exclusions for the purpose of assessing the suitability of persons for working with children.

While mindful of the stated aim and purpose of the amendments to protect children from sexual, physical and emotional harm, along with the fact that extensive safeguards have been provided, the Committee considers that there may still be significant possible adverse effects on a person’s rights and liberties through disclosure of criminal history information. Therefore, the Committee has sought the Minister’s advice and clarification in relation to the breadth of the bill’s application.

In particular, the Committee wishes to ascertain whether the bill covers all of a person’s criminal history information or is more limited to criminal history pertaining to offences involving, for example, sexual assault or violence. If a person’s entire criminal history is intended to be covered, the Committee would like to know why this is considered necessary and appropriate in the context of the stated purpose of the bill. The Committee has also sought advice on the reasons for the application of the amendments to offences that have been ‘quashed’. Further, it is not clear to the Committee from the language used in the bill that exchange of information under the proposed scheme is mandatory or would simply allow relevant information to be exchanged in particular circumstances.

Proposed new section 9B of the Education Services for Overseas Students Act, to be inserted by item 11 of Schedule 1 of the Education Services for Overseas Students Amendment Bill, makes provision for deciding whether a higher education provider is ‘a fit and proper person’. Proposed new paragraph 9B(1)(b) specifies that paragraphs 9(2)(ca) and 9A(2)(e) (which contain certain criteria) do not apply to providers ‘entitled to receive funds under a law of the Commonwealth for recurrent expenditure for the provision of education or training, other than one excluded by the regulations from the scope of this paragraph’. The Committee has noted that this is a ‘Henry VIII’ clause.

The explanatory memorandum does not explain why regulations will be needed to exclude certain providers from the scope of paragraph 9B(1)(b). Therefore, the Committee has sought the Minister’s advice on the reasons for the use of the regulation-making power to alter the scope of the principal legislation in these circumstances.

The Committee has also identified a ‘Henry VIII’ clause in the Foreign States Immunities Amendment Bill. Proposed new subsection 42A(1), to be inserted by item 2 of Schedule 1, extends immunity in tort proceedings under the Foreign States
Immunities Act 1985 to a foreign state and its emergency management personnel for acts or omissions that occur in the course of the foreign state providing emergency management assistance to Australia. Specifically, immunity is extended if the Minister is satisfied that a foreign state (or its entity) is providing assistance or facilities to the Australian government(s) for the purposes of preparing for, preventing or managing emergencies or disasters.

Under proposed new subsection 42A(2) of the Foreign States Immunities Act, such immunity would be achieved by excluding or modifying the application of section 13 of the Act by regulation. The Committee notes that current section 13 provides that a foreign state is not immune in a proceeding insofar as the proceeding concerns: the death of, or personal injury to, a person caused by an act or omission done, or omitted to be done, in Australia; or loss of, or damage to, tangible property caused by a similar act or omission.

Proposed new subsection 42A(2) is a 'Henry VIII' clause. The explanatory memorandum explains (at paragraph 10) that 'the scope of the regulation-making power is limited to emergencies or disasters which occur, or which may occur, in Australia'. An example is given (at paragraph 13) of the use of regulations to exclude the application of section 13 in whole, or in part, to a foreign state with respect to personnel assisting in bushfire prevention or management. The Committee has sought advice from the Attorney-General as to whether it might be appropriate for the Act itself to confine the scope of the regulations by listing specific circumstances in which it is envisaged that this regulation-making power will be used.

The Committee has also sought the Attorney-General’s clarification in relation to how the scope of the proposed exception will be practically confined so that it applies only to foreign officials acting in the course of their duties, noting that emergency situations may necessarily involve the legitimate performance of a wide range of unforeseen or unusual duties.

I would also like to make mention of several recent undertakings by Ministers to make changes to explanatory memoranda on the basis of suggestions made by the Committee. Increasingly, the Committee has resolved to request that particular information provided in Ministerial responses should also be included in explanatory memoranda to provide more context and background to proposed amendments, and to assist readers and those affected by the legislation. The Committee is also pleased to note that some Ministers have undertaken to give further consideration to certain issues which have been brought to their attention by the Committee. Examples of such undertakings can be found in the Tenth Report of 2009 which I am tabling today.

The Committee thanks Ministers and Departments for their responsiveness in issuing corrections and supplements to the relevant explanatory memoranda and for their readiness to engage in further dialogue about particular matters. Such results are testament to the value of the Committee’s work and serve to highlight the importance of the Committee’s ongoing relationship with Ministers and their Departments.

I commend the Committee’s Alert Digest No. 11 of 2009 and Tenth Report of 2009 to the Senate.

**Community Affairs Legislation Committee**

**Additional Information**

**Senator O’BRIEN** (Tasmania) (3.37 pm)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Moore, I present additional information received by the committee on its inquiry into the provisions of the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and two related bills.

**MINISTERIAL STATEMENTS**

**Doha Round Negotiations**

**Senator LUDWIG** (Queensland—Special Minister of State and Cabinet Secretary) (3.38 pm)—On behalf of the Minister for Trade, Mr Crean, I table a ministerial statement on progress made in the Doha Round negotiations.
COMMITTEES
Education, Employment and Workplace Relations References Committee Membership

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

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.39 pm)—by leave—I move:

That Senator Collins be discharged from and Senator Bilyk be appointed to the Education, Employment and Workplace Relations References Committee, and Senator Collins be appointed as a participating member of the committee.

Question agreed to.

AVIATION TRANSPORT SECURITY AMENDMENT (2009 MEASURES No. 1) BILL 2009

RESALE ROYALTY RIGHT FOR VISUAL ARTISTS BILL 2009

HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009

MIDWIFE PROFESSIONAL INDEMNITY (COMMONWEALTH CONTRIBUTION) SCHEME BILL 2009

MIDWIFE PROFESSIONAL INDEMNITY (RUN-OFF COVER SUPPORT PAYMENT) BILL 2009

First Reading

Bills received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.40 pm)—These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion in relation to the listing of the bills 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 LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.41 pm)—I table a revised explanatory memorandum relating to the Resale Royalty Right for Visual Artists Bill 2009 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AVIATION TRANSPORT SECURITY AMENDMENT (2009 MEASURES NO. 1) BILL 2009

The framework of Australia’s aviation security legislation has a number of layers to ensure the deterrence, detection and prevention of acts of unlawful interference with an aircraft.

That framework is under constant review to ensure it is responsive to changing threats to the Australian aviation industry.

This Bill contains four key amendments to the Aviation Transport Security Act 2004 to strengthen the enforcement powers of the Office of Transport Security, Australia’s aviation security regulator.

The first amendment will enable the Secretary of my Department to designate, by notice, a security controlled airport as a particular category of airport. Currently, the declaration of an airport as a security controlled airport places the same legislative requirements on all such airports, regardless of their size, location and type of aircraft operating from the airport. This amendment will allow regulations to be made that prescribe different legislative requirements for each category of security controlled airport. This will ensure regulatory activity is better targeted to reflect the relative risk associated with each category of airport.
A second amendment will allow an aviation security inspector to enter the premises of an aviation industry participant or accredited air cargo agent who is not on an airport site and inspect their activities without notice. Currently, inspectors can only undertake these inspections on-airport, despite many critical aviation-related businesses being located well away from an airport. Current requirements to provide reasonable notice of inspections off-airport limit the effectiveness of such activity. This is particularly the case for many businesses within the air cargo sector as their security obligations are largely procedural in nature and, with notice, can be changed briefly during an inspection. Inspectors will be allowed to enter premises, observe and discuss procedures and in so doing access documents and records. This amendment does not however allow this activity to be undertaken in residences.

The third amendment would allow the Secretary of my Department to enter into enforceable undertakings with aviation industry participants in relation to all matters that are dealt with under the Act. This amendment has been developed as a result of the current lack of middle-range sanctions to address regulatory issues and contraventions of the Act. Introducing enforceable undertakings as a mid-range administrative enforcement tool enables a more responsive regulatory approach, which would generate more confidence on the part of both the travelling public and industry, and encourage better industry compliance.

Under the amendment, the Secretary would not be able to force a participant to enter into an enforceable undertaking, and at the same time, the Secretary would not be compelled to accept an enforceable undertaking. An aviation industry participant may withdraw or vary the undertaking at any time with the written consent of the Secretary. In addition, the Secretary may, by written notice given to the participant, cancel the undertaking. Should a participant breach an enforceable undertaking, the Secretary may apply to the Federal Court for an order which may include an order directing compliance with the undertaking.

Lastly, this Bill will expand the scope of compliance control directions under the Act to allow an aviation security inspector to direct operators of security controlled airports, screening authorities or screening officers to take specified action in relation to the airport or screening points at the airport. Currently, there is no scope for aviation security inspectors to issue compliance control directions to airport operators or screening authorities and there have been instances where it would have been useful for such directions to be issued. For example, an inspector may wish to issue a compliance control direction to an airport operator or a screening authority that all passengers and their luggage on a particular flight must be screened or rescreened before the aircraft can depart from the airport to ensure compliance with the ATSA.

RESALE ROYALTY RIGHT FOR VISUAL ARTISTS BILL 2009

The introduction of this Bill marks a landmark day for Australia’s visual artists, whose right to an ongoing economic interest in the value of their artistic works will be appropriately recognised in Australia for the first time.

There are currently more than 20,000 visual artists in Australia whose diversity of work spans painting, sculpture, glassware and photography. This Government values their work; we are committed to enlarging the creative endeavour and recognising artists’ contribution to our economy, community and identity.

The decision to introduce a resale royalty right for visual artists has been a long time coming. Historically, the achievements of our visual artists have not been recognised to the same extent as those of our composers, authors and performers, who are able to earn copyright and performance fees from their work, and thus have an ongoing financial interest in their creative efforts. Visual artists, on the other hand, have little ability to earn income from their work, other than through its initial sale. When a work sells for a large sum on the secondary art market, the artist receives no direct financial benefit from the sale.

Australia’s art market has been through a boom period in recent years and we should all be proud of the incredible talent demonstrated by our visual artists.
Auction sales in 2007 amounted to $175 million with works sold by 1,578 Australian artists, of which 379 were Indigenous. The value of the auction sales market increased by 75 per cent in 2007.

Sadly, local artists have not shared in the benefits of this substantial activity.

The Government’s resale royalty scheme, set out in this Bill, addresses a situation which is plainly inequitable, by creating a right for visual artists for a royalty payment each time their work sells on the secondary art market. It implements an election commitment.

This is a right which has now been recognised by over 50 countries around the world and is long overdue in Australia.

The scheme which the Government has developed delivers a right for visual artists, but also very importantly, introduces the right in such a way as to ensure minimal impact on Australia’s art market.

The scheme is administratively simple and straightforward to understand. A flat 5% royalty rate is fair for all artists, with no cap on the maximum royalty which may be earned on an individual resale. Joint creators of artworks will also be recognised under the scheme.

The royalty will apply for the current period of copyright, 70 years following the death of an artist, so that artists can pass on their right to their families and heirs. This is important, as it can often be the case that artists only achieve recognition and success late in life, having spent a lifetime with modest means developing their creative skills. Data on the income of visual artists demonstrates how little they earn on average from their creative work.

Royalties will be collected by a single collecting organisation which will be appointed by the Government through a competitive and transparent tender process. There are clear requirements for the collecting organisation to ensure administrative costs are kept to a minimum with the maximum revenue possible returned to artists.

The collecting organisation will be vested with the powers necessary to access the information required for it to determine quickly when and to whom royalties are payable.

Importantly the right will only apply to resales of artworks that are acquired after the right comes into effect. This is to ensure that purchasers of artworks are aware at the time they make their purchase that a royalty may be payable to the artist if they choose to resell the work. It will also allow the art market to adapt gradually to the new right. While the art market has experienced a boom in the last few years, this is likely to be tempered by the changing economic circumstances. It’s important that the resale royalty right is introduced in such a way as not to have a negative impact on the art market, which in the end would not help artists.

The resale royalty right is not just about raising additional income for artists. Introducing the right will significantly increase the transparency of the art market, which is of course particularly important for Indigenous artists who have sadly continued to be exploited by some unscrupulous dealers. The Bill requires sellers to notify the collecting agency each time a work is resold on the secondary art market. This means the collecting agency will keep detailed records on all relevant sales occurring, and will need to publish key data in its Annual Report which will be tabled in the Parliament.

Australian visual artists and their advocates have been campaigning for a resale royalty right for at least a decade. They have emphasised its importance both as a significant statement of the esteem in which Australia holds its visual arts culture and as an economic reward and incentive for the creators of high-quality art.

As the resale royalty scheme grows throughout the years, Australia’s artists – like artists from the United Kingdom, France, Germany and a growing list of other countries – will share in the proceeds of the trade in their works on the secondary market. Artists will be encouraged to know that whatever they are initially paid for the products of their hard work and talent, they will have a fair share in any future success their work achieves.

Because the right is recognised in the Berne Convention for the Protection of Literary and Artistic Works, it will be possible for Australia to establish arrangements with other countries which acknowledge the right to a royalty for Australian artists whose work is sold in those countries. Al-
though the resale royalty schemes in operation across the world differ substantially in how they operate, each scheme has particular benefits for artists or their heirs.

As stated earlier, the introduction of this Bill marks a landmark day for Australia’s visual artists, whose right to an ongoing economic interest in the value of their artistic works will finally be appropriately recognised in Australia for the first time.

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HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009

The Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 will amend the Health Insurance Act 1973 and the National Health Act 1953 to support greater choice and access to health services for Australians.

I am very proud to be introducing this Bill, one of the centrepieces of the Rudd Government’s workforce and primary health care reform agenda.

The Bill is a landmark change for Australia’s nurses and midwives. It will facilitate access by patients of appropriately qualified and experienced midwives and nurse practitioners to the Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme.

Under this reform, nurse practitioners and midwives will be able to request certain diagnostic imaging and pathology services for which Medicare benefits may be paid as well as make appropriate referrals.

In short, this Bill removes barriers to the provision of care and will lead to improved access to services for the community. It is a long overdue recognition of our highly skilled and capable nursing and midwifery workforce.

In my travels around our nation’s health system as Minister, this issue has been constantly raised with me by the nurses and midwives that I meet. It didn’t make sense to them that they were denied access to the PBS and MBS. I agree with them.

The Bill will commence on Royal Assent, with amendments relating to Medicare benefits and pharmaceutical benefits to commence the day after Royal Assent, and the new Medicare benefits and Pharmaceutical benefits arrangements made available from 1 November 2010.

The amendments that are a consequence of the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 will commence on 1 July 2010.

The successful implementation of the Bill will also require professional indemnity cover to be available to the midwives wishing to access the new arrangements. This cover has not been available for midwives since 2002.

This will be delivered by the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and associated Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009, which are being introduced at the same time.

These Bills will mean that eligible midwives working in collaborative arrangements with obstetricians or GP obstetricians will be able to access the new Government-supported professional indemnity scheme.

Maternity reform

This Bill is a key plank of the Government’s $120.5 million maternity reform package announced in the Budget. This package will improve the choices for Australian women to access high quality, safe maternity care, as well as provide support for the maternity services workforce.

It is a critical step towards delivering the Government’s election commitment to develop a national plan for maternity services across Australia.

The reform initiatives supported by this legislation represent significant steps forward in maternity care in Australia within a strong framework of quality and safety for mothers and babies.

These arrangements support models of care with an enhanced role for midwives. These will develop in a way that involves collaborative team work with other members of the maternity care team, most notably obstetricians and GP obstetricians.

By making better use of the maternity services workforce, new arrangements are also expected to provide greater access to maternity care closer to home, thereby reducing family disruption.
The maternity reform package responds to the Maternity Services Review, which canvassed a diverse range of views through an extensive consultation process.

The Review heard from a wide range of stakeholders with over 900 submissions received – many from women sharing their individual experiences. Nearly all of these women expressed frustration at the limited options available to them, and called for midwifery models of care that provide continuity of care, over the spectrum of antenatal, birthing and postnatal services.

Many professional groups participating in the Review also acknowledged the need for change, with general consensus about the importance of collaborative, multi-disciplinary maternity care. The Government has listened to the collective voice of Australia’s mothers, and we have listened to the considered views put forward by the midwifery workforce.

Granting access to the PBS and MBS for midwives will expand maternity care options for Australian women without risking the professional relationships that are essential in providing safe, high quality maternity care.

At this stage, the Commonwealth is not proposing to extend the new arrangements for midwives to include homebirths. Medicare benefits and PBS prescribing will not be approved for deliveries outside clinical settings, and the Commonwealth-supported professional indemnity cover will not respond to claims relating to homebirths.

These arrangements will be subject to agreement with states and territories on a National Maternity Services Plan – who will be asked to make complementary commitments and investments, particularly around the provision of birthing centres and rural maternity units.

Nurse practitioner reform
Internationally, the role of nurse practitioners has been successful in improving access to primary care services.

This Bill boosts the role of nurse practitioners and enacts the Government’s 2009-2010 Nurse Practitioner workforce Budget measure which provides for access to appropriate items under the Medicare Benefits Schedule, as well as rights to refer to specialists and consultant physicians and the authority to prescribe certain Pharmaceutical Benefits Scheme subsidised medicines subject to State and Territory legislation.

Greater use of nurse practitioners will help improve overall capacity and productivity and increase the efficiency, effectiveness and responsiveness of the health workforce. Nurse practitioners already provide advanced services and have prescribing rights in the majority of States and Territories and have been performing this role for some time.

The arrangements enabled by this Bill will facilitate better access to primary care services. Nurse practitioners are well placed to play a key role as part of the team of health professionals providing collaborative care to the community – and this Bill will enable removal of the barriers that until now have prevented Nurse Practitioners from fully utilising their skills.

This is good news for rural and regional health services, which are still struggling with the legacy of the previous government’s decade-long neglect of our health workforce and where shortages are still chronic in places.

The Commonwealth’s reforms are designed to complement and boost the work performed by our doctors and specialists as part of a collaborative, team-based environment. Our reforms are not about challenging vested interests. Improving patient outcomes was, is, and always will be, the government’s number one priority.

Who can access the new arrangements
The Health Insurance Act and the National Health Act will be amended to provide access to the new arrangements.

Under the Health Insurance Act, a ‘participating nurse practitioner’ or ‘participating midwife’ will be able to request or provide certain Medicare services.

An ‘authorised nurse practitioner’ or ‘authorised midwife’ will be authorised to prescribe certain medicines under the Pharmaceutical Benefits Scheme.
Nurse practitioners and midwives will need to meet eligibility requirements to access the new arrangements.

The core criterion for the new Medicare and Pharmaceutical Benefits Scheme arrangements is that the nurse practitioner or midwife is an ‘eligible nurse practitioner’ or ‘eligible midwife’.

This will also be a core requirement for midwives to access the new Government-supported professional indemnity schemes, which will be established under the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and associated Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009.

To meet the core requirement of being an ‘eligible midwife’, the Bill requires registration as a midwife and, in addition, that requirements specified in delegated legislation must be met.

Additional requirements are likely to be based on having appropriate advanced qualifications, experience and/or competencies.

The further eligibility requirements for midwives, and for nurse practitioners if additional requirements to those provided for under State law are considered appropriate, will be determined in close consultation with relevant stakeholders.

The Government recognises that with the increasing burden of chronic and complex disease it is increasingly important to ensure that health care is co-ordinated.

At the same time, it is important that the system enables patients to see the right health care professional for their health care need at the right time.

Nurse practitioners and midwives wishing to provide treatment or prescribe under the new Medicare and Pharmaceutical Benefits Scheme arrangements will need to demonstrate that they have collaborative arrangements in place, including appropriate referral pathways with hospitals and doctors to ensure that patients receive coordinated care and the appropriate expertise and treatment as the clinical need arises.

The new Medicare arrangements
The Bill will support the inclusion of participating nurse practitioners and participating midwives under the Medicare Benefits Schedule.

In order for participating nurse practitioners and participating midwives to provide a comprehensive service to their patients, the Bill will enable these groups to request diagnostic imaging and pathology services appropriate to their scope of practice for which Medicare benefits may be paid.

In addition to the changes made by the Bill, new Medicare items for services provided by participating nurse practitioners and participating midwives working collaboratively with doctors will be created.

For participating midwives, this will include antenatal, birthing and postnatal care and collaborative care arrangements between these midwives, and obstetricians/GP obstetricians.

Participating nurse practitioners will be limited to providing services within their authorised scope of practice and level of experience and competency.

The details of these Medicare items will be finalised in consultation with professions and specified in delegated legislation.

The new Pharmaceutical Benefits Scheme arrangements
This Bill will amend the National Health Act to support the inclusion of authorised nurse practitioners and authorised midwives under the Pharmaceutical Benefits Scheme.

The reforms will enable patients to access certain Pharmaceutical Benefits Scheme medicines prescribed by authorised nurse practitioners and authorised midwives.

These nurse practitioners and midwives can only prescribe certain medicines under the Pharmaceutical Benefits Scheme within the scope of their practice, and in accordance with the State and Territory legislation under which they work.

The Pharmaceutical Benefits Advisory Committee will be consulted in relation to the range of medicines that each group can prescribe and the circumstances under which the medicines can be prescribed.

Advice will also be sought from clinical experts and health professionals practising in the relevant clinical fields.
These changes provide a rational and consistent basis in supporting midwives and nurse practitioners to work in their fields of expertise.

Nurse practitioners already have prescribing rights under State and Territory arrangements and have been performing this role for some time. The Government will be encouraging nationally consistent prescribing approaches across Australia.

The Bill also contains a number of consequential amendments to the Health Insurance Act and the National Health Act to ensure that regulatory provisions in those Acts apply appropriately to participating and authorised midwives and nurse practitioners. For example, a number of offence provisions have been adjusted, Part IIB dealing with prohibited practices in relation to pathology services and diagnostic imaging services has been applied, and also the Professional Services Review Scheme and Medicare Participation Review Committee processes have been applied.

Conclusion
In summary, the Bill will facilitate significant changes to the Medicare Benefits Schedule and Pharmaceutical Benefits Scheme and demonstrate that this Government is willing to adapt and strengthen working systems to better meet the needs of Australians, without putting at risk our strong record of safety and quality.

The Rudd Government is implementing these reforms for a simple reason. We want to expand the level of health services, and access to health services, in the community. It supports our efforts to improve primary health care services, especially in rural and regional areas.

It takes us another step towards building a multi-disciplinary, highly skilled and complementary health workforce.

It will improve the overall capacity, efficiency and productivity of Australia’s health workforce. It is also a sensible and practical response to helping address the workforce shortages that this Government inherited.

This Government is a firm and passionate advocate for Australia’s nurses and midwives – the backbone of our health workforce.

MIDWIFE PROFESSIONAL INDEMNITY (COMMONWEALTH CONTRIBUTION) SCHEME BILL 2009

The purpose of the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 is to allow the Commonwealth to provide, via a contracted private sector insurer, affordable professional indemnity insurance to eligible privately practising midwives.

This Bill is an important component of the Government’s maternity reform package. The package will improve the choices that are available to women in relation to maternity care.

The Bill will effectively remove a long-standing barrier for appropriately qualified and experienced midwives who wish to provide high quality midwifery services to Australian women as part of a collaborative team with doctors and other health professionals.

There is currently no professional indemnity insurance product available for such midwives, as the risk is perceived to be high and the potential pool of premiums to be relatively small.

In order to address this gap, the Bill establishes a scheme to provide support for eligible midwives.

The Government will, through a tender process, engage an insurer to create a suitable insurance product for eligible midwives.

This insurer will manage claims and provide valuable support to midwives – many of whom would never have had their own professional insurance cover.

When claims arise, the Government will contribute an amount to the insurer in relation to claims against a midwife if the claim exceeds the threshold set in the legislation.

The thresholds that will apply for claims against eligible midwives are:

- For claims more than $100,000, but less than $2 million – the Government will contribute 80 cents in the dollar;
- For claims more than $2 million – the Government will contribute 100 cents in the dollar.

The Bill is not intended to provide for direct subsidy to individual midwives. It does, however, ensure that midwives who meet eligibility requirements and wish to purchase professional
indemnity insurance will be able to purchase such cover at an affordable cost.

For the purposes of this Bill, an eligible midwife is one who is licensed, registered or authorised to practice midwifery under a State or Territory law, and who meets any other requirements specified in the rules.

The scheme proposed under the Bill will be administered by Medicare Australia. There are also mechanisms in this Bill to ensure that funds are paid out accurately and appropriately.

Overall, this Bill contributes to a new era for midwifery services in this country, by addressing a longstanding impediment that has limited the availability of a wider choice for women.

MIDWIFE PROFESSIONAL INDEMNITY (RUN-OFF COVER SUPPORT PAYMENT) BILL 2009

The scheme established by this Bill will ensure that professional indemnity insurance protection extends to eligible midwives once they have ceased to practise.

The purpose of the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009 is to impose a tax—the Run-off Cover, or ROCS, Support Payment.

This tax will apply to premium payments for professional indemnity insurance by eligible midwives and will help to cover the costs of run-off cover claims against their colleagues who cease to practise due to retirement, disability or maternity.

The Government will commit $5 million in 2010-11 to assist in covering such claims in the period before sufficient funds are accumulated through the ongoing contribution of ROCS Support Payments.

The Bill provides that the rate of ROCS Support Payment must not exceed 15%.

The actual rate will be set through rules detailed in a legislative instrument that will be tabled in Parliament.

It is expected that the actual rate will be initially set, on the advice of the Australian Government Actuary, at 10% of premiums.

This is the rate at which ROCS contributions started in the initial years of the Run-of Cover Scheme for doctors.

Debate (on motion by Senator Ludwig) adjourned.

Ordered that the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill, the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009 be listed on the Notice Paper as one order of the day, and the remaining bills be listed as separate orders of the day.

ENERGY EFFICIENCY OPPORTUNITIES AMENDMENT REGULATIONS 2009 (No. 1)

Motion for Disallowance

Senator MILNE (Tasmania) (3.42 pm)—I move:

That the Energy Efficiency Opportunities Amendment Regulations 2009 (No. 1), contained in Select Legislative Instrument 2009 No. 119 and made under the Energy Efficiency Opportunities Act 2006, be disallowed.

The reason I am moving this motion is that, when this exemption was first granted, neither the government nor the coalition explained why it was necessary, and in fact why it continued, or why the Labor government now would continue the exemption.

For the benefit of the Senate, the Energy Efficiency Opportunities Act 2006 established the Energy Efficiency Opportunities Program. It required energy efficiency opportunities to be assessed in companies that used in excess of 0.5 petajoules of energy and that they had to report on the energy efficiency opportunities they identified.

At the time I pointed out that the big problem here was that they only had to identify the opportunities and they did not actually have to implement any of the opportunities they identified. At the time I moved to say
that the energy efficiency opportunities that they identified had to be implemented and implemented in a phased in way so that those that could show returns within two years be implemented immediately and phased in over a period of time.

I also moved that the threshold of 0.5 petajoules should be lowered over time so as to increase the number of companies that were required to report. However, the government and the coalition both opposed both the implementation of the energy efficiency opportunities so identified and opposed the increase, if you like, in the ability to capture companies and require them to report on their energy efficiency opportunities. But at the time, as I indicated, the Howard government of the day decided to exempt those companies whose main activities were in electricity generation, electricity and gas transmission or electricity and gas distribution from the act under section 7. That became operational once the regulations were struck in 2006.

There has never been anything substantive, in the explanatory material accompanying the then bill or in the parliamentary debate, about the rationale for the exemption. In the explanatory statement to the 2006 regulations there was this comment: ‘The exemption is intended to allow a review to be undertaken of how energy efficiency be most effectively be improved in these sectors.’ So in 2006 they were exempted, pending a review about how these sectors might contribute to energy efficiency. It appears to me that zero, zilch, nothing was done. This was simply the polluters turning up to the Howard government and saying, ‘We want to be exempted from having to identify energy efficiency opportunities in our sector.’ That exemption has applied from 2006 to 2009. Where is the substantive review that was supposed to have occurred?

In November 2008 the Commonwealth Department of Resources, Energy and Tourism issued a short consultation paper on the future of the exemption. Relevantly, the paper stated:

Energy is used in many ways within the sub-sectors of the stationary energy supply industry. Therefore, the potential for increased efficiency will vary; and this means that the costs and benefits of potentially bringing the industry into the EEO program will need to be analysed at the sub-sector level. Different approaches may be appropriate for different sub-sectors. To facilitate this sub-sector analysis, the Department is seeking submissions from stakeholders on the future of the exemption, and whether EEO or some other approach to improving energy efficiency would be most appropriate for the sector as a whole or the various sub-sectors.

According to the consultation paper, because the stationary energy sector consists of many different activities—as in generation, transmission and distribution—it is not efficient to apply the same standard blindly across the sector. The consultation paper also suggests that the costs embedded in existing infrastructure make it difficult to retrofit energy efficiency measures, especially since down time is not an option. It goes on to say that different approaches will need to be employed.

But the point that I make here is this: who did they consult with? Surprise, surprise: when you have a look at who they consulted with, it is the Australian Pipeline Industry, the Energy Networks Association, the Energy Supply Association, Ergon Energy, Horizon Power, United Energy Distribution, Verve Energy and so on. They consulted the stakeholders—the very people who had benefited from the exemption for three years and who wanted their exemption to continue. The effect of the current regulations is to extend their exemption—to maintain the status quo—for four years beyond the current expiry date, until the end of June 2013.
So from 2006 to June 2013, these big energy generators, transmitters et cetera are exempted from even having to identify the energy efficiency opportunities that may be available in these businesses. That is extraordinary, and there is no rationale for it.

What did the government say after its consultation with the people who have benefited from the exemption, who surprisingly said that they wanted the exemption to continue? These are the very people who are crying poor and running round the country saying that things cannot be done in relation to climate change. But what they know can be done is to get an exemption from having to even identify—not implement, just identify—energy efficiency opportunities. There is a thought: in moving to a low-carbon economy, these big energy generators might be asked to do their bit in even identifying energy efficiency opportunities. But that has not happened.

There is also mention of the Generator Efficiency Standards program, which is a voluntary program for electricity generators under the Greenhouse Challenge program. The government stated that because the Generator Efficiency Standards program and the Energy Efficiency Opportunities program had some complementary they were looked at under the Wilkins review. But the review's recommendations were pending at that time, so it is not clear whether it was felt that the generators were excluded because of an overlap. There is nothing clear about this at all except that the industries concerned were desperate to stay exempted and the government gave into them.

The review papers, foreshadowed at that time, of the 2006 regulations seem to have been there as an original rationale. But that review, as I indicated, did not ever take place in that three-year period. There was rushed consultation at the end of last year and—surprise, surprise—they want to continue their exemption. The government is trying to suggest that, because there have been various developments in climate change policy since then, including the proposed Carbon Pollution Reduction Scheme, there might be significant additional considerations for the future of the exemption. But they had no prominence back in 2006 when the regulations were enacted and, whilst that remains the sentiment in the current regulations, the fact of the matter is that the introduction of the Carbon Pollution Reduction Scheme and all the considerations for business apply to all businesses, not just these ones. So why should you exempt a small sector from having to go through this measure when you have got other companies having to comply with the Energy Efficiency Opportunities Act and also having to prepare for the coming in of the Carbon Pollution Reduction Scheme?

I am very keen for the government to explain to me why nothing was done between 2006 and November last year. Where is the review? Why was it not undertaken? Why in this review was the stakeholder consultation limited just to the people who got the exemption? Why is it that they need to have the exemption continued for them because of the Carbon Pollution Reduction Scheme, but for other businesses that are forced to comply with the Energy Efficiency Opportunities Act and also having to prepare for the coming in of the CPRS.

Of course, the submissions received from the people who currently have the exemption strongly supported the continuation of the current exemption. The review that was carried out—the small one that I mentioned—examined industry sectors and looked at how they are affected by a broader climate change policy and market and regulatory environments. The argument is that an extension of the exemption will allow time for broader climate change measures to be imple-
mented—over another four years of this exemption, I might add—and that evidence of encouraging energy efficiency improvement in the energy supply industry might become available in that time. Really, there is no justification whatsoever for this continued exemption from the Energy Efficiency Opportunities Act.

Let me reiterate what this would do. It is asking these companies who are involved in these particular sectors—as I indicated, the electricity generation, electricity and gas transmission and electricity and gas distribution sectors—to identify the energy efficiency opportunities that they may be able to see in their operations. They are not being asked to implement them. I think that is wrong; nevertheless, they are not being asked to. All they are being asked to do is identify them, and they are saying, ‘No, we don’t want to do that.’ These are the companies that run around with their social responsibility notices in their annual reports. These are the ones who say: ‘Yes, we must have action on climate change, but not us. We must be exempted because it’s all too difficult for us, but other people should do it—yes, that’s a very good idea.’ There is no justification for this. In a world that has to address climate change, a world in which we need to bring down our greenhouse gas emissions, a world in which we know that energy efficiency is the low hanging fruit—that is the area where you can make big changes first—why would you exempt these sectors from having to identify the energy efficiency opportunities?

I will be very interested to hear from the government, firstly, their excuse for why it took until November last year for the idea of a review to be just abandoned and whether that was just an excuse in the first place to get them the exemption and then forget about it; secondly, when they had their consultation, why it was so narrow a consultation, referring only to the people who benefited from the exemption; and, thirdly, with this exemption, what the government intend to do to get this sector to do something about energy efficiency. There is nothing in any program that the government have got to drive energy efficiency in these sectors. What is the policy lever that the government are going to apply?

The community is getting pretty sick of the fact that the big polluters in Australia are exempted, sandbagged, by the government. They were under the renewable energy target and they have been exempted from having to buy renewable energy. Now we are exempting them from even identifying energy efficiency. At the same time, we will have the Minister for Climate Change and Water and the Prime Minister out there telling everybody that energy efficiency is something that should be encouraged, even though we know that the biggest difference is the scale of opportunity. The potential for savings is massive with these huge energy users, generators and distributors. In fact, the Energetics report said that the savings equivalent in this energy efficiency opportunities legislation as it currently stands—the potential for the ones that have been identified—are 4.7 million tonnes of CO2 per year, which is equivalent to the annual emissions produced by nearly 700,000 average residential homes or just over a million passenger vehicles. This is already identified under this scheme, not by these ones who have been exempted but by others. So you have got a situation where the companies that had to report under energy efficiency have the potential to reduce greenhouse gases by 4.7 million tonnes, but they are not doing it because they are not required to do it, even though it has been identified that they could if they were made to. Then you have got this whole other big sector exempted altogether from even having to identify the energy efficiency opportunities.
I am looking forward to the government giving me the rationale for why we should continue to reward the polluters. There is a principle of polluter pays; there is a principle that energy efficiency is the low-hanging fruit. There have been years since 2006 to address this sector, and it has not happened. There is no proposal that it be addressed until 2013, and global emissions have to peak and come down by 2015. I am looking forward to hearing the government and the coalition explain to me why these companies need to continue to be exempted when there has been no rationale for it whatsoever presented by the government or the coalition when it was in government, which was when the exemption that is now being extended by the Labor government was first introduced.

Senator MINCHIN (South Australia) (3.58 pm)—The opposition does not support this disallowance motion. The regulation that Senator Milne is seeking to disallow, as the senator has explained, extends the expiry date for the exemption of electricity generators, transmitters and distributors from obligations under the Energy Efficiency Opportunities legislation. It does so by extending the expiry date to 30 June 2013 from 30 June this year.

We are familiar with this matter. It was under the coalition government that the Energy Efficiency Opportunities program was introduced as part of the package of measures which our then government announced in 2004 under the energy white paper that we produced. It proposed that from 2006 large energy users—and I emphasise ‘users’; those using more than half a petajoule of energy per annum—would be required to undertake Energy Efficiency Opportunities assessments every five years and to report those publicly and to the government. Obviously, when we were in government we were committed to trying to ensure that we streamlined government reporting under this program and made the program cost effective and with the least possible impact on industry.

When it was passed under our government in 2006, as Senator Milne has appropriately noted, generators were exempted from its provisions. As I understand it the logic was, and remains, that generators already have a very natural incentive to reduce their energy costs. It is logical because this whole program is aimed at energy users—the big factories of Australia that use a lot of energy. It is about ensuring that energy users are motivated to look for efficiencies in the way that they use energy. Here we are talking about the generators of the energy that is supplied on a daily basis to millions of Australians and hundreds of thousands of big energy users. Logically, it makes sense that in a program like this the generators of the energy are treated differently, because this is a program aimed at users. I accept that.

The logic of Senator Milne’s position is that generators are also energy users. Yes, but their prime purpose and function—and it is a noble one; it does distress me to continue to hear Senator Milne talk about the workers of Australia, who keep the lights on and the power going, as just polluters—is to generate. That is what they do for Australia. When you introduce programs like this, if you apply them to generators it will inevitably add to their costs, and those costs will obviously flow through to all Australians who use that energy, including low-income Australians who rely on that energy to keep their power going—their lights, their air conditioning and their heating going. And to the extent that you increase costs for energy generators, that will flow through to energy users. So there is some logic to treating generators differently. If what you are talking about is trying to improve energy efficiency and cost-effectiveness in the use of energy by large energy users then it makes little sense to be
adding to the costs of the generators, which are going to flow through to the users.

Senator Milne goes on and asks the government: ‘What are your policy levers to require energy efficiency of generators?’—taking that typical big-government, bureaucracy-knows-best approach. Frankly, the motivation—the lever—for energy efficiency by the generators is competition and the marketplace. Energy generators have a natural incentive to be as energy efficient as they possibly can. They make their money from the cost-effective generation of energy. They have a natural incentive to reduce their own input costs when it comes to energy so that they are producing energy as cheaply as they possibly can. That is the point of the marketplace and competition, which of course the Greens do not believe in.

In relation to the extension, the exemption was originally granted to 30 June 2009. There is a review of the regulations governing this matter, and that review is due in 2012. The amendments which the government has tabled take the exemption out to 2013—the logic of that being that the exemption extends to just beyond the deadline for the review. That makes eminent sense and we welcome this extension. I do not think the government is talking about a permanent exemption; it is a matter that should be kept under review, but we believe that extending this current exemption out beyond the current review timeline makes eminent sense and we oppose this disallowance.

Senator CHRIS EVANS—and Minister Carr, who represents him, but is unfortunately unavailable at the moment. So I have undertaken to provide the response on behalf of the government. (Quorum formed) Senator Brown, I apologise—not in the sense that we are required to provide the relevant minister in a disallowance; but we would normally try to provide for that courtesy—but Senator Carr was unfortunately in an appointment that he could not break at the time of this debate coming on.

The Energy Efficiency Opportunities program helps Australia’s largest energy users identify efficiency gains. The program has initially—up until June 30 2009—been targeted at energy end-users rather than generators and network businesses. At that time generators were being assisted to achieve similar outcomes under the Generator Efficiency Standards program. Network businesses, being subject to price regulation, have other incentives to deliver efficiency gains.

The government in March 2009 indicated its preferred position: to extend this exemption to 30 June 2013. The initial exemption applied until 30 June 2009, as it was thought that there would be greater clarity regarding the implementation of an emissions trading scheme by mid-2009. In developing a preferred public position beyond the current 30 June 2009 exemption a proper process, which included nationally advertised extensive consultation, was followed. Public consultation occurred in November 2008. This included public forums, and 19 written submissions were also received. A second round of consultation occurred and eight stakeholders participated. All submissions that were received recommended continuing the exemption, with stakeholders advocating making the exemption permanent. However, the government believes it would be premature to either remove the exemption or to
make the exemption permanent. Extending the exemption to 2013 will allow the CPRS to begin, which will then allow an assessment of the role the CPRS is playing in encouraging energy efficiency improvements in the energy supply sector. The exemption extension will also allow the WEO to be reviewed in 2012 and the future role of the WEO to be clarified.

The decision to continue the exemption does not reflect any reduction in the importance the government places on energy efficiency as a means to reduce carbon emissions. The government undertook a proper consultation process and recognises that, with the introduction of a CPRS in coming years and the review of the WEO program in 2012, it is sensible at this stage to extend the existing exemption without committing to a permanent exemption. Given the capital-intensive nature of generation and network businesses, there are not the same energy efficiency opportunities within the payback period of up to four years as there are for other end users of energy. This position has been reached following appropriate and transparent consultation. Obviously, if other parties are unhappy with the outcome, they should have participated more fully in the consultation process. The government has consulted and has taken this decision in the light of what has occurred in relation to the CPRS and, as I say, the review of the WEO program, which will occur in 2012. For those reasons, the government will not be supporting the disallowance motion.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.11 pm)—Can you believe it? The government is so cavalier about this regulation to again featherbed the most polluting component of the Australian economy in 2009—that is, the big coal and energy generators, distributors and transmitters—that it cannot even get Senator Carr, the Minister for Innovation, Industry, Science and Research, the minister who represents the Minister for Resources and Energy in the House of Representatives, Mr Martin Ferguson, to be here. He has another appointment. That is how much this matters to the government. Senator Milne has quite rightly moved to disallow the extension of time for the prodigious greenhouse gas producers and polluters to be exempted from legislation. They should bring in, or at least discover and give to the government, opportunities for energy efficiency—that is, for producing energy without producing pollution. The rest of economy—the big polluters, at least—are put under the requirements of this legislation, but not the most polluting industries in the nation, the coal-fired power stations and their distributors. No, not them.

The Howard government was the most negligent government you could imagine for a country like Australia when it came to its responsibilities to reduce greenhouse gas emissions at a time of high public alarm and global awareness of an increasing threat to the planet and its future. We thought at least we would see a change with the new government. But the Howard government legislated for a three-year exemption for the big polluters and here we have the Rudd government—of course, supported by the coalition, made up of the Liberal Party and the coal corporation party—to have four years further exemption. Senator Evans, who has been commissioned to speak on Minister Ferguson’s behalf, said, ‘We’ll review it after that.’ He also told the Senate that all submissions received on this matter recommended keeping the exemptions. Wall-to-wall, self-invested big polluters presented themselves to the government with their submissions and had the Rudd Labor government fall into line, as they repeatedly do.

One would have liked to have heard the minister tell the Senate what the submission
was on this matter from the Minister for the Environment, Heritage and the Arts, Hon. Peter Garrett. What did he think about exempting these formidable polluters from the requirement that they simply look at what they are doing to see how energy efficiency—that is, non-polluting processes and freeing up energy without further pollution—could be found within their industry. Of course it could. Senator Minchin says that may be an expense to these big polluting corporations, many of which send their profits out of this country. Senator Minchin would say that, wouldn’t he, because he counts the impact of climate change as zero. We have global economists like Sir Nicholas Stern warning that, if we do not expend some money—one per cent of GDP—fixing and redirecting our economy to a green economy so that we avoid catastrophic climate change, our grandchildren will be diverting six to 20 per cent of their gross domestic product to try to ameliorate climate change. But the philosophy of the two parties in here is, ‘Well, let the devil take the hindmost and let future generations look after themselves.’ This is despite having our eyes open to the evidence which we all know about and deal with here.

We have a government which in policy like this is controlled by the coal corporations—the big polluters. It says it did not have a recommendation from anybody who felt otherwise than to give the exemption to these big polluters and keep it going. Senator Minchin, in his submission, was blithely unaware of the fact that the efficiency of big coal-burning power stations itself has to be looked at in this matter. It is well known that many of these coal fired power stations are struggling at about 30 per cent efficiency—that is, of the coal they burn, 60 per cent is simply polluting the atmosphere for no good to the community. Should we not be asking those corporations to look at their processes and to improve on that? ‘No,’ says Senator Minchin, ‘because it might cost them some money.’ They will not be able to repatriate as much of their profits to New York, Berlin, London or wherever. That is because they come in here and get politicians who have no vision, who have no eye to the future, who accept no great responsibility but who nevertheless will be given no excuse—because Senator Milne brought this up this afternoon—to do the wrong thing by this nation. The other corporations who are receiving the energy and using it in whatever way do have to look to producing energy efficiency, but not the big coal burners. What an extraordinary situation.

I remember this legislation when the Howard government brought it through and the dereliction of this exemption for the big polluters. But I would not have credited then that three years later we could have a Rudd Labor government in office which wants to give them an even longer exemption. It is negligent. It is culpable. It is an affront to the future of the economy, as well as the wellbeing of this—

**Senator Johnston**—More negligent than the Howard government.

**Senator BOB BROWN**—The coalition senator interjects, as I heard it, to say that this is more negligent than the Howard government. It is only by 33 1/3 per cent because Labor is offering a four-year exemption after the Howard government offered a three-year exemption. I can tell you that the interjecting senator will not get to his feet because he does not understand this legislation. That is part of the problem we are dealing with here. We have numbskulls that are prepared to interject and to create a cacophony from the benches who do not understand important legislation like this which has a massive impact on the future of this country and everybody who lives here. He is not prepared, and
will not be prepared, to exhibit his ignorance by getting to his feet.

Senator Johnston—You don’t even understand where your food and money comes from. You don’t even know where your air comes from.

Senator BOB BROWN—There he goes. He is interjecting again, quite against the rules.

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

Senator BOB BROWN—Maybe if you control the interjections it would be less difficult for me to ignore it. But he is inviting a response and he will get it from me as long as he keeps going, Madam Acting Deputy President. Let me get back to the matter at hand. This legislation has, according to the minister, led to the identification from the corporate sector of 4.7 million tonnes of greenhouse gas savings. That is equivalent to 700,000 households or, on my back of the envelope calculation, four million plane trips to London. I am sure Senator Milne would be saying that you would have a huge increase in that if you included the coal corporations. But, no, they have been able to corrupt the process that we are dealing with in this place through their sure-fire lobbying of this government, which is spineless when it comes to dealing with climate change—

Senator Williams interjecting—

Senator BOB BROWN—We now have Senator Williams from the coal corporation party trying to interject and I would be interested to hear what he has to say in defence of this legislation. It would be challenging indeed and quite a pleasant surprise to this chamber to hear that he knew even the basics of what this disallowance motion is about. I record for the benefit of people who might look back and read this crucial debate that at the moment there are eight senators in the chamber. So be it, but I congratulate Senator Milne for moving this disallowance motion. It should be supported by, for example, the Queensland senators in the coalition, if they are concerned about the impending fate of the Great Barrier Reef. It should be supported by National and Labor Party senators who represent seats in the Murray-Darling Basin, where 128,000 jobs depend on us curbing climate change. It should be supported by everybody who is working in the alpine tourism industries because, from predictions, they will not have one by mid-century if climate change keeps going the way it is. Instead of that, we have wall-to-wall support for the coal industries, 75 per cent owned outside this country, from the Labor Party, the Liberal Party and the National Party today. It has taken Senator Milne to bell that cat. The cat can keep killing, but at least the bell has been rung by Senator Milne, and I congratulate her for that.

Senator MILNE (Tasmania) (4.23 pm)—in reply—I thank senators for their contribution to the debate on my motion to disallow the Energy Efficiency Opportunities Amendment Regulations 2009 (No. 1). I am reminded of when I was first elected in 2005 and started talking about climate change—there was the same lack of interest then as there apparently is now in addressing the issue of energy efficiency. I remind the Senate that the people of Australia, because of the Rudd government’s decision, are to fork out $3.8 billion to coal fired generators as compensation under the Carbon Pollution Reduction Scheme. What do the companies say about why they should be exempted from having to even identify energy efficiency opportunities? They say that being included in the program would unnecessarily increase business’s reporting burdens and the associated costs. Oh, dear! There would be a cost burden in identifying energy efficiency opportunities—when these coal fired power
stations are getting $3.8 billion in cold, hard cash, supposedly as lost asset value, when anybody can see that moving into a zero-carbon economy is going to see these as stranded assets. As Professor Garnaut said, there is no economic justification whatsoever for parting with $3.8 billion to coal fired power stations. That is the fact of the matter. The Greens and Professor Garnaut see straight through what is purely a cost-shifting measure to the polluters in Australia.

I take umbrage with our colleague from the coalition, Senator Minchin, who says that disallowing a regulation which exempts polluters from having to identify energy efficiency opportunities is somehow an attack on the workers of Australia. That is arrant nonsense. It is not an attack on the workers of Australia. What is an attack on the workers of Australia is sandbagging the old economy and letting other countries bypass Australia, rendering Australia uncompetitive, without the manufacturing industry and without renewables in the future.

Today we see a classic case of that. First Solar in the US announced today that they are investing in the world’s biggest solar plant, in China. Why? Because the Chinese government has a feed-in tariff. First Solar said that was the main policy reason for going to China. What do we have in Australia at the same time? Solar Systems going into voluntary administration because they cannot raise the capital because we do not have the appropriate policy frameworks in this country to encourage private sector investment.

It is criminal. It is a crime against future generations that we have a government and a coalition refusing to bring in and support—I have brought the legislation in here but they could bring it in themselves if they wanted to—legislation that would drive capital investment in a new manufacturing sector, in jobs in the very regions which are going to be vulnerable. If they sandbag these old industries as they intend to do, they are going to see them redundant and shut down and see people out of work, and there is going to be serious dislocation when the world decides it can no longer tolerate coal fired power.

For the benefit of people listening and people in here, Four Corners on Monday night made it very clear that the nonsense of carbon capture and storage is not going to come to fruition. The United States government are not doing it. They were investing in it because it gave cover for ongoing coal fired generation and coalmining operations. That is about the extent of it. There is not going to be carbon capture and storage. We are going to give them $3.8 billion for nothing. At the same time, because it would impose a regulatory burden to assess energy efficiency opportunities, they will not do it.

I heard Senator Minchin saying, and the government more or less agreeing, that there are not the energy efficiency opportunities in generators and transmitters of energy. I ask the question: how do you know when you have not even asked them to look? You are not even requiring them to look. What is the excuse? The generators say that, because the investments in energy efficiency can only be made through investments in high-cost infrastructure, they cannot meet a four-year payback period—therefore, we should not do it. Well, there is a simple solution to that: we could negotiate to extend the payback period so it is a cost-effective investment.

Why should we give them $3.8 billion when the boards are not prepared to invest in energy efficiency, even if it is a cost to them? Ultimately, the idea is to reduce overall costs, of course. That is the whole point of energy efficiency—to reduce energy use and reduce costs. These companies also have the temerity to say that the Energy Efficiency Opportunities Program would not make any
difference to generators’ plans for improving the efficiency of their plant or retiring old, inefficient plant. That is right, and that is my argument for saying that not only should they identify the opportunities but there should be a legislative requirement for them to implement those energy efficiency opportunities.

Rather than give them cash handouts of $3.8 billion, which is corporate welfare for the polluters, it would have been much better to say, ‘No, there are not going to be any handouts but we will look at accelerated depreciation for investment in energy efficiency initiatives that you might take in your business.’ It would have been a much more sensible way of approaching this to say, ‘We will help you actually achieve these efficiencies, because it’s better for the climate, it’s better for the economy and it keeps your plant operating in a way that is less polluting.’ But, no, what did we have? Those companies came here and said, ‘We don’t want just an exemption until 2013; we want a permanent exemption. We want $3.8 billion and a permanent exemption from having to identify energy efficiency opportunities.’ And the government said, ‘We won’t give you a permanent one. We’ll extend it to 2013.’ There has not been a single cogent argument in here to support a rationale for that exemption. The only rationale I have heard is that there will be compliance costs for identifying the opportunities. You would have thought companies would would think, ‘This is actually a good idea because, ultimately, governments are going to require everybody to be energy efficient and, if we get in first and identify the opportunities, then we might come up with ways to finance investment in those opportunities so that we can be more efficient into the future.’ But, no, they know the political class in here very well. They know that all they have to do is come here and say, ‘Exempt us. Give us money and exempt us because we are the coal fired generators of Australia. We deserve it.’ That is all the rationale we have had. There is no argument for it. It is an absolute disgrace.

People will look back on this and say, ‘How is it that the parliament of Australia decided that it was a good thing to give the coal fired generators $3.8 billion even though the person the government employed to look at this, Professor Ross Garnaut, said there was no justification whatsoever?’ People will say, ‘Why did they do this when the only excuse was that it would be a regulatory burden to identify the opportunities? They did not even have to implement them.’ No, that does not matter. You have the government and the coalition—the Liberal Party and the National Party—saying, ‘We will exempt this sector from having to do anything in relation to energy efficiency.’ The government might well say, ‘The point is that they will have other programs which will provide incentives for energy efficiency at this level.’ Like what? I do not see anyone springing to their feet telling me what. It is because those programs do not exist.

What I am seeing here is a government and an opposition under sufferance. They do not even really engage on this issue because they know they have the numbers to continue to exempt those big coal fired generators from having to even identify energy efficiency opportunities. It is a disgrace that the policy people, sitting in their relative departments—whether that is in the Department of Climate Change or in Resources—are all happy; they are all hand in glove.

When I was here earlier I heard Senator Evans saying, ‘You might have put in a submission when the first consultation round was announced.’ Really? The first round the government commissioned, through McLennan Magasanik Associates, was to assist in conducting stakeholder consultations with
organisations that have been partially or totally exempted from the requirements of the program. So you get a consultant to consult with people who are already fully or partially exempt and they tell you they want an extension to the exemption—in fact, they want that exemption to be permanent. So, no, Senator Evans, the Greens were not invited to give our opinion to McLennan Magasanik et al in that first round of consultations, because the only people the government was interested in asking were the beneficiaries of it. It was vested self-interest, and that is what this is.

It is really interesting. People will look seriously at the Prime Minister when he says he wants to take action on climate change. Every time we come in here you exempt the big polluters from the renewable energy target; you put coal gas into the renewable energy target, even though it is not a renewable energy; and you give $2 billion to clean-coal research—a direct subsidy to the coal industry—in addition to $3.8 billion under the Carbon Pollution Reduction Scheme. On the day that the Carbon Pollution Reduction Scheme legislation was introduced into the House of Representatives, the Prime Minister found himself in the Hunter Valley, turning the first sod on the coal railway and the expanded coal terminal. Then we have a situation like this, where we cannot even get to first base on identifying energy efficiency opportunities. There was the refusal by the government to bring in a feed-in tariff on the very day that China and the US got together and built the biggest solar power station in the world in China, because of that legislation. The government here stubbornly refused to have a gross national feed-in tariff. One can only assume that the reason Australia will not move on the policy frameworks that will encourage renewable energy is that they want to hold it up and store renewable energy until they can get some sort of lifeline going on carbon capture and storage for coal, which is never going to happen. I would bet that First Solar, the US company, is full of Australian trained engineers, designers and so on who have gone overseas. There are the people in Solar Systems, which has gone into voluntary administration. The only option for a lot of the people working on that technology is to go overseas.

Today, I heard Senator Carr announcing his program to give money to researchers to try and bring them back to Australia and keep the ones we have here. What he does not seem to know is that those people not only want money for their research; they want a policy framework that will see that research rolled out at a commercial stage and actually implemented. They do not want to sit in labs frustrated with technology that is ready to go but is not funded because there are no appropriate policy frameworks. I have people ringing me from the Northern Territory because off-grid solar is now finished, because the government ended the remote renewable program and at the same time put a cap under the renewable energy target so that there can be no more rollout of large-scale off-grid solar anywhere across Northern Australia, where it is desperately needed. On and on and on it goes.

I assume that the government expect that, if they throw enough money into advertising saying that the government is doing something on climate change, people will believe them. But when people dig down into it—and rest assured right around Australia community groups are digging down into this—and find out that there was an opportunity under the Energy Efficiency Opportunities Act to actually save, as I referred to earlier with the Energetics report, 4.7 million tonnes of CO2, equivalent to the emissions from 700,000 average residential homes or one million passenger vehicles, and the government decided not to require those opportuni-
ties to be implemented and, further, also decided to exempt coal fired generators from even having to attempt to identify energy efficiency opportunities, they will feel utterly disempowered. What of those community groups out there who are working for collective community buys of solar and who are starting to do all sorts of things in their homes because they can save small amounts of energy and are trying desperately to do it? Why wouldn’t they feel completely and utterly disempowered by what the government and the coalition are doing here today? It is exactly the same under the Carbon Pollution Reduction Scheme. If they work hard to reduce their emissions all it does is create the space for these big polluters to continue to pollute at an even greater rate. It is completely disempowering for individuals trying to do the right thing.

If you think you are going to sit there continuing to be disempowering, think again, because the youth of Australia are not going to tolerate this any longer, because it is their future. As President Obama said to the students in the United States, ‘It’s your future.’ And, as we all know, the average age of the people who worked on the moon landing was 26. These are the people who are going to come after political parties that have failed them by refusing to deal with the issues. As my colleague Senator Bob Brown said a minute ago, there is a report out there at the moment on the Great Barrier Reef which asks the question: is it already too late for the Great Barrier Reef? Coral reef scientists around the world worry about that, because they know that 450 parts per million is the tipping point for ocean acidification and that is the end of the world’s reefs.

That is a pretty serious situation we are in—near tipping points—but here we have our coal fired generators in Australia saying, ‘Of greater importance to us is the cost of the regulatory burden of looking and reporting on the energy efficiency opportunities.’ It does not even have to implement them. That is the state of corporate social responsibility, that is the state of ethical investment and that is the state of boardrooms around Australia. It is pretty disgusting. The people of Australia are becoming more and more aware of this as we speak and they are not going to tolerate it for too much longer. I would be encouraging everyone I speak to Lindsay Tanner and Labor. I will be speaking at La Trobe University on Saturday and I will be telling people to go and ask Lindsay Tanner and every single Labor member: ‘What is the rationale for exempting coal fired power stations from even having to identify the energy efficiency opportunities that exist for them, and what is your rationale for giving them $3.8 billion of taxpayers’ money as a bonus? Answer that and then tell me you are serious about climate change.’ They are the very uncomfortable questions that are coming the way of this government and this coalition in opposition.

Unfortunately, that is the politics of the industrial age. Fortunately, the politics of this century are with the solar generation, and solar generation does not give permanent exemptions to coal fired power stations to refuse to identify energy efficiency opportunities. I would hope that when this vote is taken in a minute there will be some rethinking here, because there has not been one cogent argument put forward anywhere in this place to excuse these industries and to exempt them from identifying energy efficiency opportunities. I would urge the Senate to think about their children, think about their grandchildren, think about the Murray-Darling, think about what happened in Victoria with the fires, think about the 400 people dead in South Australia and Victoria last summer and think about the future and recognise it is not with coal fired power and pollution.
Question put:
That the motion (Senator Milne’s) be agreed to.
The Senate divided. [4.46 pm]
(The Acting Deputy President—Senator C Moore)

Ayes…………… 6
Noes…………… 39
Majority……… 33

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

NOES
Adams, J. Back, C.J.
Bilyk, C.L. Birmingham, S.
Bishop, T.M. Brown, C.L.
Bushby, D.C. Cameron, D.N.
Cash, M.C. Collins, J.
Cormann, M.H.P. Crossin, P.M.
Farrell, D.E. Feeney, D.
Fielding, S. Fisher, M.J.
Forshaw, M.G. Hurley, A.
Hutchins, S.P. Johnston, D.
Joyce, B. Kroger, H.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Minchin, N.H. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. Polley, H.
Ronaldson, M. Ryan, S.M.
Stephens, U. Troeth, J.M.
Trood, R.B. Williams, J.R. *
Wortley, D.
* denotes teller

Question negatived.

COMMITTEES
Legislation Committees
Reports
Senator McEWEN (South Australia) (4.49 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present reports on the examination of annual reports tabled by 30 April 2009.

Ordered that the documents be printed.

URANIUM ROYALTY (NORTHERN TERRITORY) BILL 2008
In Committee

Senator LUDLAM (Western Australia) (4.50 pm)—I have one further amendment that I would like to move before we conclude debate on this bill. This one goes to the way that mining royalties are being distributed to the traditional owners and to the Aboriginal communities in affected areas at the moment. Some of the tenor of this amendment reflects more widespread practices within the mining industry rather than in the uranium sector specifically. Hundreds of agreements obviously exist between traditional owners and the mining industry. A native title working group discussion paper that was published in December 2008 found that about a dozen of these agreements had provided substantial benefits to Aboriginal people and Torres Strait Islanders and exhibited principles embodying best practice—about a dozen out of several hundred. This recent report absolutely must not be ignored. This expert body called for a review of the Native Title Act 1993 because there is such a limited number of good agreements to provide models for, and so few of them are providing financial or other benefits for traditional owners.

We skimmed over this aspect when we were debating the bill earlier, but the implication from both sides of this chamber is that mining automatically brings benefits for the Aboriginal communities who find themselves in the path of mining developments. It is an absolute article of faith, of unchallenged faith in this country, that mining is automatically good for Aboriginal people. The evidence is utterly damning and points in the opposite direction. Perhaps the minister will correct me if things have been done since December 2008, but no substantive
work whatsoever has been done to review the way that these agreements are failing people so badly.

The amendment that I will move recognises this and provides that the review take place after five years of the commencement of this bill and every three years thereafter, to thoroughly examine the costs and benefits for those affected by the profit royalty system established by this legislation. We are making significant changes to the way that royalties are assessed and paid. The amendments list those who should be involved in a review, including the Commonwealth and Territory governments, the Indigenous communities themselves and the mining corporations concerned. This independent review and evaluation process would provide a mechanism to assess whether this process is actually delivering the stated benefits to Aboriginal communities.

I acknowledge that both the Leader of the Opposition and the minister representing the minister concerned have already indicated that they will not be supporting this amendment. I certainly look forward to hearing some rationalisation as to why this would be the case.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (4.53 pm)—I reiterate that the government is not supporting this amendment. This amendment of a proposed new clause 26 seeks to require a review of the costs and benefits of the uranium royalty arrangements initially on the fifth anniversary of the commencement of the section and then every three years. I reiterate that the government is not supporting this amendment. This amendment of a proposed new clause 26 seeks to require a review of the costs and benefits of the uranium royalty arrangements initially on the fifth anniversary of the commencement of the section and then every three years. I remind the Senate and those listening that the purpose of the legislation we are debating today is to bring consistency to the royalty regime in the Northern Territory regardless of the mineral being mined. Any review of this legislation should be restricted to that specific issue—that is, should there be such consistency? In my view it is obvious that there should be consistency and that no review is required. It follows that the sorts of issues that the Greens amendment is seeking to be reviewed should only be considered in a review of the Northern Territory royalty system as a whole and, whatever the merits of such a review, this is not the legislation to initiate it.

Senator MINCHIN (South Australia—Leader of the Opposition in the Senate) (4.54 pm)—Through you, Madam Temporary Chairman, to Senator Ludlam, the opposition’s position, as I earlier indicated, is one that is not in favour of supporting any of these amendments for the reasons outlined by the government and by me in my earlier remarks. To reiterate the point that was made, this bill is about bringing the treatment of uranium into line with the treatment of all other minerals in the Northern Territory for the purposes of royalty payments. That is eminently logical and, as the parliamentary secretary has indicated, we are talking about a royalty regime which has operated in the Northern Territory for some 25 years, with which everybody is familiar and which does on a consensus basis best suit all the stakeholders involved. It is our view that this is an appropriate bill and that it is not appropriate to support the amendments proposed.

Generally speaking, from my own point of view and, I think, from the opposition’s point of view, the policy proposition of reviews of new policy proposals does make eminent sense. In relation to some issues in the portfolio of communications—with which Senator Ludlam is as familiar as me—we have moved in this place for some review mechanisms of some of the things that the government is doing, and that is appropriate from
time to time in relation to new policy. But I do reiterate that what this bill is doing is bringing uranium into line with a regime which is certainly not new but has in fact operated for some 25 years. The issue of a general review of those arrangements is a matter for another day, another place and another time. This is not the vehicle for any such suggestion.

I must say I am not, and the coalition is not, generally aware of any enormous angst or concern about the royalty regime. It has operated for some time in the Northern Territory and it, no doubt, does not please everybody. The regulatory impact statement that the government issued in relation to this is a good canvassing of all the issues associated with the question of how appropriate payments should be made, to whom and by what mechanisms. Without delving into that whole question, I reiterate that this is not the vehicle for any such review. We are talking about existing policy and are simply ensuring that an existing policy now applies to uranium and brings uranium in the Northern Territory into line with the treatment of all other minerals. It is an approach that the coalition supports.

Senator LUDLAM (Western Australia) (4.57 pm)—I will just make one further contribution and then I will move the amendment, unless the minister has anything else to say. We heard quite a bit during the debate about consistency, and nobody seems to have realised that the way that royalties are levied on the mining industry in the Northern Territory is, in fact, completely inconsistent with the way it occurs in the big mining states such as my own state of Western Australia, as well as Queensland and South Australia, I understand.

The fact of consistency should not necessarily be stuck to if the system is consistently broken. Consistency is one thing if the system is working well. I think we have more than enough evidence, which we took during the committee hearings, that consistency is not good enough. The system is not working. It is not working for the people who are most directly affected by dispossession and who end up in savage poverty on their own country while the mineral is taken out from underneath them. The traditional owners of the Ranger mine, to go to one specific example, were so supportive of uranium mining and the consistent approach that they fought the Jabiluka mine proposal tooth and nail for years until they succeeded. I take the minister’s point that perhaps this is not the right place to debate these issues. When is the right place and when is the right time? I move Australian Greens amendment (3) on sheet 5797:

(3) Page 12 (after line 19), at the end of the bill, add:

26 Review of the costs and benefits of uranium mining royalty arrangements

(1) The Minister must cause independent reviews of the costs and benefits of uranium mining royalty arrangements to be conducted in accordance with this section.

(2) The first review must begin as soon as practicable after the fifth anniversary of the commencement of this section, and a further review must begin as soon as practicable after each third anniversary of that date.

(3) Each review must be completed within 6 months.

(4) Each review must:

(a) identify the costs and benefits of the application of laws and the operation of the royalty arrangements made by this Act;

(b) in particular, identify the costs and benefits to:

(i) the Commonwealth;
(ii) the Northern Territory Government;
(iii) Indigenous communities, in general;
(iv) Indigenous communities affected by mining operations to which this Act applies;
(v) Indigenous communities which are party to any arrangement to receive any royalty under this Act; and
(vi) corporate and other bodies involved in mining operations to which this Act applies.

(5) Each review must be undertaken by a panel comprising not less that 5 members, including:

(a) a person with expertise in royalty models and arrangements; and
(b) a person with expertise in mining law; and
(c) a person with expertise in the financial, managerial, infrastructure and service-delivery challenges of Aboriginal communities; and
(d) representatives of affected communities.

(6) The panel must give the Minister a written report of each review, and the Minister must cause a copy of the report to be laid before each House of Parliament within 15 sitting days of receiving the report.

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

Third Reading

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (4.59 pm)—I move:

That this bill be now read a third time.

Question put.

The Senate divided. [5.04 pm]
(The Acting Deputy President—Senator C Moore)

Ayes............ 37
Noes............ 5
Majority......... 32

AYES

Back, C.J.
Bernardi, C.
Birmingham, S.
Brown, C.L.
Cameron, D.N.
Cash, M.C.
Cormann, M.H.P.
Farrell, D.E.
Fielding, S.
Furner, M.L.
Hurley, A.
Joyce, B.
Landy, K.A.
McEwen, A. *
Nash, F.
Parry, S.
Ryan, S.M.
Troeth, J.M.
Xenophon, N.

Barnett, G.
Bilyk, C.L.
Bishop, T.M.
Bushby, D.C.
Carr, K.J.
Colbeck, R.
Crossin, P.M.
Feeney, D.
Fierravanti-Wells, C.
Heffernan, W.
Hutchins, S.P.
Kroger, H.
Marshall, G.
Moore, C.
O’Brien, K.W.K.
Polley, H.
Stephens, U.
Wortley, D.

* denotes teller

Bill read a third time.

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES BILL 2009

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE) BILL 2009

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES
(MEDICARE LEVY SURCHARGE—FRINGE BENEFITS) BILL 2009

Second Reading

Debate resumed from 18 August, on motion by Senator Faulkner:

That these bills be now read a second time.

Senator CORMANN (Western Australia) (5.06 pm)—In debating the Fairer Private Health Insurance Incentives Bill 2009 and associated bills, we are debating one of the many broken promises of the Rudd government in the health portfolio, as we discussed a few weeks ago. Before the election we were promised the world by the Rudd government on health, and they have delivered next to nothing. We were promised that they would fix public hospitals and, if not enough progress had been made by the middle of 2009, they would move to take over the running of public hospitals in Canberra. We were promised that they would leave intact and retain the existing private health insurance rebates and that they would retain the private health insurance policy framework put in place by the Howard government, which helped to restore balance to our health system. And, of course, we were promised by the Rudd Labor government before the election that they would not reduce the extended Medicare safety net. We were promised a new era of cooperative federalism on health—the Commonwealth working together with the states and territories to fix our health system. We have had broken promise after broken promise after broken promise.

Our public hospitals are under more pressure now than when the Rudd government was elected. Average waiting times for elective surgery are now longer than what they were when the Rudd government was elected. And what have we had? We have had a review for 20 months—the National Health and Hospital Reform Commission process—only to be followed by a review of the review. We now have the Prime Minister and the Minister for Health and Ageing, Nicola Roxon, travelling around Australia for photo opportunity after photo opportunity just to make it look as if they are doing something. There has been no progress whatsoever: no action, no outcomes, only bureaucratic processes and a political strategy to make people believe that there is something happening when there is nothing happening.

The private health insurance rebate promise was one of the most emphatic promises before the election. The Rudd Labor government was going to retain the existing private health insurance rebate. It was repeated by the Prime Minister and it was repeated by the now health minister, Nicola Roxon, again and again.

Senator Barnett—No ifs or buts.

Senator CORMANN—Indeed, no ifs or buts, as Senator Barnett quite rightly says. In fact, in Tasmania, Nicola Roxon, the then shadow minister for health, put out a press release accusing the coalition of running a scare campaign because we dared to question the sincerity of this commitment. The record is now here for all to see: Labor, as soon as they got back into government, returned to their bad, old-fashioned ideological crusade against private health. They said they would not do it but of course, true to form, they have.

This is a very bad public policy measure for a range of reasons. Firstly, it will put more pressure on public hospitals, which are already under pressure. It will see more people leave the private health system, and the government agrees with this. We might have some arguments about the figures but the government agrees that it will see more people leave the private health system. Millions of people with private health insurance will see an immediate increase in the cost of their
private health insurance—up to 66.7 per cent. We will see more people leave and there will be flow-on consequences. There will be flow-on consequences year on year as more people leave. There will be more pressure on premiums, more people will leave and we will end up back in that vicious downward membership cycle that we experienced in the 1980s and early 1990s. The Rudd government promised us that this would no longer happen as they had now learnt from their mistakes of the past and seen what a bad impact these sorts of measures had on the health system when they were last in government. But of course it has happened.

The government has done some modelling, and the modelling as always is part of a political exercise. The modelling underestimated the impact of this measure in terms of the number of people that will leave private health. It also underestimates the impact on public hospitals, and it does not assess at all the impact on future premium increases. Why is that so? Firstly, they have excluded altogether 1.4 million privately insured Australians from their calculations. Secondly, they have made the absolutely heroic assumption that nobody will downgrade their level of cover as a result of this measure. Experts, including those experts who say they support what the government is doing—that is, not just those that are supporters of the private health system, by and large—will say to you that the most rational decision for anybody caught by this measure would be to downgrade their level of cover. That is because of the combined effect of the rebate reduction measures and the increases in the Medicare levy surcharge. The government heroically says, ‘No, it is not going to happen.’ Reducing their level of cover means that people will face increased gaps or they will have to go to the public system to access those procedures that they have excluded from their level of cover.

The coalition has made a very constructive proposal on how we could actually achieve the same fiscal outcome for the budget—in fact a better fiscal outcome for the budget—in a better way for the health system. The Leader of the Opposition, Malcolm Turnbull, proposed that instead of pursuing this broken promise of the Rudd Labor government we should increase the excise on tobacco by 12.5 per cent. Again, what did we get from the government? A political exercise. They tried to go out there and talk it down and selectively leak some Treasury advice. But thank God for the opportunity of Senate estimates where we were able to ask some questions of Treasury. We know that, unlike what the Rudd Labor government tried to make people believe, an increase by 12.5 per cent in the tobacco excise will raise $2.2 billion, which would more than offset the cost of not going ahead with the means testing of the private health insurance rebate, which would save about $1.9 billion. Additional revenue of $2.2 billion versus $1.9 billion in budget cuts means that the budget will be $300 million better off. People will be better off because of reduced levels of smoking. The health system will be better off and there will be less pressure on public hospitals instead of more. But, instead of embracing the very constructive proposal that the opposition has put forward, all we have had from the government is sneering.

This is part of an overall agenda. We discussed earlier today the changes to the extended Medicare safety net—another part of the ongoing crusade against people who access healthcare services through the private system. Before the election we were promised that it would not happen and that Labor was now committed to both a strong public system and a strong private system. We were promised that they were now committed to
ensuring that we have got the right balance in our health system. Instead, we have had broken promise after broken promise. This is bad public policy. The opposition is opposed to this legislation and we will vote against it at every step of the way—and we hope the Senate will join us in defeating what is a very, very bad piece of legislation.

Senator SIEWERT (Western Australia) (5.14 pm)—I will start by stating the obvious, the Greens very often stated position: we are opposed to the private health insurance rebate. We have argued many times before that it is bad policy. It pours taxpayer funds into the pocket of the private health insurance industry as subsidies for their products at the expense of Australia’s desperately underfunded public health system. Our public hospitals and our health workers are struggling with a lack of resources, while $3.8 billion goes to the private health insurance industry. We believe that these funds would be much better directed to the public health system. We remain implacably opposed to this approach to health funding.

That said, we concede that means testing the private health insurance rebate is an improvement on the current flat rebate approach of 30 per cent to all private health insurance holders, irrespective of their income level and capacity to pay. Removing the rebate from those on higher incomes is a step towards the Greens position of getting rid of the rebate altogether.

I have in the past outlined the Greens’ position on the private health insurance rebate quite extensively. We believe that the Greens are not alone in this view. In fact, as has been mentioned in this place before, Treasury shared the Greens economically responsible position. In February this year, the Age ran on its front page an article saying that Treasury had advised the government that the private health insurance rebate was in fact bad policy and that the $3.8 billion would be better spent in our ailing public health centre, a sentiment with which we concur. The article cited documents from a Treasury briefing to the Rudd government shortly after the election. The article reads:

THE private health insurance rebate paid to millions of Australians is ‘very poor policy’ and should be dumped, according to a confidential briefing to Treasurer Wayne Swan ... The briefing said the billions of dollars lost annually to the rebate would be better spent on public hospitals.

The article then apparently quotes directly from a Treasury document, which says:

This rebate represents very poor policy. There is no doubt that its $3 billion annual cost to revenue could deliver far better health outcomes if directed to additional capacity in public hospitals.

Since that advice was provided some time ago, the annual cost of the PHI rebate has risen to around $3.8 billion.

Here we have people from Treasury, some of our leading expert economists, providing advice that is in fact in line with Greens policy on the private health insurance rebate as a funding model—the same Treasury that provides advice to government on critical issues such as Australia’s approach to the global economic crisis. Yet this government seems to be ignoring this advice, and the advice of others who believe that the private health insurance rebate is bad policy and that we would be getting better health outcomes if that money was spent on a much different approach. Even the finance minister acknowledged in the article that the possible merits of the policy are debatable. But the government still continues to ignore this advice, taking what we consider to be only baby steps in terms of dealing with the private health insurance rebate. In fact, part of the debate that we are having at the moment is about the surcharge. There are two different dynamics working here, one supposedly dealing with the rebate and delivering certain
outcomes. Then you have the surcharge, which is about further encouraging people into private health insurance.

According to the finance minister, one of the reasons why the policy would not be changed substantially is because it is too important to people’s financial planning to be abolished. We do not believe that that is in fact an appropriate or sufficient argument when we are talking about $3.8 billion annually of taxpayers’ money that we believe should be directed to the public health system.

We have said many times that we do not believe that the private health insurance rebate is an effective mechanism to improve our health system. In fact, we believe that it is an ineffective and inefficient use of taxpayer dollars when we are talking about the delivery of health services in the broader health system. It does not directly fund the delivery of health services and it basically supports the private insurance industry.

Compelling evidence was presented to the Senate inquiry into the Fairer Private Health Insurance Incentives Bill 2009 and related bills by Dr John Deeble. Dr Deeble was a member of the old Health Insurance Commission for 16 years and a director of Medibank Private with responsibility for premium setting. He described the PHI rebate as wasteful and divisive in the way in which it separate the public and private health systems rather than integrating them. The Greens believe that the government is being irresponsible in ignoring this range of advice from both health and economic experts.

Ian McAuley, from the Centre for Policy Development, provided evidence to the Senate inquiry that showed that the rebate in particular has minimal impact on public health insurance membership and equally has had little effect on reducing public hospital demand. He provided the committee with evidence that showed that the public and private sectors deal with very different caseloads, so this rebate could never be expected to reduce the demand on public hospitals.

Dr Deeble provided the inquiry with evidence that showed that PHI membership was not sensitive to price but sensitive to income. In fact, he discussed quite extensively the inelasticity to price. When the 30 per cent rebate was introduced in 1999, there was little effect in the following two years after its introduction. Dr Deeble felt that a subsequent rise in coverage took place was the result of considerable advertising and a promotion of the fear that Medibank might not be able to meet the needs of consumers in the future. Dr Deeble spoke of his experience in Medibank Private. He said that it was possible to vary premiums without any discernible effect on membership and that there could be significant differences between insurers without any noticeable change in market share. He felt that it was almost impossible for people to understand all the various products that insurers offer and to be in any position to determine whether in fact they were being offered value for money.

We believe that there needs to be a more rigorous national debate in Australia on the kind of health care we expect and how we are willing and able to pay for it. Professionals and dedicated people in the health sector are often demoralised by and their communities dissatisfied with the current approach to health care. Australian expenditure on health care, as we all know, is rising rapidly. Ten years ago, it represented 8.1 per cent of GDP and now it is 10 per cent. The states have dramatically increased their health expenditures to the extent that in some cases it is almost 30 per cent of their budgets.

Taxpayers, we believe, have a legitimate right to ask, ‘Are we getting value for our
money? We know that countries that grant significant public subsidies to private health insurance, such as Australia, France and the United States, have faced considerable pressures on their public budgets. We are concerned that all that the PHI rebate does is rearrange the queues, promoting some and shifting others to the back of the queue and that, even though it may help some with low-priority needs, it may lengthen waiting lists for those with greater needs. We believe that this is bad public policy and also that it promotes queue-jumping.

Ian McAuley presented evidence to the Senate Standing Committee on Community Affairs inquiry into these bills which argued that while the tax systems are far from perfect—and I think most people in Australia would agree with that—they do achieve a degree of equity. He pointed out that PHI is essentially a stealth tax which builds in inequities. He also says that there is little incentive to provide ‘public good’ services, such as promotion of healthy lifestyles, and that the costs of collecting tax through a single system are more effective than doing so by means of individual insurers. In fact, he is essentially arguing that we would be better off taking another approach.

The private health insurance industry has been successful, however, in conveying the impression that without private health insurance there would be a collapse of the private system and that Australia would be on the path to the madness of so-called ‘socialised medicine’. We should be asking, ‘Is this really the case?’ They have got away with making these claims are untested for years and it is time that we stood up and challenged them. John Menadue is one of those that do challenge them. John, who is from the Centre for Policy Development, calls private health insurance a ‘cancerous growth’ and says that it is not a health program, and we agree; it is corporate welfare.

The increase in the surcharge is the carrot to the industry. The government is introducing the rebate in an attempt to deal with some parts of an ineffective private health insurance rebate system and the subsidies to the private health insurance rebate. Of course, we have all heard the claims that membership will go down. To balance this, the government has decided to give to the insurance industry the carrot of increasing the surcharge on those with higher incomes. Bear in mind that those on higher incomes that do not have private health insurance are essentially conscientious objectors—they have already been pushed and pushed and pushed to take out private health insurance, and they have not done it. As I say, they are conscientious objectors; they are saying: ‘No, we do not believe in private health insurance. We would rather be part of the public system.’ But the government, by increasing the surcharge, is saying, ‘No, we will hit you conscientious objectors; we will still force you into private health insurance.’ These people effectively self-insure, and they are now being pushed into either paying a higher surcharge or taking out a rudimentary health insurance product, which is what a lot of people have been doing.

We do not believe that this is an appropriate approach to private health insurance. Why should the more than 100,000 people who are currently not taking out private health insurance be obliged to take up a rudimentary insurance product—a small policy with few benefits—which is what happens in some cases where people feel they are obliged to take out private health insurance? We do not believe that this is of benefit to either consumers or taxpayers. More health dollars are going to be spent by people who feel obliged to take out health insurance and who will then feel obliged to make the best use of the private health insurance that they have taken out. These health dollars will not
be spent on dealing with necessary or life-saving interventions, and these are people who, understandably, feel that they should get something out of forking out for an insurance policy that they never really wanted in the first place. In other words, there is a potential that they will be using services that they do not really need, which, of course, leads to higher costs to our health system.

As the Productivity Commission has put it, increased levels of private health insurance ‘have been associated with a marked increase in the number of services performed and reimbursements for their services’. That has to lead us to question whether these services are necessary and whether the money that was put into the system to promote private health insurance is then in a vicious cycle of promoting the unnecessary use of services. People who may benefit from private health insurance—such as older people—cannot afford to pay their premiums and have to rely on the public health system. The winners in this system, of course, are the insurers—the ones that tell us that we cannot live without private health insurance. These are the people who say that, without their involvement, our entire health system would collapse around us. These are the same people whose administrative costs are double that of Medicare and who continue to push up their premiums every year.

We believe that private health insurance has failed to take the pressure off public hospitals. We know that it has allowed private hospitals to attract highly professional staff away from public hospitals, we know that it weakens Medicare’s capacity to control costs and quality and we believe that it is an inefficient way of promoting so-called choice. We also know so much about why it is unfair and inequitable, but here we are once again patching up bad policy.

As I have stated already, the Greens deep belief and policy is that we should be removing the private health insurance rebate and redirecting that $3.8 billion to the public health system. Look at the news just recently where the private health insurance profits are up—so much for them doing it hard! Ian McAuley calls this ‘the power of policy privilege’, and we believe that he is on the right track. We do not need subsidies to private health insurance firms to promote private health delivery. Private health insurance companies are not, in fact, health care providers. They are part of a financial world. There is evidence to suggest that private hospitals would be up to $2 billion year better off if they were receiving money as part of a subsidy paid to them, for example, and not receiving funds by financial intermediaries.

As I said, notwithstanding our position on the private health insurance rebate, it is simply inequitable that high-income earners should receive the same rebate as those on a lower income. While we are concerned and we do not believe that this is a fair system, we do believe that it is a small step in the right direction to introduce the means test that removes the rebate for high-income earners. It puts a little bit more equity into the private health insurance rebate. We will be supporting the rebate because, as I said, we believe it is a small step in the right direction. We believe that the resources saved should be injected into the public health system. We have made that comment repeatedly.

The Greens are deeply concerned that the government, during the budget, made cuts to health in what we believe are quite important areas, such as the work of the excellent National Prescribing Service and the Public Health Education and Research Program. We believe the money saved through this rebate scheme should be invested in improving our public health insurance system. We believe
that programs such as those should have been supported.

The Greens will be supporting the private health insurance rebate means testing approach, but we do not support the increase in the surcharge. Unfortunately, the government have put these bills together in a cognate debate, so we are unable to vote separately on the rebate and the surcharge. I am putting on record here that we believe that the bills should have been separated so that we could vote separately on these two issues. The government are trying to have a bet each way. They are trying to means test the rebate to bring a bit more equity into it, but at the same time they are saying to industry, ‘Don’t worry. We’re going to encourage more people in by increasing the surcharge.’ We do not believe that that is an appropriate approach. We believe the government need to be taking a much more fundamental approach to our healthcare system. They are tinkering around the edges with some of these things and not making the fundamental changes that we need. They are not addressing the overall negative impact that the private health insurance rebate has on our healthcare system and the fact that that money would be better injected directly into our health system rather than being filtered through private health insurance companies and distorting the way it can influence good health outcomes.

The Greens do support the rebate. We do not support the surcharge. We encourage the government to split the bills to enable us to vote in a way that reflects the true opinion of the Greens—that is, support for one bill and not the other. The government may, in fact, by putting them together, force us to vote no for the whole package. That is what will happen if they do not put the question separately on the specific bills, because we will not be voting to support the surcharge.

**Senator Barnett** (Tasmania) (5.33 pm)—Today I proudly stand here to oppose the government’s legislation and to say that I believe that the Labor Party in this place and around the country are both ideologically and pathologically opposed to private health insurance. They are opposed to it. They are hell-bent on putting to death private health insurance in this country. We have known that for a long time, but they have been putting up a charade. They put up a charade prior to the last election because they talked about not changing the system on countless occasions in the public arena and on the public record. The now Prime Minister and the Hon. Nicola Roxon, the Minister for Health and Ageing, made promise after promise that there would be not one iota of change to the private health insurance rebate—not one iota. And change is exactly what they have done. They say one thing; they do another.

That is not just with respect to private health insurance; it is with respect to a whole lot of things. I will give you another example: grocery prices. Prior to the last election, Mr Rudd promised that grocery prices would be lower under Labor. Of course, they got into government and what did they do? They set up the $13 million GROCERYchoice website, which, after many, many months, we all know was flawed and an absolute joke. They subsequently closed it down. That is why we have established a Senate inquiry into the GROCERYchoice website. It was a terribly costly stunt.

Mr Rudd promised that by 30 June this year there would be no more blame game. He said he would fix the problems with the public health and hospital system in this country. What have we seen? We have seen reviews and inquiries but no action. We know now that Labor pathologically and ideologically oppose private health insurance. On this side we support a balance. We think there should be support for public hos-
pitals and proper funding and support for private health insurance.

I am going to read some of the government’s commitments into Hansard, to put them on the public record. The government’s policy proposals and this legislation, the Fairer Private Health Insurance Incentives Bill 2009 and related bills, will put further pressure on public hospitals. There will be increased waiting lists and increased waiting times as a result of this government legislation. It will increase the cost of private health insurance for millions of Australians and it will result in fewer people with private health cover.

Before I refer to the commitments of Labor prior to the last election—including their total commitment, without one iota of change, to the private health insurance system and the rebate—let us just recap where we are up to with respect to private health insurance in this country. At the end of March 2009, there were 9.7 million Australians who were privately insured. That was up from 5.7 million, a huge increase, since the downward spiral just after Labor left office, with health insurance levels bottoming out in December 1998. Remember, under the Hawke and Keating Labor governments, private health insurance participation rates dropped from 63.7 per cent in 1983 down to 33.5 per cent in 1996, at the commencement of the Howard-Costello years. Thank goodness for the coalition, which in 1996 put things back on track to provide a balance, to provide certainty, to take pressure off the public hospitals and to provide support for Australians who desperately needed decent health insurance. Policy initiatives such as the 30 per cent private health insurance rebate and Lifetime Health Cover certainly helped to turn things around.

Let us have a look at what Labor said prior to the last election, because I want to put this on the record. They should be red-faced with embarrassment about the promises that they made. On 20 November 2007, in a letter to the Australian Health Insurance Association, the opposition leader, Kevin Rudd, wrote:

Both my Shadow Minister for Health, Nicola Roxon, and I have made clear on many occasions this year that Federal Labor is committed to retaining the existing private health insurance rebates, including the 30 per cent general rebate and the 35 and 40 per rebates for older Australians.

That was their commitment. They put it in writing and they said it publicly. In a speech to the annual Australian Health Insurance Association conference in Melbourne on 10 October 2007—that is, private health insurance members and stakeholders from all around Australia—the then shadow health minister, Nicola Roxon, got up and said:

“This is why we have committed to the current system of private health insurance incentives—including the package of rebates, the Lifetime Health Cover and the surcharge. Labor understands that people with private health insurance—now around 9 million Australians—have factored the rebate into their budgets and we won’t take this support away.”

They said they would not take that support away; they had factored it into their budget. They made that statement categorically and publicly, on the record, in writing and in every way, shape or form. But once they got into government, they broke their word. They broke their promise. That is wrong, dead wrong.

**Senator Bushby**—Peter Garrett reminded us of that.

**Senator Barnett**—That is right, Senator Bushby; Peter Garrett reminded many of us exactly what he meant when he said he would change all that once they got into government. That is what he said, isn’t it, Senator Bushby?
Senator Bushby—He said, ‘Once we get in we’ll change it all.’

Senator Barnett—He did. He said exactly that. Well, that is what has happened. They are changing it all. As late as 24 February 2009, the federal minister, Nicola Roxon, reassured the public in response to a media inquiry from Leo Shanahan for his article, ‘Scrap health rebate: Treasury’, in the Age of that date. She said:

The government is firmly committed to retaining the existing private health insurance rebates ...

What a shame. What a sham. What two-faced behaviour that is. It is a disgrace, and the Australian public will have the opportunity to express their disgust with this broken promise. What do members of the Australian Health Insurance Association think about this? Dr Michael Armitage put it succinctly when he said:

It would be difficult to have 100 per cent trust before any budget, given what has happened to us in the last two—particularly this decision.

He went on:

It would be difficult to have 100 per cent trust given that we have such a definitive letter from the Prime Minister, which has now been shredded.

That is what he said: it has now been shredded. Mr Michael Roff, Chief Executive Officer of the Australian Private Hospitals Association, representing all of the key private hospitals all around Australia, not just in the key states or certain territories, said this:

... these proposals constitute a fundamental breach of promise by the government. This entails reneging on clear commitments that were made not just in the lead-up to the last election but were repeated by a range of senior government figures, from the Prime Minister down, on numerous occasions both in public statements and private meetings since the election.

That is the sort of thing that sticks in my craw, and I know it upsets a lot Australians—

that is, a broken promise, and this is a very blatant and hurtful one. I hope this legislation does not pass, because if it did we know that it would put upward pressure on private health insurance premiums and cause pressure on public hospitals—increased waiting times, increased waiting lists.

The impact on Tasmania would be significant. I have had contact in recent times with Colleen McGann from St.LukesHealth, a private health insurance provider, and I commend her for her leadership in and support for the private health insurance system across the board, and health generally. They are very good corporate citizens. They are based in Launceston and they employ many people in and around Launceston. They are to be commended, particularly Colleen McGann for her leadership across the community in Northern Tasmania. They have indicated that there will be a reduction in the number of people taking out private health insurance as a result of this measure. That is no surprise. Of course that is going to happen. The average age of a person taking up private health insurance is likely to increase, and people will of course change the type of policy they have. Ms McGann indicates that there will probably be higher excesses, meaning that, should clients require hospitalisation, the out-of-pocket expenses will be much greater and some clients will find they cannot actually afford the excess. So guess where they are going to end up? They will end up in the public hospital system, which is exactly what we have been saying. There will be further pressure on the public hospital system across the board. This is the concern that we have.

Last year, in relation to the government’s proposal at budget time, St.LukesHealth estimated that Launceston General Hospital could face up to an additional 10,000 patients under the changes that were to be put into effect at that time, with similar pressures
affecting other Tasmania hospitals, and that on a population share basis—these predictions are concerning—up to 50,000 Tasmanians could transfer to the public hospital system.

That was last year based on last year’s proposal. These are the concerns we have. Particularly in Tasmania we have very poor health outcomes. We have the poorest hospital indicators of any state in the country based on the State of Our Public Hospitals report. That is a concern for all Tasmanians here of whatever colour or persuasion. Surely, we have to try and do better.

In conclusion, I say that I am proud to oppose this legislation and to stand up in support of a balanced approach and show support for the private health system and support for promises being kept. The government, I say again, says one thing prior to the election and then does another after the election. They have made a categorical promise; they have broken that promise, and that breach is going to hurt the hospital and health system across this country and will be disadvantageous to Australians, not just the 9.7-plus million people with private health insurance but all Australians. It is a very fearsome and concerning situation with which we are now presented. I thank Acting Deputy President Carol Brown and the Senate.

Senator McGauran (Victoria) (5.46 pm)—I join my colleague here in expressing his frustration, and not only his frustration but that of so many other Australians, with the whole administration of this portfolio—with the expectations that were given in the 2007 election and the non-delivery and broken promises afterwards. During this session of the parliament over the last month we have rightly been focusing in this chamber on the government’s waste, bias and incompetence with regard to the stimulus package—and rightly so. We have pointed out ministers who have mismanaged or have been just straight-out incompetent. Of course Mr Peter Garrett fits into that category very well, as does the Deputy Prime Minister with regard to the expenditure on the so-called ‘education revolution’.

This portfolio flies under the radar and has previously flown under the radar. The minister in the other House, Ms Nicola Roxon, would have to be one—and I can see that you are about to jump on me. Madam Acting Deputy President for using the wrong terminology—who comes into that category of portfolio mismanagement and incompetence. I venture to say that this minister has been put into this portfolio—because she is certainly not up to the job—as a puppet to run Labor’s ideology, to take the brunt of the broken promises, and the previous speaker spoke of those broken promises very well. I say that with the full understanding that this is a difficult portfolio, whoever takes it up and whatever side of the House takes it up. It happens to be one of the busiest. It is probably the busiest portfolio outside the Prime Minister’s office. It gets as much mail as the Prime Minister’s office, I am told.

But with all that, Minister Roxon has handled this portfolio like the lightweight she is. Just look at all the broken promises. Just look at the failed programs. Just look at the mismanagement of the whole portfolio and you will agree with me. I am certainly sure that those on this side of the chamber will agree with me that we have a very lightweight minister running a very heavyweight portfolio. This is a government—and she takes the responsibility, I suppose—where the Prime Minister promised coming into government that they were going to fix the hospital system in the states. They were going to stop the blame game within 20 months. Their first act was to set up an inquiry. That inquiry found after 20 months that nothing had improved. The primary
yardstick, if you like, the length of surgery queues, had increased. So what do they do? They set up another inquiry to inquire into the inquiry. What inaction!

This was also a minister that promised with great expectation that they were going to increase the nursing numbers. I believe that they dedicated some $39 million over five years to a target figure of 7,750. To date, two years on, nearly halfway through the program, they have 541. They are not going to meet that target. What a disappointment—another failure. This is where their priorities lie. In the first budget they cut—and I could be corrected by the shadow minister—$100 million from the chemotherapy budget.

Senator Cormann—They have since backflipped!

Senator McGauran—They have since backflipped but they did so under pressure after feeling the heat. While they have certainly backflipped, that was the announcement at the time. If they could get away with it, that was their priority. They do not mind spending money on pink batts; they do not mind wasting money on pink batts, but they had the audacity to announce in their budget a cut of $100 million on chemotherapy. That is the priority they are giving this portfolio. What about the cut of the cataract rebate for old people? There was another one that they announced in the budget.

Senator Polley—You were there for 12 years—

The Acting Deputy President (Senator Carol Brown)—Order, Senator Polley!

Senator McGauran—This portfolio has not faced cuts—

Senator Polley—Why is health in such a mess?

The Acting Deputy President—Order, Senator Polley, cease interjecting!
the possibility of having a midwife. Did you speak up in caucus?

The ACTING DEPUTY PRESIDENT—Senator McGauran, I ask you to direct your remarks through the chair.

Senator McGAURAN—Madam Acting Deputy President, do you think she ever spoke up on that issue? They have done a backflip on that I believe, or at least they have deferred the issue.

At all levels this portfolio is mismanaged. We have yet another case of a broken promise. If they think this will not have an effect down the track, they are delusional. I am sure they know it will but, as previous speakers have said, it is the ideology of the issue that is driving the change. I want to read for those listening to the broadcast the purpose of these bills as outlined in the Bills Digest. It states:

The Bills propose the introduction of three new Private Health Insurance Incentive Tiers, so that those on higher incomes receive a lower private health insurance rebate when they purchase a complying health insurance policy, and face a higher Medicare levy surcharge if they opt out of private health cover.

This measure was announced in the May 2009 budget. Of course, it followed the May budget announcement in 2008, which also attacked the private health insurance sector. In the 2008 budget the Medicare levy surcharge threshold was increased. In this policy change, by lifting the levy charge in the 2008 announcement the government is taking away a very significant incentive to take up private health insurance. If you like, they took away the stick and in this legislation they are taking away the carrot. In the two budgets they are attacking the private sector. By taking away the stick or reducing the stick, which is the surcharge, and by taking away the carrot by reducing access to the rebate they will reduce the take-up of private health insurance. They are dismantling the fundamentals of a balanced health system.

We on this side of the chamber stand for a balanced private and public health system. We do not do it on any ideological basis. You can accuse us of that if you like—I am happy to take it up as a point of ideology. But it is quite rational. Why do you think you would have a balanced private and public health system? Because the cost of a pure public health system is too great on any government’s budget. President Obama is going to find that out. It is being debated over there in congress right now.

We on this side of the house, who had the reins in the previous government, worked that out and we produced a balanced system. We ran those principles into policy. We ran an affordable health system, an accessible health system and a modern health system with the best of care. That means you have a balance between private and public. You take the pressure off the public health system so that those most in need can access it.

Senator Polley—That’s not what the Australian community believed. You would be on this side of the chamber if the community believed that.

Senator Cormann—They believed your promises.

Senator McGAURAN—This is the point. Do you think this is not going to catch up with you? Enjoy your one term in government.

Senator Polley interjecting—

Senator McGAURAN—The sheer hubris that is coming from the other side in regard to health! I am happy to have a vigorous debate with you on any issue. I am happy to have a vigorous debate with you on the stimulus package, on education, on the Treasury portfolio or on Senator Conroy’s portfolio—what does he do with broadband?
Senator Birmingham—Reads a laptop.

Senator McGauran—He reads laptops. I am happy to have a vigorous debate where you can interject across the chamber, but not on health. Health directly affects people’s lives—working families and individuals. It is not to be played with politically or ideologically. Haven’t you learnt that yet? You will spend one term in government if that is the case. Are you a true public representative? Are those on the other side true public representatives or are they going to play politics with the health portfolio no less?

Senator Polley—You had 12 years. You didn’t stick up for the Australian people then.

Senator McGauran—All my research is going out the window because those on the other side are provoking me. They have no sense of the oath that they made at this table. There is a time for politicking, but you never do it in the area of health. You cannot play with people’s lives like this. You cannot play with their household budgets. You cannot play with their emotions. What do you think people on chemotherapy think? What do you think the mothers who want a home birth think? You want to play politics with that? You want to take an ideological stand with regard to private insurance and with people’s ability to access care when they need it, when they are most ill?

Of course, Senator Polley is scuttling out of the chamber. She has had enough. Reality hits. What sort of public representative plays politics with the health portfolio? As I said, I would be happy to vigorously debate any other issue. I have been here long enough to understand the politics.

This side of the chamber does not play politics on health. It does not work, for No. 1. The public will not accept it. If you think you can, they will not accept it. They will vote you out on this issue alone. You can have all the stimulus packages and school halls and pink batts that you like, but you play around with health, as you are in every budget and in between the budgets, and you know the pressure that will come your way. You have had to back down on some issues so you know the pressure that comes your way—or you ought to. There is many an ignorant person across the other side, but there are some sensible heads who have sought to back down. Of course, I would like to think it was because of the cogent arguments put up by the shadow minister here in the chamber, Senator Cormann. He has carried the whole debate very well since we came into opposition and you went into government, but I would venture to say that even Senator Cormann—who probably rallied all the public protest himself—would admit that the backdowns have not necessarily come from our side. We do not really think that you listen to us that much or to the numbers in this chamber. We know that the backdowns that have been forced upon you from some of the idiotic budget announcements have come from the public.

Senator Cormann—People power.

Senator McGauran—Yes, people power. That is what you will face every time in this portfolio if you think you can get away from having made the clear, unadulterated election promises that you have. I must say I had not noticed the quote from Dr Armitage that was given by the previous speaker, Senator Barnett, but I have looked it up and I will quote it. Dr Armitage, the chief executive of the Australian Health Insurance Association, said:

> It would be difficult to have a 100 per cent trust before any budget, given what has happened to us in the last two ...

But the point I really like—

Senator Farrell—What about the promises he broke when he was minister? He
promised not to open shops on Saturday afternoon and he broke that promise.

Senator McGauran—He promised not to open shops on a Saturday afternoon? That really gets under your skin, does it? Promised not to open shops on a Saturday afternoon! That upset you, did it? Dr Armitage, please read the Hansard.

Senator Stephens—Mr Acting Deputy Speaker, on a point of order: we are debating very serious legislation. Can we stick to the point of relevance of this discussion and get back to the debate.

The ACTING DEPUTY PRESIDENT (Senator Ryan)—Thank you, Senator Stephens. Senator McGauran, you will kindly ignore interjections about extraneous issues.

Senator McGauran—I have quoted what Dr Armitage said, but the real point—

Senator Bushby—It’s a gem!

Senator McGauran—It is a gem. The Prime Minister promised in that letter—I repeat: promised—but you all know the Prime Minister anyway. I know you know the Prime Minister in that way, but Dr Armitage has put it in print. None of you would have the guts to do it, but he has put in print what he thinks of the Prime Minister about breaking his promises. The Prime Minister wrote to him that he would not touch the private health insurance rebate—and that is shreddable—as it was.

But time is on the wing—I was utterly distracted by the contempt and the provocation from the other side, who just do not seem to understand the effects that this bill, for a reduction in the rebate, will have on working families directly, on people’s household income and their wellbeing and sense of security. It is going to have a direct effect on households. But overall, on a macro analysis, the reduction, along with the previous decision on the surcharge—as I said, first the stick and now taking away the carrot—is going to have a cumulative effect of reducing the numbers in private health, so you will have to revisit this issue because you will see the numbers starting to fall.

History bears this out. When we sought to increase the numbers in private health we introduced three policies: the surcharge, the rebate and the life health cover. We found that we had to have the three in place. One did not do the trick—it did not increase the numbers; two did not increase the numbers; three had to be in place before the effect started to occur. And of course it did occur: when we left office more than 40 per cent—some 45 per cent, I believe—were in private
health, and that was increasing. As for the effect you are going to have, you single out that the surcharge has had no effect—yet. But add it to this and you will start to get the cumulative effect in reverse and the numbers will start dropping. That is predicted in the dissenting report in the Senate Community Affairs Legislation Committee’s report of its inquiry into this bill. So that prediction is there and we will be revisiting this issue.

Senator BIRMINGHAM (South Australia) (6.06 pm)—It is an absolute pleasure to be able to follow Senator McGauran, Senator Cormann and all those from the coalition side who have outlined in such an eloquent and passionate manner the reasons why this government’s approach on this issue is just so flawed. Senator Cormann, who has become the Senate’s pre-eminent advocate for the health industry over a range of issues in this chamber over the last 12 months or so, has pointed out time and time again in various debates on private health insurance that this government is simply out to do this industry in. It is purely an ideological crusade from those on the other side of this chamber who wish to destroy the private health insurance industry.

This is an industry which provides a service that millions of Australians choose to take out. Some 9.7 million Australians at the end of the March quarter of this year had private health insurance. Some of them, I am sure, would be listening right now to the broadcast of the Senate’s proceedings. There are 9.7 million of them out there who dip into their pockets and pay a little bit out of their hard-earned income to provide for private health insurance.

Why is this important? It is important because it injects balance into the health insurance system. It injects alternatives into the health system for Australia. A health system which relies purely on the public sector, which relies purely on public health, Medicare and our public hospitals, is a health system that is a stool trying to stand on just one or two legs. It will not work.

The private health sector—private hospitals and private health insurance—is the important third leg to that stool. It is what will make it stand, make it work and make our health system survive. Instead it is being gutted by policy measure after policy measure of this government.

The government have a track record. They have form, as Senator McGauran alluded. When the Labor Party were last in government, they decimated private health insurance and they are on the way to doing it again this time. When they were last in power, private health insurance participation rates dropped from 67 per cent in 1983 to 33½ per cent in 1996. So, in the 13 years of the Hawke-Keating governments, they almost managed to halve the participation in private health insurance.

If they were to do the same to the nearly 10 million people with private health insurance in Australia today, it would wipe five million people out of the private health insurance industry. Is that the goal of the Minister for Health and Ageing? Is that the goal of the Prime Minister—to take five million Australians out of private health insurance? That sure seems to be the plan they are pursuing. That sure seems to be what they are pushing towards with the types of measures that they have pushed in their last budget and again in this budget.

Senator McGauran did an excellent job, as did Senator Cormann, of outlining how this is a breach of faith with the Australian public. It is another breach of faith, layered upon the many others, where the Rudd government has broken its word, broken its bond and broken its commitment to those Australians who voted for it. They should have
every right to feel let down and disappointed by the fact that, time and time again, they have been doublecrossed by a government which gave its word and went on to break it.

Senator McGauran referred to the letter sent and signed by Kevin Rudd, federal Labor leader and member for Griffith, dated 20 November 2007, to the Australian Health Insurance Association. It says:

Both my Shadow Minister for Health, Nicola Roxon, and I have made clear on many occasions this year that Federal Labor is committed to retaining the existing private health insurance rebates, including the 30 per cent general rebate and the 35 and 40 per rebates for older Australians.

There it is in black and white—it may have gone to them in colour at the time; I do not know: a demonstration that the now Prime Minister, the then Leader of the Opposition, was willing to say anything and do anything to con his way into the office of Prime Minister.

Senator Cormann—Nobody can trust a word they have to say on this.

Senator BIRMINGHAM—Indeed, Senator Cormann, nobody can trust a word they have to say on this issue because their record, their form, is very clear: broken words and broken promises, time and time again. We indeed have the letter from the Prime Minister to the private health insurance industry association, but he was backed up by the words of the then shadow health minister and now minister, Nicola Roxon. The minister, then shadow minister, at the Australian Health Insurance Association conference on 10 October 2007, made it very clear:

This is why we have committed to the current system of private health insurance incentives—including the package of rebates, the Lifetime Health Cover and the surcharge.

Labor understands that people with private health insurance—now around 9 million Australians—have factored the rebate into their budgets and we won’t take this support away. That is what the now minister had to say before the election: ‘We won’t take this support away.’ Well, so much for her word. So much for what she stood up there and told the health insurance industry and ordinary Australians, because ‘take this support away’ is what they are doing. So much for those Australians, many of those nine million Australians who will be affected by this measure if it passes, who, to use the now minister’s words, factored the rebate into their budgets.

This government likes to talk about helping working families. It likes to talk about helping households along the way. It likes to talk about how it is helping people with the pressures in their lives. Well, there is no evidence of that—no evidence of that at all. The government is certainly not helping people with their budgets, because, if people have factored this rebate into their budgets, they are about to get one hell of a shock when this rebate is taken away from them and they find they are going to be paying more.

Everybody involved in private health insurance will be paying more because of this. It is not just those who might lose the rebate; it is every person who takes out private health insurance who, over time, will face the cost pressure of rising premiums.

Senator Cormann—It will also be people in the public system who will pay for this.

Senator BIRMINGHAM—Senator Cormann is indeed right. There are nearly 10 million Australians with private health insurance. Those who keep it will pay more. Some will pay a lot more because they will lose the rebate. Some will play a bit more because the cost pressures will see premiums rise. But the other 10-plus million Australians out there will also suffer longer hospital waiting lists and more crowded wards. They will pay the price of this measure as well.

No Australian will be left unaffected by this change. No Australian with an interest in
health care—which, of course is each and every one of us—will be left unaffected by this change. No-one will benefit from it. Everyone will be harmed by it. This is the reality that people need to face up to, and hopefully this Senate chamber will recognise that and will ultimately choose to reject this measure.

I have cited a couple of commitments made by the government, but they were not the only ones. The then shadow minister also made it quite clear on 26 September 2007:

Federal Labor rejects the Liberal scare campaign around the Private Health Insurance rebates … The Liberals continue to try to scare people into thinking Labor will take away the rebates. This is absolutely untrue. The Howard Government will do anything and say anything to get elected.

Excuse me, Mr Acting Deputy President, if I need to roll around in the corridor here and have a bit of a belly laugh at present, because the Labor Party say that the Howard government will do anything and say anything to get elected! We have just canvassed the bald-faced untruths that have been told by the Rudd government to get themselves elected.

Senator Cormann—She was still promising in February this year.

Senator BIRMINGHAM—Time and time again they kept saying: ‘Don’t you worry; we’re not going to take these rebates away. Don’t you worry; we know you’ve got them factored into your budget. Don’t you worry, health insurance industry, we know that you are relying on this to survive. Don’t worry out there in the health sector—doctors in private hospitals—we know that you are relying on this to keep your doors open. Don’t worry, state governments, other owners of public hospitals and workers in public hospitals; we know that you want a balanced system and that you want to make sure that the private health industry is there to take some pressure off you. None of you need to worry.’ But, no, they were just saying and doing anything to get elected. That is what Ms Roxon and Mr Rudd were doing when they were talking about health insurance.

Indeed, as Senator Cormann just mentioned, even after the election—in fact right up to 24 February this year—the federal health minister was continuing to say:

The government is firmly committed to retaining the existing private health insurance rebates.

Anybody who knows anything about the federal budget development process knows full well—Senator Cormann and others exposed this as true during the Senate estimates process—that by 24 February you would have a lot of these plans in place. You would have been doing a lot of the background work and would know that you are well and truly considering, if not already committed to, changes to measures such as this: changes to the private health insurance rebate.

The government were by no means firmly committed to retaining the existing private health insurance rebates on 24 February 2009. They were not committed to it at all, because they were actually doing the work behind the scenes to change it. So they were misleading the Australian people not only throughout the lead-up to the election but afterwards. They were continuing right up until the budget this year, just hoping that they could scoot this one under the radar and that nobody would notice that they had broken this very significant promise—this very significant trust and bond—that they had tried to establish with the Australian people.

The Prime Minister likes to talk, in his own quirky language, about changes to things and to give assurances that he would not change things. Indeed, in talking about private health insurance he used one of those quirky phrases he is renowned for. He said that they would not change it: ‘Not one jot; not one tittle.’
Senator McGauran—Fair shake of the sauce bottle!

Senator BIRMINGHAM—Fair shake of the sauce bottle indeed, Senator McGauran. Fair shake of the tittle, whatever that may be.

Senator McGauran—What is that?

Senator BIRMINGHAM—What is a tittle? We will leave that for others to look up. Perhaps that can be an adjournment speech for you one night, Senator McGauran: the meaning of the tittle. ‘Not one jot; not one tittle.’ Maybe ‘tittle’ is a word for broken promises. Maybe there was code buried in that statement.

Senator Cormann—Maybe it was Chinese.

Senator BIRMINGHAM—Maybe it was Chinese, Senator Cormann. That is quite possible! Perhaps if we check the Mandarin books we will find that ‘tittle’ means ‘this is a promise that I intend to break later on’.

We have seen broken promises galore in regard to this—broken promises galore, which, as I said before, will hurt every single Australian. How will the broken promises hurt them? They will hurt them in all manner of ways. The Health Insurance Industry Association has made it quite clear in a range of evidence provided to a Senate inquiry into this, and to many Senators as well, that there will be impacts on people.

The Australian Institute of Health and Welfare reports that private funding contributes to about 57 per cent of all surgery in hospitals. For example, it supports about 55 per cent of procedures for malignant breast conditions, 55 per cent of chemotherapy cancer treatments and 70 per cent of same-day mental health episodes. These are serious conditions. These are serious issues that Australians face. More than half of the treatments in these instances are covered by private health insurers.

When we step beyond this bill, if it is passed, we will see that they are not covered by private health insurance—that Australians will face higher costs to have that health insurance. There will be fewer people in health insurance, therefore there will be more people queuing up in the public system. It will not take much before less than 50 per cent of all surgery in hospitals is covered by private health insurance in some way and before less than 50 per cent of chemotherapy treatments are covered.

Suddenly, this will place enormous extra cost pressures onto the public system. The Health Insurance Industry Association estimates that up to 240,000 Australians with private hospital insurance are likely to exit their cover as a result of the means testing of the 30 per cent rebate. Up to 240,000 Australians! A further 730,000 Australians are likely to downgrade their level of hospital cover, and an additional 775,000 persons will exit their general treatment extras cover as a result of this policy change. Hundreds of thousands—indeed, more than one million Australians—will be reducing their cover in some way, shape or form as a result of this, with all of the flow-on and commensurate impacts that will have for those who are left in the system or for those who never were in the system but were relying on the private health system to make some difference to the public system—to provide those extra legs to the stool.

Many of the nearly 10 million Australians who have private health insurance come from my home state of South Australia. We have one of the older populations in Australia and some of the electorates within South Australia have some of the highest rates of elderly Australians of any of the electorates in Australia. Older people have traditionally clung to their private health insurance through thick and thin. That is why, in fact—contrary to popular belief—so many Austra-
lians with private health insurance are on relatively low incomes. Lots of them are retirees and lots of them are pensioners, but they are not game to give up their private health insurance. Who can blame them? State governments everywhere are running the hospitals into the ground.

Let us look at the number of people who would be affected in my home state of South Australia. In the electorate of Wakefield, there are some 44,567 voters with private health insurance, or indeed nearly 63,000 people across the electorate who are covered by that insurance—that is, young people and children who may not be enrolled to vote and others. But what has Mr Champion done to stand up for them? He has done nothing at all. In the electorate of Grey, there are 64,500 people—that is, 47 per cent—covered by private health insurance. I know Mr Ramsey has been fighting hard for those people in his electorate who will be impacted by it.

Senator Cormann—He’s a very good member.

Senator BIRMINGHAM—An excellent new member for Grey, Mr Rowan Ramsey has been doing an outstanding job on this issue and on many others, championing them across his vast and wide electorate. Forty-seven per cent of voters in his electorate will be hit by this slug on their private health insurance. All the rest will be impacted in other ways. Another good member is Mr Patrick Secker. Forty-eight per cent of voters—getting up to 69,828 people across the electorate—in his electorate of Barker are covered with private health insurance. These are massive numbers and these are the seats in South Australia with smaller numbers of people who are covered.

A new member I have not heard standing up for the 67,400 people in his electorate who are covered by private health insurance is Mr Mark Butler in Port Adelaide. I have not heard him out there talking about the impact it will have in his electorate, an electorate that has many social problems and that will be seriously hit with health issues by this. Another new member is Ms Amanda Rishworth. Fifty-five per cent of people in her electorate have coverage—that is, 75,431 people. What has she done? The honourable Kate Ellis, a minister in this government, has 68 per cent of people in her electorate with coverage—that is, 89,020 people living in the federal electorate of Adelaide are covered by private health insurance and will be hit by this government. Indeed, of all Labor members in South Australia, the monte is Mr Steve Georganas in Hindmarsh: 69 per cent of voters in his electorate have private health insurance—68,000 voters and 89,193 people in the electorate of Hindmarsh have private health insurance. Many of them are older people.

Senator Cormann—What is he doing? Nothing.

Senator BIRMINGHAM—You are right, Senator Cormann: he has done nothing to stand up for them. He has done nothing to stand up for them with regard to them keeping their private health insurance. Those voters of Hindmarsh, those older people in Hindmarsh, have every right—as does every other voter across Australia—to private health insurance. They have been let down by this Labor government, who lied their way into office and misled voters that they would keep the private health insurance rebate intact. They have not done so. They are not planning to do so. The only thing standing between them and doing so is this Senate, and I urge the Senate to reject these bills.

Senator XENOPHON (South Australia) (6.26 pm)—The Fairer Private Health Insurance Incentives Bill 2009 and related bills if passed will affect all Australians and their access to health care. Around 11 million Aus-
Australians currently hold some form of private health cover, giving themselves peace of mind should they require hospital admittance or ongoing medical treatment and making it more affordable to access health services such as optometry, dental care or physiotherapy—to name a few. However, private health insurance can be costly for the average Australian family. For a family, for example, it can cost a few hundred dollars per month to have hospital and general treatment cover. But many would argue it is money well spent. What makes private health insurance accessible and affordable for many Australians is the 30 per cent rebate. Since the introduction of the rebate and other measures, the uptake of private health insurance rose from 30.4 per cent of the population to 44.6 per cent. The fact of the matter is that, without the 30 per cent rebate, most Australians on the average salary would struggle to afford private health insurance, especially during these difficult financial times. Unfortunately, though, health is something that one cannot afford not to take seriously, so almost half the population do what they can to budget for their own and their family’s private health insurance.

Based on data from the Australian Bureau of Statistics, one million Australians with private health cover live in households with an annual income of less than $26,000. But, if things are difficult now with the 30 per cent rebate, imagine how much harder it will be for the average Australian family to find the extra money if these bills are passed. The government suggests that the impact would not be great. It argues that private health insurance is at its highest level since March 2002 and that, during the period of March 2007 to March 2008, there was an increase of 225,000 people in private health insurance. Further, it points to figures released in July that Australian private health insurance membership was at record levels at the end of the June quarter. The government points to these as an indication of a steady increase in private health insurance, despite the recent changes in relation to the Medicare levy surcharge. The proposed changes were modified as a result of compromise and negotiations with the government, and the impact would have been much greater had the government’s original plan gone ahead without amendment by the Senate.

It is important to note that the data on which these claims are based were sourced prior to the end of the full financial year, which would have excluded the full impact of the Medicare levy surcharge changes. Indeed, figures released one week later by the Private Health Insurance Administration Council show that the annual growth in privately insured Australians has fallen to its lowest levels since 2006. Since the announcement of the changes to the Medicare levy surcharge in May 2008 the number of Australians taking up private health cover has steadily decreased, month by month. If we look at yearly comparisons between June 2007 and June 2008, 389,000 Australians took up private health cover. However, following the changes to the Medicare levy surcharge, just 211,000 Australians took up private health cover. There may have been other factors, but clearly it was a factor.

The Australian Health Insurance Association forecasts that up to one million Australians will abandon or downgrade their cover as a result of the changes proposed in this bill. The AHIA figures predict that 240,000 Australians will cancel their plans wholly and a further 730,000 will likely downgrade their cover to the bare minimum. The number of Australians who will downgrade their health insurance to just basic ancillaries, so that they will maintain a level of health insurance but be unaffected by the changes to the Medicare levy surcharge, is concerning. This will be a hidden statistic and one that
will greatly impact on our already struggling public health system.

Drawing again on the AHIA analysis of Roy Morgan data, the projected impact of these changes from the 2009 budget are: firstly, an extra 189,771 bed days for public hospitals at a cost of over $195 million; secondly, over 4.3 million fewer services covered in allied healthcare due to dropouts; and thirdly, a fall in funding of dental services of 1.8 million at a cost of around $99.3 million. Given my ongoing discussions with the health minister on funding for dental care for Australia, I would urge the Senate to reconsider that because I think with some modifications the government’s plans for dental health are preferable to the status quo for acute and chronic care—

Senator Cormann—Are you aware of a government compromise on the table?

Senator XENOPHON—There is Senator Cormann, as usual, with a very useful interjection. Senator Cormann, I think that South Australians, in my home state, will be much better off with what the government is proposing than they would be with the status quo. South Australians have accessed only something like two to three per cent of that funding, which is a disproportionately poor outcome for South Australians. I think public dental waiting lists are missing out because the money for the acute care program has not been used as effectively in some cases as it should have been. That is a separate issue but I would urge the government to sort that out as a matter of urgency. I am willing to continue to talk to the government about that because it is long overdue that we have some changes to that.

Under Treasury estimates, the provisions of this bill would mean that means testing the rebate will impact around 2.3 million Australians who currently hold private health insurance, with incomes above $75,000 for singles and $150,000 for couples. The AHIA estimates that these Australians will see their cost of health insurance increase by between 14.3 and 67.7 per cent. Those with private hospital insurance and incomes below the rebate reduction thresholds will be faced with increased premiums as a result of the members who will cancel their private health insurance plans.

This presents a real risk of adding further pressure to an already struggling public health system and I do not believe there has been any specific modelling done on that. One of the questions I will ask the government—should this go into committee—is what modelling has been done on people downgrading their private health cover so they are not caught by the surcharge changes. It has been estimated by Catholic Health Australia that means testing and a tiered approach to the 30 per cent rebate will result in an additional 36,000 people joining public hospital waiting queues.

While I applaud the work of those in the public health sector and praise our public hospitals for the tremendous work that they do on a daily basis, there is no denying that our public health system is struggling. Waiting lists are already considerable at public hospitals around the country. Non-emergency operations are repeatedly cancelled at the last minute or postponed often only to be postponed again and then once again. Put simply, our public health system cannot afford more patients than it already cares for.

It is against this background that I wish to make two more points that will influence my final position on this bill. I said this before during the Nation Building Funds Bill debate last December when I referred to these words of social commentator Hugh Mackay:
A culture of broken promises in politics increasingly erodes public confidence in our political institutions.

With every broken promise or policy backflip, the level of cynicism grows and grows. By the government’s own admission, this is a broken promise and a policy backflip. In 2007 Australians were promised by the then opposition leader, Mr Rudd, and the then shadow health minister, Ms Roxon, that Labor would not alter the private health insurance rebate if they were to win government. It was an explicit promise. I quote from a letter from the then Leader of the Opposition to the CEO of the Australian Health Insurance Association confirming:

… Federal Labor is committed to retaining the existing private health insurance rebates, including the 30 per cent general rebate …

It was an explicit promise; no ambiguity whatsoever. And yet here we are. Firstly, the introduction of this bill is a broken election promise. But, secondly, to me this bill represents another broken promise, in a sense. It is a promise that is perhaps not as formal as an election promise but it was a promise made in the spirit of good faith in negotiations over the Medicare levy surcharge in October last year. By way of history, that bill also sought to change the funding underpinning private and public health through changing the Medicare thresholds.

When faced with the complex cases for and against these changes, I was struck by the lack of information about how our health system worked, about comparative funding and even basic information on health outcomes, particularly of comparisons between the public and private systems. It was in response to these concerns that I sought a Productivity Commission inquiry as part of securing my support for passage of that bill.

Minister Roxon, to her credit, established this inquiry in May of this year. The Productivity Commission has commenced its examination of comparative hospital and medical costs for similar procedures in public and private hospitals, the rates of fully informed financial consent, relevant performance indicators and the most appropriate form of indexation. Clearly, the changes to funding, indexation and the public/private balance that will result from this bill should be informed by the Productivity Commission’s considerations of such matters. If not breaking the spirit of a promise made through genuine negotiation, then these bills pre-empt important information that should be available so that the Senate might responsibly consider this bill.

One of the mantras of this government has been to use an evidence based approach to decision making. I commend the government for that approach and I am all for that too. I am a strong believer in the principle of keeping governments to their election promises but I am also aware that, on rare occasions, circumstances and context may require a change in policy. The onus is then on the government to provide compelling evidence for the need to change. Only then can senators ascertain whether policy should be opposed, policy should be changed or policy should be returned to the people to decide. I do not believe that a compelling and complete case can be made for this change in position without the results of the Productivity Commission’s inquiry into public and private health.

It is for this reason that, at this second reading stage, I move the amendment that has been circulated in my name:

At the end of the motion, add “but the Senate:

(a) notes that the measures in these bills pre-empt the findings of the Productivity Commission inquiry into the relative performance of the public and private hospital systems; and
(b) resolves that further consideration of the bills be an order of the day for the first sitting day after the final report of the Productivity Commission on that matter is laid on the table”.

I cannot support this bill at the second reading stage unless this amendment is successful and the government commits to await the outcome of the Productivity Commission inquiry. To do anything else would involve recklessly risk the balance between our public and our private health systems.

Senator FIELDING (Victoria—Leader of the Family First Party) (6.38 pm)—Australian families are doing it tough. Thousands of workers are losing their jobs and those with jobs are being forced to tighten their belts. Many families have been left wondering how they will have enough money to pay their next bill and every additional expense now feels like an enormous burden. The Rudd government is now looking to deal families another devastating blow by cutting back on the 30 per cent private health insurance rebate.

Cutting back the health insurance rebate is not a decision of little consequence. It is not a decision which will affect only a marginal group of people and leave the rest of the population either untouched or better off. Cutting back the health insurance rebate is a decision which will affect thousands of families who rely on their private health insurance for peace of mind and as a necessity. It is a decision which will push more people into the public system and will therefore affect the millions of Australian families who depend on an already overburdened and broken public health system. In short, cutting back the health insurance rebate is a flawed policy.

Over 11 million people have some form of private health insurance. The number of Australians with health insurance has gone up significantly since the introduction of the 30 per cent rebate in 1999, and this has been widely been accepted as further evidence of the policy’s tremendous success. Fortunately, for many Australians private health insurance is not something they are forced to rely on regularly. But health insurance is something they take out for peace of mind, because their health is too important to them to take any chances with an underfunded and overburdened public system that is clearly in disarray. Health insurance is a big expense and places a strain on the family budget, but, in the eyes of many people, it is not only a worthwhile but a necessary expense.

Family First believe that we need a strong public health system and a strong private health system. The government is at risk of undermining both public and private systems by cutting back the health insurance rebate. The decision by the Rudd government to means-test the health rebate is likely to tip the balance—premiums will go up, which will mean that private health insurance will become an expense many people cannot afford. The government has claimed that, even with the increases, more than 99 per cent of people will continue to stay in the private health system. These numbers look like they have been taken from the back of a cereal box rather than from proper, rigorous analysis. They are based on the false assumption that private health insurance is relatively inelastic and, therefore, the price of health insurance is not likely to drive consumer behaviour.

Perhaps for the Prime Minister and the Treasurer several hundred dollars seems like small change. After all, they have excessive superannuation entitlements that will see them walk away from parliament with massive pension payments, guaranteed for the rest of their lives. But most Australians are not as fortunate. Several hundred dollars more each year is a large amount of money. It is enough to be the difference between
continuing with private health insurance and letting a policy lapse. Either way, it is a lose-lose situation for everyone. It is bad for those people who will decide to stay in the private system and will need to find the extra money to cover their rising expenses. It is even worse in the case where people are forced to give up their private health insurance and place even greater strain on our overburdened public hospitals.

At the Senate inquiry we heard that over 200,000 people are expected to drop out of the private system under the proposed means-testing provisions. Also at the Senate inquiry we heard that 730,000 Australians are likely to downgrade their private hospital cover and an additional 775,000 Australians could exit their general treatment cover for matters such as dentistry as a consequence of the government’s policy. How will our overburdened and broken public hospitals possibly cope with those Australians that exit the private system? It begs the question of whether the government has even considered this prospect before launching into this flawed policy. It is a further example of the government’s short-sightedness. It is willing to save money now even if that means costing much more later on.

Family First supports a strong public and private system. In Australia we have a very delicate balance between the public and private systems, and any changes must be carefully crafted. The current changes, I think, are flawed. The current changes do not do enough to help working families. Remember that this is the same government that went to the last election promising to help working families. This is the government that said at the time that one of the biggest challenges was offering help to working families under financial pressure. The government has now gone back on its word. It is a government that has once again betrayed the trust of the Australian people and cannot be believed. It is a government that has proven that what it says and what it actually does are two entirely different things.

Family First is mindful of the current economic situation Australia finds itself in. We understand that these are tough times not only for the Australian people but also for the Australian government. We have seen tax revenues collapse, social security payments go up and a strong budget surplus be transformed into a $57.6 billion deficit in the blink of an eye. Accordingly, we accept the idea that those who can afford it should shoulder some of the burden to make life easier for everyone else.

Family First certainly does not want to see multimillionaires running around with a 30 per cent rebate in their pockets either. However, the current thresholds set by the government in means-testing the health rebate are not fair. The thresholds are unfair because they focus too much on household or individual income and do not sufficiently take into account how many children there are in the household. As any parent knows only too well, the cost on families can increase significantly depending on the number of children cared for. Under the government’s proposal, the thresholds will only increase by a stingy $1,500 for every child in the household, and this does not even apply for the first child in the family. This means that a couple with three children will be allowed to earn just $3,000 more each year between the two of them before they start to lose part of the 30 per cent government rebate.

Is the Rudd government living in fantasy land? Does anyone in the Labor Party have a real idea of how much it costs to raise children? Let me tell you, if the Rudd government thinks it costs nothing to raise one child and only $1,500 for each child after that, they must be living on a different planet to
the rest of Australia. Does the Rudd government have any idea of how much it costs to buy school uniforms, school books, clothes, extra food and more petrol so that you can drive your kids to sports training, and pay medical bills for sick kids, and the rest? Clearly it does not, because there is no way you can add up all those expenses and tell me that it makes sense to increase the thresholds by just $1,500 per child.

Having children is one of the biggest joys in the world, but it costs a lot of money and the government needs to recognise this more with its policies. There is a huge list of expenses that families with children face every day. The list only grows longer the more children you have. Family First has been pressuring the government to increase the thresholds for means-testing. Family First have been pressuring the government to increase it by $6,000 for each dependent child in the household. Even that is pretty light on for what it actually costs to raise a child. Increasing this amount takes into account more of the costs involved in caring for children, which families of no children do not face. Quite simply, increasing the thresholds for dependent children is common sense and the government should support this threshold.

As I was saying before, this change is a serious issue that needs to be addressed. The government seem hell-bent on undermining the private health system in Australia. The Rudd government’s undermining of the private health system is a very dangerous policy as it will leave many families worse off. The Rudd government have to be careful not to make the same mistake the Howard government made when they started to take families for granted. The Rudd government have overpromised and underdelivered on health. They gave the impression that they would not undermine the private health system and they are doing the exact opposite.

I believe in a strong public system; I believe in a strong private system as well. It is a big mistake to undermine either the private system or the public system, but the government seem hell-bent on doing both. They are penny-pinching. The Rudd government are most vulnerable on health because they have overpromised and underdelivered on health. No matter how much spin they use on health, they will get caught out in the end. I saw this with the Howard government when they took Australian families for granted, and this government is in danger of doing the same thing with health. They have broken another core election promise on health. They said they would take over the health system if it were not fixed. Blind Freddy, even with his cataracts, could tell you that the public health system is broken and that the government promised they would take it over. That was the impression and intent of their commitment. Go out to the suburbs and ask the Australian public. They know the government said they would take it over—they know the system is still broken—and they have not. The government squibbed on that. The government are undermining the public system and the private system by tinkering with it.

I am not confident that you folk know what you are doing. You are at risk of taking Australian families for granted. We all know what happened to the Howard government when they started doing this. It is a very serious issue. You are very vulnerable on health. Go out and talk to the people in the suburbs. You have overpromised and underdelivered. You should be careful. I saw this with the Howard government. When you start to take Australian families for granted, health is a touchstone issue. It is an issue that they hold very dear to their hearts. Most Aus-
tralians believe in a strong public system and a strong private system. When you start to tinker and undermine them, you affect both.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.51 pm)—I thank senators for their contribution in the debate this evening. The Fairer Private Health Insurance Incentives Bill 2009, the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2009 and the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2009 will amend various acts to give effect to the recent budget measure to introduce three new private health insurance incentives tiers. The global financial crisis forced the government to make tough decisions about what is right for Australia in the longer term. The rebate as it stands is quite simply unsustainable, particularly in the context of a budget that has taken a $200 billion hit as a result of the biggest global financial crisis in 75 years. Spending on the current rebate is growing quickly and is expected to double as a proportion of health expenditure over the next 40 years. The $1.9 billion saving to government expenditure over four years associated with these reforms will help to ensure that government support for private health insurance remains fair and sustainable.

This is a hard decision and one that was not taken lightly. But it is the right decision for Australia’s long-term financial future. The government supports a mixed model of balanced public and private health services, but we have to strike the right balance. These reforms have been carefully crafted and well targeted so as to provide a fairer distribution of benefits, because the government does not believe that low-income earners should be subsidising private health insurance for higher income earners. At the same time, higher income earners will also face increased costs if they opt out of their health cover. So we are using what is characteristically called the carrot-and-stick approach.

Senators in this debate have raised the potential impact on the public hospitals. Treasury has estimated that this measure will result in about 25,000 people being no longer covered by hospital-level private health insurance, of which about 8,000 people over two years might require admission. This must be considered in the context of our public hospitals having well over nine million admissions over this same two-year period. Hospitals will not be overwhelmed. This also needs to be considered in the light of the Rudd government’s record investment under the new $64 billion COAG agreement, where hospitals will receive 50 per cent extra funding over and above the old Australian healthcare agreements. This clearly demonstrates that the Rudd government is investing in the private health sector. These are facts and they are supported by the public hospital sector. Here is what the Australian Healthcare and Hospitals Association, the public hospitals peak body, had to say on 8 May this year:

The AHHA dismissed the concerns of the opposition in the private health insurance industry that means testing would result in increased pressure on the public health system.

Some speakers, of course, have asserted today and in this debate more broadly that private health insurance would suffer. In terms of the effect on premiums, these changes are expected to have a minimal adverse impact on private health fund membership, because about 99.7 per cent of insured people are expected to retain their private health insurance. This is because those higher income earners who receive a lower rebate will face an increased tax penalty for avoiding private health insurance.

We heard last year from the opposition and the industry lobby group, the AHIA, that lifting the Medicare levy surcharge thresh-
old, the level at which high-income earners pay extra if they do not have private health cover, would cause an exodus from private health cover. They do really remind me of people who will not settle on the facts, who will not look at the evidence and come to a conclusion, but prefer simply to pick up rumours and continue to use scaremongering tactics. So back then they also predicted a mass exodus of people from private health insurance. Not only did that not happen but the latest official statistics from June 2009 show that there are now 211,000 more people with hospital-level private health insurance than there were at the same time last year. They did not get it right then. Here is what AMA President Dr Andrew Pesce had to say on the matter on Meet the Press on 7 June 2009:

The AMA has had some modelling done itself by Access Economics, and this would seem to show that there isn’t going to be a huge drop-out at this stage ...

The opposition have no credibility and they are just scaremongering again. It is disappointing to see the opposition doing this. Quite frankly, either they do not understand the debate or they are simply scaremongering because they do understand the debate and have no argument to put. Anyone who experiences an increase in private health insurance costs due to a reduction or removal of the rebate will be on a higher income and will have received tax cuts through the budget that in most cases more than offset this increase in costs. But, of course, it is what you would expect from the opposition—nothing more than hot air; no debate but scaremongering tactics thrown in.

But I would like to thank the minor parties for their constructive contribution in this debate. It has not been an easy debate. I think the Greens contribution has been measured. The government’s policy on private health insurance comes as a balanced package of incentives and penalties—or carrot and stick, as I earlier referred to it as—and cannot be split and considered separately. The government supports a mixed balance of private and public health. This will make the system more equitable by ensuring that those who have a lesser capacity to pay are provided with more support.

I understand that Senator Xenophon has a longstanding interest in this. I know he has had useful discussions with the health minister on this issue and other issues. As I understand it, he suggests that we delay the passage of this legislation until the Productivity Commission reports back on a comparison of public and private hospital systems. The government looks forward to this report’s findings, which will dovetail into the government’s work on its response to the National Health and Hospitals Reform Commission. However, its findings will not change the fact that the global financial crisis has given the Australian budget a $200 billion hit, will not change the fact that rebate costs are ballooning unsustainably and will not change the fact that the rebate can be made fairer.

In addition, Senator Xenophon has given a compassionate speech, but those issues that we are faced with really do need to be reflected upon in making this decision. I ask Senator Fielding to do likewise. His contribution, as always, was about, in part, ensuring that families, particularly large families, are taken into account. I add this in thanking him for his contribution: singles earning $75,000 and under and families earning $150,000 and under will not be personally affected by these reforms. I can add more specifically that both the rebate and the NLS tiers will be increased by $1,500 for every second and subsequent child. It is a system that is designed so that families are taken into account.
In summary, this measure will make private health fairer and more balanced, and more sustainable in the long term. By maintaining a carefully designed system of carrots and sticks, this measure will have a negligible effect on both premiums and the public hospital system. This is the right thing to do for Australia’s economic future and to maintain a sustainable mixed public-private health system. With that contribution, I thank all of the speakers in this debate.

Question negatived.

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

The Senate divided. [7.06 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes.......... 25
Noes.......... 37
Majority..... 12

AYES

NOES

PAIRS


* denotes teller

Question negatived.

NATIVE TITLE 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 BRANDIS (Queensland) (7.10 pm)—The key amendments proposed by the Native Title Amendment Bill 2009 are to confer a central role upon the Federal Court to manage native title claims. The history of determination of native title and compensation claims is convoluted. The original scheme provided that all claims were made to the National Native Title Tribunal. If the terms could be agreed, the tribunal would make a determination in accordance with the agreement which, once registered, took effect as if it were an order of the court. If terms could not be agreed, the registrar of the tribunal would lodge an application in the Federal Court. However, in a decision of the Federal Court in 1998, Fourmile and Selpam Pty Ltd, this scheme was held to be invalid because it purported to vest judicial power in a non-judicial body.
The act was amended in 1998 to provide that every current claimant application became a proceeding in the Federal Court, and every new application was to be made to the court. As a general rule, the court referred each application to the tribunal for mediation in accordance with parameters set by the court. The act was further amended in 2007 to expand the tribunal’s powers and functions in relation to mediation to clarify that the court could not mediate while an application was before the tribunal.

The government complains that the existing regime, and its previous iterations, has resulted in the expenditure of millions of dollars in litigation and the creation of a backlog of claims that may take 30 years to clear. The proposed amendments will provide that both the court and the tribunal may mediate and will also provide that another ‘appropriate person or body’ may mediate. Management and oversight of the process will be the responsibility of the Federal Court. The intention is for ‘broader, more flexible and quicker negotiated settlements of native title claims’. The settlements may be broader because the court will be empowered to make consent orders on matters beyond native title.

Other proposals include: provisions for the court to rely upon an agreed statement of facts in making a consent determination, where the parties include a native title claim group and the main government party. Objections may be taken to the agreed statement by other parties within strict time limits; a simplified application process for recognition of native title representative bodies; and processes for extension, variation and reduction of areas to be amalgamated into one variation process. Representative bodies may apply for extensions of time to make submissions on variations.

The proposals are also intended to work with recent amendments to other legislation. In particular, amendments to the Evidence Act relating to hearsay and opinion evidence on Aboriginal and Torres Strait Islander laws and customs; and amendments to the Federal Court of Australia Act to allow the court to refer questions to an expert for inquiry and report.

This legislation follows the issue of a discussion paper and subsequent government consultation. The Federal Court has welcomed the proposals, subject to realistic targeting of resources and the availability of effective ADR practitioners. However, it is of the view that native title applications remain court proceedings and that ADR is only ever an adjunct to the proceedings. The timely and efficient resolution of claims relies much more heavily on effective case management than on the availability of ADR processes. The tribunal is much less sanguine about the proposals and has expressed concern that the discretions conferred on the court will make the process more fragmented, less efficient and more expensive.

These concerns were adverted to in the additional comments by the Liberal members of the Senate Legal and Constitutional Affairs References Committee in that committee’s report on this bill. They pointed out, and I agree with them, that unintended consequences may arise in a number of ways. In particular, they were concerned about the lack of regulatory standards as to the qualifications of the mediators and for the possibility of conflicts of interest arising. However, I have great faith in the capacity of the Federal Court to monitor its own processes. The concerns raised by my colleagues certainly justify close attention being paid to the processes being introduced by this bill.

In those circumstances, despite the shortcomings identified by the Liberal members
of the committee—shortcomings that I am sorry to say were not identified by the government in preparing the legislation—the opposition will nevertheless support the bill in the hope that it achieves its key goal of clearing the backlog of native title claims. If those claims can be resolved by agreement rather than litigation, that is a development to be welcomed.

Finally, I also note that there are proposals from the Greens to reverse the onus of proof upon claimants to establish a continuous connection with the land. The reversal of the onus of proof in relation to such a dense, complex and contentious matter is an absurdity, and the coalition will not support such a proposal. Subject to those reservations, on behalf of the coalition, I commend the bill to the Senate.

Debate (on motion by Senator Ludwig) adjourned.

ADJOURNMENT

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (7.15 pm)—I move:

That the Senate do now adjourn.

National Broadband Network

Senator CAROL BROWN (Tasmania) (7.16 pm)—I rise tonight to draw to the attention of the chamber the leading role that Tasmania is playing in the rollout of the National Broadband Network and progressing the digital revolution in Australia.

Back in April the Prime Minister, the Minister for Broadband, Communications and the Digital Economy, Senator Conroy, and the Tasmanian Premier, David Bartlett, announced that Tasmania would be the launch state for the national broadband rollout. On 25 July the Prime Minister joined the Premier, along with the federal minister and local federal and state MPs, on Hobart’s Eastern Shore to officially lay the first cable. Making the announcement at the official launch with Senator Conroy, the Prime Minister said:

This is a good day. It is about what we are going to do for Australia; it is about what we are going to do for Tasmania and what we are going to do together.

It was indeed a good day. The following day the Premier, David Bartlett, used the Tasmanian Labor Party state conference to outline his vision to make Tasmania the most connected place on the planet by 2014. The Premier is not alone in his vision, and the rollout of the National Broadband Network in Tasmania’s rural and regional towns is the very first step toward making the vision a practical reality. Indeed, for Tasmanians the revolution has already commenced. Within the next year, around 5,000 households in Smithton, in Mr Sidebottom’s electorate of Braddon, Scottsdale, in Ms Campbell’s electorate of Bass, and Midway Point, in Mr Adams’s electorate of Lyons, will be granted access to the super-fast broadband network.

And that is only the beginning. In the space of a few short years, over 200,000 Tasmanian households and businesses, each of the state’s hospitals and almost 90 per cent of schools will be connected to the network, which will deliver broadband 50 times faster than currently available, at speeds of 100 megabits per second. In the not so distant future, the state’s rural towns and network of thriving regional communities will have at their fingertips technology that will revolutionise the way they interact with each other as well as with the rest of the world. For the first time, the nation’s island state will be granted the opportunity to overcome its revered isolation, which has at times been viewed as a barrier. The rollout of the National Broadband Network will remove this barrier and, in a few short years, will open the nation’s smallest state to possibilities it never imagined.
Over the past five years, Tasmania has attracted an increasing number of tourists from interstate and overseas. Ironically, they are keen to experience those delights that stem from its very isolation—its rugged and remote natural wonders, its world renowned, top-quality fresh produce and its constantly evolving and unique eye for detail when it comes to creative design and innovation. Indeed, as such, Tasmania has attracted renewed interest in investment, which has remained despite the recent economic downturn. However, the lack of infrastructure such as high-speed broadband, which is essential for business portability, has undoubtedly in some cases created a reluctance to invest. In recent times, there has been an explosion of small business activity by Tasmanian companies eager to build on the state’s increased niche marketing credibility. However, thanks to the complete failure by the previous government to invest in essential broadband infrastructure, Tasmanian based businesses have been forced to endure the natural barriers that arise as a result of their isolation. Granting such businesses access to high-speed broadband will revolutionise the Tasmanian economy by opening up the state to the rest of the world. With continued investment, it will drive innovation and productivity in our economy.

As part of his state conference address the Premier also outlined his vision for Tasmania to become the intellectual hub for renewable energy in the Asia-Pacific Region—a prospect that is now possible with the national broadband rollout. Along with increased investment naturally comes the opportunity to support and create local jobs. The Premier has said that the initial rollout of the National Broadband Network will support hundreds of Tasmanian jobs over the next couple of years. What is more, the rollout process has and will continue to engage Tasmanian based companies, ensuring return investment in the state.

Beyond the initial rollout, the network will lay the foundations for the creation of potentially thousands of new jobs in new as well as existing industries such as IT, energy generation, agriculture and, of course, tourism. By eliminating the previous limitations of distance, the rollout has the potential to open up Tasmania to the rest of the world, as well as opening up the world to Tasmanians. Small Tasmanian businesses and home based entrepreneurs will have access to an unlimited customer base, while interstate and overseas tourists will have the means to purchase those ‘gems’ they pick up on their travels around the state. Local producers will be granted the means to better network and share ideas without the restrictions of time or space.

Apart from the obvious benefits of increasing productivity, innovation and supporting local jobs, the rollout of broadband in Tasmania will also have significant benefits in terms of the delivery of essential health and social services. As many of you may well be aware, Tasmania, as with many other rural and remote areas, has traditionally experienced a number of challenges in the delivery of essential services. For people living in rural and remote communities, accessing basic health, education and even care based services can be difficult.

The rollout of broadband in Tasmania has the potential to eliminate many of these challenges. The possibilities in terms of e-health are very exciting. With parallel advances in medical technology we are already seeing the benefits of fast and effective delivery of remote health services. Many Tasmanian patients are enjoying the benefits of being able to consult their medical practitioners via teleconference rather than having to make a three- to four-hour road trip. However, the
broadband rollout to households around the state promises to revolutionise the way we deliver health services in the state. In a few short years, the potential will exist to monitor and manage the health and wellbeing of patients in their own homes. Elsewhere, technology has been developed and used enabling a patient at risk of having a heart attack to wear a device that monitors their condition, and an ambulance can be automatically dialled at the first sign that they may be experiencing cardiac arrest. In a state that experiences high rates of heart and kidney disease, such advances offer a great benefit.

Importantly, the use of such technologies also offers great hope to a state with a rapidly ageing population—one that is struggling to develop a cost-effective model for the provision of aged care. By allowing the opportunity for remote monitoring, the broadband rollout may assist many older Tasmanians to stay safety in their own homes for longer.

Complementing the rollout of the broadband network in Tasmania, the Premier, who is also the Tasmanian minister for education, has set an ambitious target to significantly improve the literacy and numeracy levels in Tasmanian schools. With Tasmanian students set to have access to the network both at home and at school there exists the real potential to improve literacy and numeracy in schools across the state. The needs of particular students may be better catered for by facilitating the sharing and networking of specific learning materials. The potential also exists for parents to be better engaged at home in helping children with their learning programs.

All in all, the rollout in Tasmania of the National Broadband Network, which commenced in July this year, heralds a new era for our state. Its potential to revolutionise our small island state cannot be overstated. It promises to support local businesses, attract investment, create new jobs, improve access to health services and transform the way we care for both our old and our young.

Coinciding with the announcement in July, the Premier has set a clear target to make Tasmania the most connected place on the planet in five short years. With the whole nation watching, and indeed the world, this is an exciting time for our state, which at previous points in history has been forced to lag behind. The rollout of the broadband network promises to see Tasmania take the lead.

Through a shared vision, the federal and state Labor governments have set our state on a clear path—one full of promise. After 11 long years of inaction by the previous government in this area, the rollout of the broadband network in Tasmania will come as a welcome relief for thousands of Tasmanian businesses and families who for far too long have been forced to put up with subordinate infrastructure, while many more have simply not been able to access services at all.

However, despite the overwhelming benefits this advancement will bring to Tasmania, Liberal Senator Guy Barnett continues to criticise the Tasmanian broadband rollout at any chance he gets. After initially welcoming the news on the 30 April this year that Tasmania would become the first state to access the network, Senator Barnett has repeatedly attempted to publicly criticise and undermine the obvious benefits of the rollout. Now, when we have the state and federal Labor governments working together to see Tasmania become the leader in the rollout of this essential 21st century infrastructure, he has suddenly found a voice. While the federal and state governments are focusing on the practical realities of delivering the network to Tasmanian towns and cities, Senator Bar-
nett is hell-bent on undermining the broadband rollout. *(Time expired)*

**Taxation**

Senator RYAN (Victoria) (7.26 pm)—I rise tonight to highlight an issue that should be—indeed will be—of concern to all Australians, if this government has its way. This government has used the veil of the Henry tax review to avoid making decisions that constitute reform. It is entirely consistent with the modus operandi of this government to avoid difficult economic decisions. Indeed, we heard the farcical statement from Senator Sherry this afternoon in question time that there was no link between government debt and interest rates. There is no better example of this government’s repudiation of the reforms of the last two decades than this ridiculous statement.

But it is not about the general economic direction of this government that I wish to speak this evening. It is about a much more insidious proposal, one that truly encapsulates its real agenda. Over the past several months we have seen reports of the Henry review considering what is euphemistically termed ‘congestion pricing’. Let us be honest about this: this is a new tax, a tax on something that we all take for granted, a tax on something that is intrinsic to our society. This represents a tax on the movement of people. In essence Australians will end up paying more to drive in peak-hour than they would if they drove down the same road at midday on Saturday. Some argue that this will lead to more rational pricing and efficient use of roads as people choose to drive at different times to reduce the so-called costs on congestion that are imposed on all road users.

But what this actually means in the real world is that the state is going to try to direct this most basic part of your life by controlling how and where you travel. Do we really want the government to be able to determine when and where we travel on roads that our parents and grandparents have already paid for? I hasten to add that I am not arguing against toll roads for new projects—‘user pays’ for new roads has a place—but we should seriously question whether there is a role for the state in determining whether or not we can travel and when we can travel around our own cities.

There is a principle here that we should hold dear. In a free society, the free movement of people should be a given. Every illiberal society in the 20th century has had controls on the movement of people. It is a fundamental test of whether a society is illiberal. In South Africa they had pass laws. In the USSR and Eastern Europe you had to present your papers. The state controlled where you could go. In China the state controls where people actually live—whether they stay in rural areas or move to the cities.

A tax, despite the fact that the government may argue that it is voluntary, is actually the government’s way of saying to you, ‘I am going to charge you if you make a particular choice.’ But is the free movement of our citizens around our own cities something that the state should be allowed to direct or even influence via taxation, punitive or otherwise? I put it to you that it is not, and it is not something that Australians will accept. The free movement of people is one of the great achievements of technology, particularly in the 20th century. And, yes, it is an achievement of the motor car. Despite it being somewhat unfashionable to say so in some circles these days, the motor car and individual transport have been an unqualified improvement for people’s lives and for our communities.

Despite this measure being cloaked in the language of efficiency, the truth is that any such tax represents the state limiting the free
movement of people. In this case, what is more important to us? Is it choice or is it efficiency? Just because someone can claim to improve efficiency, with all the assumptions that that entails, does not make it a legitimate activity of the state or government. Using economic models to justify new state intrusions into our personal decisions is a developing habit of this Labor government and the various interests that seek to manage the lives of Australians. They want to put a tax on junk food, because it will allegedly save millions of dollars in the health system. But they do not want to tax foie gras. They put a tax on alcopops, because people are apparently drinking the wrong form of alcohol. Do we want a society where the government is making these decisions? It is not an argument about taxation per se; it is about what the legitimate ends to taxation are and what the legitimate ends to government are. What are the legitimate taxes that we must institute to provide the services that the community needs?

We do believe in a state with the safety net. But we tax people at the minimum level necessary to provide these services. Should the state or the government be telling you where and when you cannot go? No-one will fall for the trick that this tax is voluntary. Your choice to travel is voluntary; the tax is compulsory. The government, for the first time in Australian history, would be taxing movement around our cities and our nation.

This also represents a tax grab. We never hear of such charges and taxes being introduced in lieu of other taxes. Just like this government’s flawed CPRS, they always represent additions to our taxation burden. This measure will not only restrict freedom of movement but will open up a veritable flood of revenue for governments. And with the record debt being racked up by this Labor government we know that the agenda is to increase the tax burden on Australians to service it and to increase the government’s role in our lives.

As Liberals we have always opposed such measures. The increasing use of taxation to determine people’s behaviour represents an insidious threat to personal freedoms. Not being able to go to work when you choose or go to the footy when you choose and being taxed for moving around your own city represent new and unprecedented roles for government in Australia. Being taxed for travelling or eating a particular food that you choose just because some social or economic planner decides that the country would be better off if you did not is one hallmark of an illiberal society.

Markets are a means to an end. Markets allow people to make their own choices. They lead to the most efficient outcomes. They should not be fettered by governments where at all possible, because governments cannot make these choices as well as individuals or for individuals. The language of markets is being used for insidious ends. We need to closely examine all claims for so-called state and government imposed market signals for what should remain personal choices. And we should do so very sceptically. The Left and the Labor Party are cloaking their agenda of state control of these personal choices and lives in the language of the market and efficiency. But that does not hide its true intent. This tax that is being considered by the Henry review would represent an unprecedented intrusion into people’s lives across Australia and it should be rejected.

Talisman Saber Exercise
Northern Territory, Pine Gap and Timor Leste Visit

Senator FURNER (Queensland) (7.32 pm)—This evening I rise to speak about two matters that I was involved in recently as a member on the Defence subcommittee, the
first being the Talisman Saber Exercise 2009. Along with Senator Mark Bishop; Allan Griffin, Minister for Veterans’ Affairs; Lieutenant General Ken Gillespie, Chief of Army; Russ Crane, Chief of Navy; and other Defence personnel, I was involved in seeing this years biannual Talisman Saber Exercise at Shoalwater Bay, which is north of Rockhampton in Queensland. This was a great opportunity to witness firsthand the collaboration between the two joint forces in exchanging operational readiness and capabilities on the land, air and sea.

TS09 is based on operational-level war fighting, where training is on fictional scenarios. Field activity occurred between 13 July and 26 July in the Coral Sea, Townsville Field Training Area, Bradshaw Northern Territory and Shoalwater Bay. Additionally, ADF and US aircraft also flew in support of the exercise from RAAF bases at Darwin, Tindal, Townsville and Amberley. As well as activities coordinated by senior Defence officers on the ground at Shoalwater Bay, the responsibility for the combined force land component in Shoalwater Bay rests with those based at the caves north of Rockhampton. Our complement to the exercise involved some 6,500 troops from the Air Force, Navy and Army, whereas the US provided some 16,000 personnel.

Arriving on Sunday, 19 July, we were treated to a complete briefing of the following day’s events at the camp in Rockhampton. This was followed up with an evening reception hosted by Brigadier Creagh and Colonel Merrill. At 0630 hours the next morning we were collected from our accommodation and taken to the Rockhampton base for a traditional breakfast. This was a good experience and a necessary event to fuel us for the long day ahead. I was fortunate enough to catch up with some of the RAAF Amberley Defence officers and personnel whom I had spent time with during my period on the ADF parliamentary program in May this year.

Following breakfast we met at the Rockhampton Airport to board the CH-46E Sea Knight helicopters to fly over Rockhampton and out to sea to board the USS Essex. These aircraft have been used since the Vietnam War and provide capacity for supplies, equipment and up to 23 troops to be transported. Flying over Rockhampton city and the beautiful coastline of Yeppoon and then onto the Pacific Ocean to board the USS Essex was an experience to behold.

We landed on board and were quickly gathered and ushered inside to see the interior of this amazing ship. The USS Essex has forward deployment and landing capabilities for marine landing forces in amphibious assault operations by helicopter, landing craft or amphibious vehicle. Up top it has six types of aircraft, including the AV Harrier jet, and a number of other types of helicopter capabilities. We were fortunate to tour the well deck where the amphibious craft are launched at sea. The well deck is flooded by up to two metres of water to allow the amphibious craft to depart. The USS Essex also has exceptional medical and dental capability. There are four main operating rooms, two emergency rooms, X-ray facilities, a blood bank and the overall capacity of a 600-bed hospital. These not only assist defence personnel but also can assist people anywhere in the Pacific Rim by providing humanitarian aid. I will read out some statistics on the ship that are available on the internet. The complement of the ship is 1,200 navy personnel and 1,800 marines. It has 33 aircraft. And each day it serves 7,620 meals.

Following a tour of the bridge and after watching several AV Harrier jets take off, it was time to depart and head for Shoalwater...
Bay. The return flight allowed a different prospective of the coastline and some bushland flying over this beautiful part of Central Queensland. Seeing the landscape reassured us that the environmental management plan the Department of Defence engages is fully sustainable for the exercise and the future. At the close of the exercise, redeployment is managed through a ‘no footprint’ policy, with all exercise materials, equipment and debris removed and all disturbances—for example, tracks and ditches—rehabilitated.

We arrived at the Glen and were escorted from there to Camp Growl for lunch with the ADF and US troops. The commander, Lieutenant Colonel Duus from the blue team, greeted us and, later that afternoon, engaged us in a briefing on the success of his tactical manoeuvres with the red team. I found his explanations on unconventional tactics extremely interesting.

Later in the afternoon we visited the range control and viewed defence’s advanced research projects, which provided an insight into the amazing technology for detection of the enemy on the battlefield. Our last visit was to the Joint Combined Training Centre, which has a virtual training capacity to assist troops on the ground. The technology used provides undisputed outcomes in surveillance of personnel on the ground, displaying clear results of engagement. Additionally, the virtual reality simulations provide for enhanced training for defence personnel in a real-life situation. This not only protects their safety but also protects the environment and delivers excellent training at a minimal cost. After a quick tour of the makeshift town where imaginary citizens were living, it was time to travel back to the Glen and board our Blackhawk helicopter for the trip back to Rockhampton.

Like previous defence experiences I have been involved in, I found the opportunity rewarding and educational. No doubt the greatest reward was seeing the professional engagement of our ADF troops, both regular and reserve, in exercises that will enhance their capabilities. I would like to thank all defence personnel for their hospitality, particularly Herna Ward and Private Mick Dolan for taking care of us.

During the parliamentary sitting break in July and along with other senators and members of the House of Representatives who are members of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I visited the Pine Gap and Timor-Leste bases. Despite the erroneous myth that Pine Gap is a US military base, or a submarine refuelling station for a secret underground passage from the coast, we were all impressed with the capabilities of this collaborative joint defence base we share with the US.

Pine Gap was built in 1967. Although their actions are confidential, they are involved in the collection of intelligence by technical means as well as providing ballistic missile early warning information capabilities. Around 800 personnel are employed on the base, which naturally injects largely into the Alice Springs economy. Additionally, the Pine Gap facility contributes significantly to global peace and security through the intelligence gathering at the facility, particularly in our region, through the early warning of ballistic missile launches that it provides. I cannot think of a more important bilateral relationship for this country than the one that we have with the United States of America. This relationship is a foundation of our foreign policy.

The following day we ventured to Timor-Leste and witnessed first hand the excellent collaboration our ADF is taking part in. Overall, it was a special opportunity to meet the ADF and receive briefs on its successes and struggles in this country. Notwithstanding-
ing the presentations and experiences delivered throughout the day, the training centre at Metinaro was in my opinion the highlight. Our ADF personnel are making real inroads into helping the Timorese in training and development. As an avid supporter of the Australian Defence Force personnel and the committed work they do both here and abroad, I was, through these visits, once again reminded of how appreciative I am of their involvement in making our country safer through training and collaboration with the defence forces of other nations.

Prime Minister

Senator BERNARDI (South Australia) (7.40 pm)—It seems that every public utterance of our Prime Minister devalues the office of Prime Minister and its integrity. His latest contribution to the public debate demonstrated an individual who is so vain and so contemptuous of the truth that he actually sought to rewrite history.

During his undignified and, frankly, embarrassing speech at the launch of Paul Kelly’s book *March of the Patriots*, Mr Rudd not only demonstrated the extent of his self-delusion but made the most undignified contribution by a Prime Minister that I can recall. His contribution was unbecoming of the office of Prime Minister of this country. It was devoid of both graciousness and any moral integrity, which are two key elements required by the holder of the office.

This most conceited man to hold the highest office in the parliament, among other extraordinary claims, accused the Howard government of indolence and inactivity. He must have neglected to remind himself of the achievements—just some of the achievements—of the Howard government, including: paying off $96 billion of the previous Labor government’s debt; working on the Medicare safety net; introducing a childcare rebate; and intervening in the Northern Territory Indigenous communities to save the lives of and give hope to an entire group of people.

The Howard government boosted border and national security; we established the Future Fund to give our economy and our governments confidence in being able to pay their future obligations; we enhanced the family tax benefit; we increased foreign aid; we undertook welfare reform; and we undertook the sale of Telstra, which was opposed by the Labor opposition.

In Mr Rudd’s speech, he also accused the Liberal Party and the coalition of being a party of obstruction at the same time. He rattled off a couple of selected examples, accusing the coalition of opposing significant reforms. Unfortunately for Mr Rudd, his memory and his thoughts are so consumed by his own actions and his own self-delusions that he neglected to remind himself that obstruction by the Labor Party has a long and tired history.

Has the Prime Minister forgotten about the GST? The GST was a major reform that was put in place to reform the taxation system in this country. It was opposed by Labor, who promised to unscramble the egg—‘unscramble the egg, we will’—until they realised that they had no chance of that. The GST reform was opposed by the Labor Party, who did not want fairness and equity in the taxation system.

What about the waterfront reform undertaken by the Howard government? Gee, that was supported by the Labor Party! No, it was not, because the Labor opposition wanted to preserve in perpetuity the rorts and the scams that were undertaken by the union movement on the waterfront. It was a shameful exercise, because the proof of the pudding is in the eating; we know now what reform has done on the waterfront, and it was opposed by the Labor Party.
Work for the Dole and the crackdown on welfare rorts were opposed by the Labor Party. Employees who had the temerity to want to choose where they put their own superannuation investments and their superannuation fund money were opposed by the Labor Party because that money had to go into a union dominated fund. Every one of the 11 Howard government budgets, which helped to create more than two million new jobs and eliminate the $96 billion net debt that the Keating government left behind, was opposed by the Labor Party.

And more recently there was one of the grossest betrayals of integrity that I can recall in this place. It showed the hypocrisy of the Labor Party, who, in opposition, supported a bill to enhance measures to protect children from sexual predators. They supported it in opposition. There was a bipartisan Senate committee report. Yet when I tried to reintroduce exactly the same bill in this place and give it precedence, they said: ‘No, we don’t want to do it. There’s not a problem or if there is a problem we’re going to fix it.’ They have been promising that for nigh on two years. They have failed to do it. And all that time they have been spinning their wheels and trying to demonstrate that they are doing some work.

Unfortunately for him, Mr Rudd used the phrase ‘hard heads and soft hearts’, but let me tell you that what applies to the Rudd government is soft heads and hard hearts. This is a government that lacks the courage to take the tough decisions. This is a government that favours symbolic gestures over meaningful action and showers these symbolic gestures with all the media fanfare that it can muster. The government says, ‘Look at what we’re doing. Isn’t it great?’ Mr Rudd says, ‘Aren’t I great?’ Well, let me tell you Mr Rudd: no, you are not. When you strip away all the advertising, all the promotion, all the spin and all the fanfare, what you are left with is of very little substance, if any substance at all. We have poorly designed programs, overspending, a lack of action and a lack of reform.

Mr Rudd cites many examples of reform. He talks about his reviews, his summits and his committee. But what have we actually seen from the 2020 Summit? What have we seen from the changes to the Northern Territory intervention program? What have we seen as a result of signing the Kyoto protocol? We have seen nothing. We have not seen anything. What have we seen as a result of the failed Indigenous housing program? We have seen nothing. We have seen a complete lack of action, because Mr Rudd is only interested in the symbolism.

Once again his hypocrisy was exposed when, before the election, he said that there was not a sliver of difference between him and Mr Howard on economic management. Yet, in last Monday’s speech, he suddenly went to great lengths to point out the distinct differences between the two. Which is it, Mr Rudd? Is there not a sliver of difference or have you changed your mind and would say anything and do anything to remain in power? Might I remind you, Mr President, that Mr Garrett so eloquently stated, ‘Once we get in we’ll change all that.’ And Mr Rudd certainly has changed. He claimed before the election that he was an ‘economic conservative’ yet he has spent taxpayers’ money in exorbitant amounts. He has plunged future generations of Australians into debt—a debt which, along with higher interest rates and inflation, will be a burden that will last for decades to come.

Mr Rudd says that there are no other examples and that we have been conservative with our spending. Let me give him one more example. Only a couple of months ago Mr Rudd was proclaiming that his great friend was the Prime Minister of New Zea-
land. New Zealand is on the road to recovery from the financial crisis, and it only spent four per cent of its gross domestic product on stimulus. New Zealand Prime Minister John Key said:

It’s not a time to be dieting on debt. We have to make sure we don’t deliver deeper recession by allowing ourselves to blow our debt profile.

And now New Zealand is expecting a stronger recovery.

Mr Rudd fails at every turn. He seeks to intervene in our markets, to intervene in our family lives and to control all aspects of Australian life and then dress it up in language that people are used to and can understand. But that is obfuscated by his rhetoric and by his tortured attempts to ingratiate himself with the Australian public.

Mr Rudd has a long list of failures. He has talked about a ‘communications revolution’, but I have not seen a communication revolution yet. I have only seen a failed, delayed national broadband network. Where is this communication revolution? Where is the tax reform that Mr Rudd was boasting about and the ‘global competitiveness through targeted tax reform’? If he means targeting tax increases on particular products or targeting tax increases on Australian families by reducing some of the benefits they are able to get, that is targeted tax reform, but it is not the sort of tax reform that Australians want. It is not the sort of tax reform that those on the other side of the chamber should be proud of.

Mr Rudd, in his speech last Monday, hoped that his government would be remembered as ‘a government of hard heads and soft hearts’. The evidence proves and demonstrates that his is a government of soft heads and hard hearts. And I hope that as the government’s lack of action and spin is exposed over time, the Australian public will come to that conclusion too.
AD/CESSNA 310/32 Amdt 3—
Lower Wing Skin Rivets
[F2009L03377]*.

AD/CESSNA 310/35 Amdt 1—Main
Landing Gear Aft Trunnion Support
Spar — Inspection and Modification
[F2009L03376]*.

AD/CESSNA 320/20—Main Landing
Gear Aft Trunnion Support Spar
— Inspection and Modification
[F2009L03375]*.

AD/CESSNA 337/17—Bench Seat
Locking Placard — Installation
[F2009L03374]*.

AD/CESSNA 337/18—Fifth Seat
Restraint — Modification
[F2009L03373]*.

AD/F28/92—Landing Gear — Brake
Quick Disconnect Couplings
[F2009L03258]*.

106—

AD/TPE 331/22—Fuel Control
Bracket — Shimming and Increased
Torque [F2009L03417]*.

AD/TPE 331/38—Second Stage
Turbine Wheel Assembly
[F2009L03411]*.

AD/TPE 331/42 Amdt 1—Torque
Sensor [F2009L03410]*.

AD/TPE 331/43 Amdt 2—Fuel
Manifold Assembly P/N 3102469-2
[F2009L03409]*.

AD/TPE 331/51 Amdt 1—Fuel
Manifold Assemblies
[F2009L03408]*.

AD/TPE 331/60—Cycle Life Count
— Special Use Operations
[F2009L03407]*.

AD/TURMO/3—Gas Generator
Rear Bearing — Permeability Checks
[F2009L03406]*.

Criminal Code Act—Select Legislative Instru-
ments 2009 Nos—

212—Criminal Code Amendment
Regulations 2009 (No. 13)
[F2009L03396]*.

213—Criminal Code Amendment
Regulations 2009 (No. 14)
[F2009L03397]*.

214—Criminal Code Amendment
Regulations 2009 (No. 15)
[F2009L03398]*.

215—Criminal Code Amendment
Regulations 2009 (No. 16)
[F2009L03399]*.

Currency Act—Currency (Royal Australian
Mint) Determination 2009 (No. 6)
[F2009L03468]*.

Customs Act—

Tariff Concession Orders—
0803137 [F2009L03386]*.
0906539 [F2009L03280]*.

Tariff Concession Revocation Instru-
ments—
39/2009 [F2009L03315]*.
40/2009 [F2009L03317]*.

Environment Protection and Biodiversity
Conservation Act—Amendment of list of exempt
native specimens—
EPBC303DC/SFS/2009/XX
[F2009L03461]*.

Export Control Act—Export Control (Or-
ders) Regulations—Live Export (Merino)
Repeal Orders 2009 [F2009L03462]*.

Federal Financial Relations Act—Federal
Financial Relations (National Specific Purpose Payments) Determination 2009
No. 1 [F2009L03324]*.

Higher Education Support Act—Higher
Education Provider Approval (No. 7 of
2009)—Australian Institute of Manage-
ment South Australian Division Inc
[F2009L03470]*.

Migration Act—Select Legislative Instru-
ment 2009 No. 230—Migration Amend-
ment Regulations 2009 (No. 5)
Amendment Regulations 2009 (No. 2)
[F2009L03389]*.

Remuneration Tribunal Act—
Determination 2009/12: Remuneration and Allowances for Holders of Public Office
[F2009L03478]*.
Renewable Energy (Electricity) Act—
Select Legislative Instruments 2009 Nos—
221—Renewable Energy (Electricity) Amendment Regulations 2009 (No. 2) [F2009L03474]*.
222—Renewable Energy (Electricity) Amendment Regulations 2009 (No. 3) [F2009L03475]*.
* Explanatory statement tabled with legislative instrument.

Indexed Lists of Departmental and Agency Files
The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:
Indexed lists of departmental and agency files for the period 1 January to 30 June 2009—Statements of compliance—
Agriculture, Fisheries and Forestry portfolio agencies.
Department of Broadband, Communications and the Digital Economy.
Finance and Deregulation portfolio agencies.
Human Services portfolio agencies.
Prime Minister and Cabinet portfolio agencies [5].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Foreign Affairs and Trade: Water
(Question Nos 1964 and 1965)

Senator Abetz asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 21 July 2009:

For the department, each agency of the department and the offices of each Minister/Parliamentary Secretary, in the 2008-09 financial year, how much was spent on: (a) bottled water; (b) bulk water; (c) cooler rental; (d) cooler hire; and (e) water delivery.

Senator Faulkner—The Minister for Foreign Affairs and the Minister for Trade have provided the following answer to the honourable senator’s question:

DFAT, Austrade and AusAID do not report separately on the costs of these water supplies and services in their financial management information systems. To collect this information and provide details for DFAT, Austrade and AusAID specifically for the purpose of answering this question would therefore be a major task and we are not prepared to authorise the expenditure and effort that would be required. For ACIAR and EFIC, there was nil expenditure on these water supplies and services in 2008-09.

Questions referring to expenditure by ministerial and parliamentary secretary offices should be referred to the Department of Finance and Deregulation.

Treasury: Media Training
(Question No. 1998)

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 21 July 2009:

(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.

(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Sherry—The Treasurer has provided the following answer to the honourable senator’s question:

The Treasury has not provided any media training or funded any such activities for the Treasurer or his staff employed under the Members of Parliament (Staff) Act 1984 since 24 November 2007.

Immigration and Citizenship: Media Training
(Question No. 1999)

Senator Abetz asked the Minister for Immigration and Citizenship, upon notice, on 21 July 2009:

(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.

(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

QUESTIONS ON NOTICE
Senator Chris Evans—The answer to the honourable senator’s question is as follows:
(1) No
(2) No

Foreign Affairs and Trade: Media Training
(Question Nos 2001 and 2002)

Senator Abetz asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 21 July 2009:
(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.
(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Faulkner—The Minister for Foreign Affairs and the Minister for Trade have provided the following answer to the honourable senator’s question:
(1) No.
(2) No.

Families, Housing, Community Services and Indigenous Affairs: Media Training
(Question No. 2004)

Senator Abetz asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 21 July 2009:
(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.
(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Chris Evans—The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:
The Department has not provided any media training to the Minister or Minister’s staff since 24 November 2007.

Finance and Deregulation: Media Training
(Question No. 2005)

Senator Abetz asked the Minister representing the Minister for Finance and Deregulation, upon notice, on 21 July 2009:
(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.
(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Conroy—The Minister for Finance and Deregulation has provided the following answer to the honourable senator’s question:
(1) No. (a) to (c) Not applicable.
(2) No. (a) to (d) Not applicable.

Infrastructure, Transport, Regional Development and Local Government: Media Training
(Question No. 2006)

Senator Abetz asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 21 July 2009:
(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.
(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Conroy—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:
(1) No.
(2) No.

Special Minister of State: Media Training
(Question No. 2012)

Senator Abetz asked the Special Minister of State, upon notice, on 21 July 2009:
(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.
(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Ludwig—The answer to the honourable senator’s question is as follows:
(1) No taxpayer funded media training has been undertaken. (a) to (c) Not applicable.
(2) No taxpayer funded media training has been undertaken. (a) to (d) Not applicable.

Agriculture, Fisheries and Forestry: Media Training
(Question No. 2013)

Senator Abetz asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 21 July 2009:
(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.
(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Sherry—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
(1) No
(2) No

QUESTIONS ON NOTICE
Senator Abetz asked the Minister for Resources and Energy and Minister for Tourism, upon notice, on 21 July 2009:

(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.

(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Carr—The Minister for Resources and Energy and Minister for Tourism has provided the following answer to the honourable senator’s question:

(1) No.
(2) No.

Senator Abetz asked the Minister representing the Minister for Competition Policy and Consumer Affairs, upon notice, on 21 July 2009:

(1) Has the Minister undertaken any media training since 24 November 2007; if so: (a) when; (b) who was the provider; and (c) what was the total cost.

(2) Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so: (a) who, including their Members of Parliament (Staff) Act 1984 classification; (b) when; (c) who was the provider; and (d) what was the total cost.

Senator Sherry—The Minister for Competition Policy and Consumer Affairs has provided the following answer to the honourable senator’s question:

No one from my office or myself have undertaken any media training since 24 November 2007.

Senator Abetz asked the Minister for Innovation, Industry, Science and Research, upon notice, on 21 July 2009:

(1) What are the portfolio responsibilities of the Parliamentary Secretary.
(2) How many staff, by classification, work in the office of the Parliamentary Secretary.
(3) Is a Departmental Liaison Officer a member of the Parliamentary Secretary's staff.
(4) Does the Parliamentary Secretary have a private plated vehicle in Canberra; if so, what is the make and model.

Senator Carr—The answer to the honourable senator’s question is as follows:

(1) The Parliamentary Secretary has administrative responsibility for IP Australia (intellectual property), the National Measurement Institute, and the Australian Building Codes Board and related building issues.

(2) 1 x Executive Assistant/Office Manager
    1 x Assistant Adviser
    1 x Departmental Liaison Officer

QUESTIONS ON NOTICE
(3) Yes.
(4) No.

Prime Minister and Cabinet: Website
(Question No. 2035)

Senator Abetz asked the Minister representing the Prime Minister, upon notice, on 22 July 2009:

With reference to the redevelopment of the website www.pm.gov.au:

(1) What was the total cost of redeveloping the website.
(2) (a) Who redeveloped the website; and  (b) if it was developed externally to the department, by what method was the contractor selected.
(3) (a) When did the department first receive instructions to redevelop the website; and  (b) from whom did these instructions come.
(4) How long has it been since the website was last redeveloped.
(5) Can a list be provided of all redevelopments of www.pm.gov.au over the past 5 years, including the total cost for each.
(6) Was the new website, or any draft versions of the website, market-tested before going live; if so:
   (a) by whom; and
   (b) what was the total cost of the market testing.
(7) In relation to the Prime Minister’s blog [weblog]:
   (a) who moderates the blog;
   (b) for how many hours each day is the blog actively moderated; and
   (c) what is the daily cost of moderating the blog.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) The estimated expenditure as at 22 July 2009 for a strategic review and redevelopment of the website is approximately $160,496.
(2) (a) The website was redeveloped by a combination of departmental and external resources. (b) The external resources were selected from an existing departmental panel that was established in 2007 through an open tender process.
(3) (a) The Department was asked to redevelop the website in August 2008. (b) The request to redevelop the website came from the Prime Minister’s Office.
(4) The website was re-skinned (i.e. replacing pictures, key dates and the colour scheme) after the Prime Minister took office, and was released in February 2008.
(5) Details for all redevelopments of the website www.pm.gov.au over the past 5 years are as follows:
   - In February 2007, the site was re-skinned using departmental resources and contractor services at an approximate cost of $38,300.
   - In December 2007, the site was placed into a ‘holding design’ following the election. All work on this design – which was minor – was undertaken by departmental staff.
   - In February 2008, a new site for the Prime Minister was launched, based on the standard departmental design template. This work was undertaken by departmental staff and contract resources at an approximate cost of $11,500.
(6) No.
(a) Not applicable.
(b) Not applicable.
(7) (a) Generally, moderation of blog comments is undertaken by staff from the Community Engagement team, Cabinet Division, Department of the Prime Minister and Cabinet. For the Health blog which took place between 27 July 2009 and 31 July 2009, the Department of Health and Ageing provided one member of staff to moderate in partnership with departmental staff.
(b) The blog is actively moderated during business hours, 9am to 5pm Monday to Friday on the advertised days of the blog’s duration.
(c) There were no additional costs as moderation was undertaken by departmental resources.

Innovation, Industry, Science and Research: Tenders
(Question No. 2036)

Senator Abetz asked the Minister for Innovation, Industry, Science and Research, upon notice, on 27 July 2009:
Can details be provided of all grants, contracts, tenders etc. awarded to the Australian Institute for Commercialisation since 24 November 2007.

Senator Carr—The answer to the honourable senator’s question is as follows:
Contracts with the Australian Institute for Commercialisation entered into since 24 November 2007 are indicated in the table below.

<table>
<thead>
<tr>
<th>Start Date</th>
<th>End Date</th>
<th>Description</th>
<th>Value (GST Inclusive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-Jan-09</td>
<td>13-Feb-09</td>
<td>To produce a basic self-assessment tool in the form of a short quiz for Australian Industry. This will aim to enable people at all levels to assess their organisation’s readiness and capacity to innovate and collaborate, and provide practical ideas on how to progress innovation within their workplaces.</td>
<td>$16,280.00</td>
</tr>
<tr>
<td>26-Feb-09</td>
<td>26-Feb-10</td>
<td>To establish linkages between research providers and the Researchers in Business Initiative</td>
<td>$330,000.00</td>
</tr>
<tr>
<td>20-Apr-09</td>
<td>30-Jun-11</td>
<td>Clean Energy Innovation Centre partner organisation – which involves the provision of a variety of complementary services to Clean Energy Innovation Centre client firms</td>
<td>$2,146,155.00</td>
</tr>
<tr>
<td>28-May-09</td>
<td>30-Jun-09</td>
<td>Organisation and provision of a workshop for existing and potential CRCs, covering IP commercialisation and utilisation, tax and legal (governance) issues. The AIC specifically presented on IP commercialisation and utilisation, the challenges of IP in a collaborative environment.</td>
<td>$14,337.30</td>
</tr>
</tbody>
</table>

Medicare Rebate: Cataract Surgery
(Question No. 2045)

Senator Cormann asked the Minister representing the Minister for Health and Ageing, upon notice, on 30 July 2009:
With reference to the announced changes in the 2009-10 Budget to the Medicare rebate for cataract surgery:
(1) What evidence does the Minister have that cataract surgery requires only 15 to 20 minutes.
(2) What percentage of cases take:
   (a) less than 15 minutes;
   (b) 15 to 20 minutes; and
   (c) more than 20 minutes.

(3) Has the Minister assessed the anticipated growth in waiting lists that will be caused by the announced changes to the Medicare rebate for cataract surgery.

(4) Is the Minister aware that the longest waiting times for elective surgery in The state of our public hospitals: June 2009 report was for ophthalmology, mainly cataract surgery.

(5) (a) What was the average waiting time for cataract surgery in June 2008; and
   (b) what was the percentage change in average waiting time for cataract surgery between June 2008 and June 2009.

(6) What steps has the Minister taken to ensure that the most vulnerable members of the community, including pensioners, are not forced onto long public hospital waiting lists, or otherwise delayed or prevented from accessing vital cataract surgery due to financial constraints.

**Senator Ludwig**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The Medicare fee is determined with regard to the time involved in performing the service, and the complexity and professional difficulty involved. The fee for the cataract items were determined at a time when the procedure took longer. Over the years, improvements in technology, such as intraocular lenses and phacoemulsification machines, and a strong growth in cataract surgery have improved the techniques and equipment associated with performing these services.

When the surgery was first performed, the procedure would take approximately 45 minutes, but now typically takes 15 – 20 minutes. The Fred Hollows Foundation states that cataracts can be removed in a straightforward 20 minute operation, done under local anaesthetic. Similarly, the Australian Institute of Eye Surgery indicates that cataract surgery usually lasts less than 20 minutes, and is often performed using anaesthetic eye drops without the need for injections.

International data mirrors the reduced time and complexity of cataract operations. In an article published in the British Journal of Ophthalmology, Assistant Professor Tien Yin Wong states that with the remarkable improvement in cataract surgical techniques in recent years - leading to shorter operating time (most surgery now takes 15 minutes), more efficient anesthesia (from general to regional to topical), and a trend towards day surgery - cataract extraction has become a “minor” surgical procedure.

(2) Medicare claiming data cannot determine the amount of time a cataract procedure takes on a case-by-case basis. As outlined above, literature indicates that standard cataract procedures take between 15 – 20 minutes to undertake.

However, it is also accepted that some procedures are more time consuming and complex to undertake. As such, a new item is being introduced to provide for complex procedures, with a higher Schedule fee of $850.75. The fee for the standard cataract procedure will be $416.85. The complex item is being developed in consultation with the profession, and will be effective from 1 November 2009.

(3) It cannot be assumed that all patients will elect to be treated as a public patient once the Medicare fees for cataracts procedures are reduced. Further, the costs associated with treating a private and public patient are not comparable; Medicare subsidises the professional component of a service rendered to a private patient, whilst all costs associated with treating a public patient, including accommodation, theatre and ancillary fees are provided free of charge to the patient.
In respect to in-hospital procedures provided to private patients, in addition to the Medicare Benefits Schedule (MBS) rebate, an average of $1,700 is also provided through private health insurance rebates to cover the cost of the accommodation, theatre, lens and ancillary fees.

Costs are subject to an individual’s private health insurance coverage, doctors’ billing practices and the arrangements between doctors and insurers. Patients treated under ‘no gap arrangements’ may continue to avoid out-of-pocket expenses, as private health insurers may either provide an increased rebate, or continue contractual arrangements with practitioners to provide the service for a specified proportion above the Medicare fee.

Patients who elect to be treated as a public patient receive free treatment and are not required to pay any monies for the service provided.

(4) The Minister is aware that ophthalmology has the longest wait times for admission by surgical specialty in public hospitals. However, it is important to note that ‘The state of our public hospitals June 2009 report’ did not list cataract extraction surgery as the procedure with the longest wait time. In fact, cataract extraction surgery has a significantly lesser wait time of 87 days when compared to knee replacement and nasal surgery – 160 and 141 days respectively.

The Australian Government is providing assistance to the states and territories to reduce waiting lists and has moved quickly to implement its election commitment to reduce elective surgery waiting times through its Elective Surgery Waiting List Reduction Plan. A total of $600 million has been invested nationally over four years to improve services and reduce waiting times. It would be expected that a portion of the funds provided by the Rudd-Government to reduce public hospital waiting times would be used for such services as cataract surgery.

(5) According to ‘The state of our public hospitals June 2008 report’, in 2006–07 the median wait for cataract extraction in a public hospital was 93 days. Comparatively, the ‘The state of our public hospitals June 2009 report’ indicates that the median wait for this procedure in 2007-08 is 87 days, a decrease of 6%.

(6) It is not possible to predict the financial impact on patients as a result of the amendment to the MBS fee for cataract surgery because we cannot predict the charging behaviour of doctors or whether private health insurance funds will cover any increased payment gaps. Some patients may incur an increase in out of pocket costs if doctors do not revise their fees in line with the reduction to the cataract fees.

Under the current Medicare benefits arrangements, doctors are free to determine the fee for the services they provide, and would vary on an individual basis. For a patient with private health cover, 100% of the MBS fee is payable; Medicare pays 75% and private health insurers pay 25%.

In addition, for patients covered under the ‘known or no-gap arrangements’, additional benefits are payable by the private health insurer, however, this would vary depending on the provider performing the service, the type of insurance cover held by the patient, and the arrangement between the insurer and the doctor.

Cataract procedures may be performed both in and out-of-hospital. For procedures performed in-hospital, additional costs are incurred for components such as theatre, ancillary and bed fees. These costs may also be incurred for procedures undertaken out-of-hospital. As outlined above the cost of an operation in-hospital and out-of-hospital would vary on an individual basis. However, in respect to in-hospital procedures, in addition to the MBS rebate, an average of $1,700 per service is also provided through private health insurance rebates to cover the cost of the accommodation, theatre, lens and ancillary fees.

Patients who require a more complex cataract procedure will benefit from the introduction of a new item with a higher Schedule fee of $850.75, to be developed in consultation with the profession. This recognises that some cataract procedures are more complex and time consuming.
Innovation, Industry, Science and Research: Accommodation
(Question No. 2046)

Senator Abetz asked the Minister for Innovation, Industry, Science and Research, upon notice, on 3 August 2009:
For each of the following, can a detailed breakdown be provided of their employees' geographical location:
(a) the department;
(b) the Australian Institute of Aboriginal and Torres Strait Islander Studies;
(c) the Australian Institute of Marine Science;
(d) the Australian Nuclear Science and Technology Organisation;
(e) the Australian Research Council;
(f) the Commonwealth Scientific and Industrial Research Organisation; and
(g) IP Australia.

Senator Carr—The answer to the honourable senator’s question is as follows:
(a) Department of Innovation, Industry, Science and Research
Australian Capital Territory
10 Binara Street, Canberra City
20 Allara Street, Canberra City
28 Essington Street, Mitchell
95-97 Wollongong Street, Fyshwick
King Edward Terrace, Parkes
New South Wales
341 George Street, Sydney
14 Julius Avenue, North Ryde
48 Fitzmaurice Street, Wagga Wagga
307 Peel Street, Tamworth
200 Crown Street, Wollongong
University Drive, Callaghan, Newcastle
Bradfield Road, West Lindfield
1 Suakin Street, Pymble
Locomotive Workshop Australian Technology Park, Eveleigh

**Victoria**
161 Collins Street, Melbourne
329 Thomas Street, Dandenong
Deakin University, Pigdon Road, Geelong
48 Sturt Street, Ballarat
46 Edward Street, Bendigo
1/153 Birtie Street, Port Melbourne
48 Sturt Street, Traralgon, Gippsland

**Queensland**
100 Creek Street, Brisbane
Eight Mile Plains Building, Corner Mile Platting and Logan Roads, Eight Miles Plains
45 Victoria Street, Mackay
205 Bourbong Street, Bundaberg
Enterprise House, Corner The Strand and Sir Leslie Thiess Drive, Townsville
26 Marine Parade, Southport, Gold Coast

**South Australia**
170-178 North Terrace, Adelaide
500 Stirling Road, Port Augusta
Old Town Hall, Commercial Street East, Mount Gambier
Innovation House Technology Park, First Avenue, Mawson Lakes

**Western Australia**
44 St George’s Terrace, Perth
16 Brodie Hall Drive, Bentley
26 Dick Perry Ave, Kensington

**Tasmania**
27 Elizabeth Street, Hobart
22 Wilmot Street, Burnie

**Northern Territory**
Stuart Highway, Alice Springs
Australian Embassy to Belgium, Luxemborg and the Australian Mission to the European Union
Guimard Centre
Rue Guimard 6-8
Brussels 1040
Belgium

QUESTIONS ON NOTICE
(b) **Australian Institute of Aboriginal and Torres Strait Islander Studies**  
   ACT  
   Lawson Crescent, Acton  
   Queensland  
   State of Queensland Library, Stanley Place, South Bank

(c) **Australian Institute of Marine Science**  
   Queensland  
   Cape Cleveland Road, Cape Ferguson, Townsville  
   South Australia  
   Roseworthy Campus, University of Adelaide, Roseworthy  
   Western Australia  
   Building M096, University of Western Australia, 39 Fairway, Crawley  
   Northern Territory  
   23 Ellengowan Drive, Brinkin

(d) **Australian Nuclear Science and Technology Organisation**  
   ACT  
   Level 6, Industry House, 10 Binara Street, Canberra City  
   New South Wales  
   New Illawarra Road, Lucas Heights  
   National Medical Cyclotron, Royal Prince Alfred Hospital, Camperdown  
   Victoria  
   The Australian Synchrotron, 800 Blackburn Road, Clayton  
   Australian Embassy and Permanent Mission to the UN  
   Mattiellistrasse 2-4,  
   1040 Vienna, Austria  
   Embassy of Australia  
   1601 Massachusetts Ave, NW, Washington D.C  
   United States of America

(e) **Australian Research Council**  
   ACT  
   Brindabella Business Park, Pialligo  
   Queensland  
   100 Creek Street, Brisbane

(f) **Commonwealth Scientific and Industrial Research Organisation**  
   ACT  
   ANU Campus, North Road, Acton  
   Black Mountain Laboratories, Corner Clunies Ross Street and Barry Drive, Black Mountain (Acton)  
   Corporate Centre, Limestone Avenue, Campbell
Ginninderra Experiment Station, Barton Highway, Barton
Gungahlin Homestead, Bellenden Street, Crace
Tidbinbilla - Canberra Deep Space Communication Complex, 421 Discovery Drive, Paddys River District
Banks Street, Yarralumla

**New South Wales**
FD McMaster Laboratory, Chiswick, New England Highway, Armidale
Research Station Road, Hanwood, Griffith
Bradfield Road, West Lindfield
Lucas Heights Science and Technology Centre, New Illawarra Road, Menai
Corner Vimiera and Pembroke Road, Marsfield
Paul Wild Observatory, Narrabri
Australian Cotton Research Institute, Wee Waa Road, Myall Vale
CSIRO Energy Centre, Steel River Estate, 10 Murray Dwyer Circuit, Mayfield West
Riverside Corporate Park, North Ryde
Macquarie University Campus, Building E6B, North Ryde
ATNF Parkes Observatory, Off Newell Highway, Parkes
Charles Sturt University, Boorooma Street, Wagga Wagga

**Victoria**
107-121 Station Street, Aspendale
Bayview Avenue & 71 Normanby Road, Clayton
150 Oxford Street, Collingwood
343 Royal Parade, Parkville
Level 11, 700 Collins Street, Docklands, Melbourne
Graham Road, Highton
5 Portarlington Road, East Geelong
Corner Colac Road and Henry Street, Belmont, Geelong
Horticulture Unit, 585 River Avenue, Merbein
Benetook Avenue, Mildura
671 Sneydes Road and South Road, Werribee
Murray-Darling Freshwater Research Centre, University Drive, Latrobe University, Albury-Wodonga Campus, Wodonga

**Queensland**
Tropical Forest Research Centre, Maunds Road, Atherton
Claire Road, Ayr
71/918 Royal Brisbane and Women’s Hospital, Herston
McGregor Road, Smithfield, Cairns
Corner Creek and Wynnum Roads, Cannon Hill
233 Middle Street, Cleveland
11 Garnet Street, Gympie

QUESTIONS ON NOTICE
120 Meiers Road, Indooroopilly
Experiment Farm, Warrego Highway Via Gatton College, Lawes
Technology Court, Pullenvale
Belmont and Rendel, JM Rendel Laboratory, Bruce Highway (Ibis Avenue), Rockhampton
Queensland Bioscience Precinct, 306 Carmody Road, St Lucia
Qld Dept of Primary Industries, 203 Tor Street, Toowoomba
Davies Laboratory, University Drive, Townsville

South Australia
Gate 13, Kintore Avenue, Adelaide
Regency Park, Milner Street, Hindmarsh
Waite Laboratories, Urrbrae

Western Australia
Australian Resources Research Centre (ARRC), 26 Dick Perry Avenue, Kensington
7 Conlon Street, Waterford
Floreat Park Research Laboratory, Underwood Avenue, Leeuwin Centre, Floreat

Tasmania
Castray Esplanade, Battery Point, Hobart
University of Tasmania, College Road, Sandy Bay

Northern Territory
Alice Springs Centre for Arid Zone Research, Heath Road, Alice Springs
Tropical Ecosystems Research Centre, Vanderlin Drive, Berrimah, Darwin

IP Australia
ACT
Discovery House, 47 Bowes Street, Woden
New South Wales
Level 1, Bay 8 Locomotive Workshop, Eveleigh
Victoria
257 Collins Street, Melbourne
Melbourne Patent Examination Centre, 658 Church Street, Richmond

Southern Australia
Innovation House, East Wing, Mawson Lakes Boulevard, Mawson Lakes
Western Australia
2nd Floor, East Point Plaza, 233 Adelaide Terrace, Perth

Tasmania
4th Floor, AMP Building, 27 Elizabeth Street, Hobart

Aged Care

(Question No. 2049)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 4 August 2009:
(1) On average, what percentage of funding that is allocated to a Community Aged Care Package (CACP) is used for case management purposes.

(2) What avenues exist for recipients of a CACP to negotiate how the provision of services is determined.

(3) Is the department aware of examples where recipients or families of recipients have determined how their CACP will be delivered.

(4) Is the department aware of any examples where recipients or families of recipients have taken responsibility for the case management of their CACP.

(5) Is the Minister or the department considering changes to allow recipients or their families to take responsibility for the case management of their CACP.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) The Department of Health and Ageing does not hold this data. The percentage of available funding devoted to case management will vary depending on the individual needs and preferences of each Community Aged Care Package (CACP) recipient.

(2) The Australian Government fully supports the principle that people receiving care under a CACP should be actively involved in negotiating the care to be provided as part of their package. The User Rights Principles 1997 (the Principles), made under the Aged Care Act 1997 (the Act), outline a CACP recipient’s rights. The Principles also go on to detail that providers of CACPs must give written advice to a prospective care recipient about their rights, responsibilities and entitlements, and that the community care agreement must state the care recipient’s rights in relation to decisions about the kind of community care that the care recipient is to receive.

In addition to these legislative provisions, the Rudd Government also funds the National Aged Care Advocacy Program (NACAP) to promote the rights of people receiving Australian Government funded aged care services.

(3) The Act, the Principles and the Draft Community Packaged Care Guidelines require the involvement of care recipients in the development of a care agreement. The Department expects that all CACP recipients, and/or their representative(s), would be involved in the design and delivery of their care package.

(4) CACP providers remain responsible and accountable for all care and services delivered under a CACP at all times, including with respect to case management. Notwithstanding this, it is possible for care recipients and/or their representative(s) to take an active role in the administration of care delivered under their package, at the agreement of the CACP provider. The Department is aware of organisations trialling models of consumer directed care.

(5) A working group of the Ageing Consultative Committee (ACC) is considering the issues associated with greater levels of consumer involvement.

A further working group of the ACC is developing a Charter of Rights and Responsibilities for Community Care for recipients of CACPs, and Extended Aged Care at Home and Extended Aged Care at Home Dementia packages.

The Government is also currently considering the recommendations of the National Health and Hospitals Reform Commission, including with respect to the recommendation that people supported to receive care in the community should be given the option to determine how the resources allocated for their care and support are used.
Automotive Industry
(Question No. 2051)

Senator Abetz asked the Minister for Innovation, Industry, Science and Research, upon notice, on 6 August 2009:

With reference to the appointment of Mr John Conomos AO and the Honourable Steve Bracks as envoys for the Australian automotive industry:

(1) When do they commence work.
(2) Have employment contracts been entered into; if so, can a copy of the contracts be provided.
(3) Is there a formal job description; if so, can a copy of the job description be provided.
(4) Is remuneration for each envoy agreed annually; if so, how much for each envoy.
(5) If remuneration is not annual, how much per day will each envoy be paid.
(6) How many days per year will each envoy work.

Senator Carr—The answer to the honourable senator’s question is as follows:

(1) The Automotive Envoy appointments for Mr Conomos and Mr Bracks commenced on 1 July 2009.
(2) The Department has agreed to terms and conditions with Mr Conomos and Mr Bracks regarding their appointments as Automotive Envoys. These terms and conditions cover issues such as remuneration (including a daily fee and travel allowances), availability for the role, description of the role, and other obligations such as confidentiality, code of conduct, and declaration of private interests. Documentation regarding Automotive Envoy terms and conditions is Commercial-In-Confidence.

(3) Mr Conomos and Mr Bracks have been provided with a description of the Automotive Envoy role. This role description includes promoting the Australian automotive industry in global markets, particularly its supply chain and engineering capabilities, working with assistance from Austrade’s adviser network. The role involves tasks such as: making representations to facilitate automotive access in global supply chains; leading or assisting with Australian trade missions overseas; providing feedback and advice to Australian industry and the Government of market opportunities and approaches to accessing global supply chains; and liaising with the Minister for Innovation, Industry, Science and Research, Austrade, and industry as appropriate.

(4) No. Remuneration is on a per diem basis.
(5) The fee payable per day to each Automotive Envoy is $1000 which, inclusive of GST, equates to $1100. In addition, the Automotive Envoys are entitled to allowances for travel associated with the role.
(6) Mr Conomos has indicated potential availability of up to 50 days per year for the role, while Mr Bracks has indicated potential availability of up to 30 days per year for the role.

Intercountry Adoption Branch
(Question No. 2053)

Senator Ludlam asked the Minister representing the Attorney-General, upon notice, on 6 August 2009:

With reference to the department’s Intercountry Adoption Branch (IAB):

(1) (a) When was the IAB established; and (b) how many full-time equivalent staff does it currently employ.

(2) (a) How many new programs have been established since the IAB came into operation, including programs with new countries and expansion of programs with countries in which Australia had an
existing adoption program; (b) how many applications have been submitted under these new programs; and (c) how many adoptions have been completed under these new programs.

3. (a) How many countries have been visited by officers of the department with a view to establishing a new program; and (b) how many potential new program assessments were ‘desk-based’.

4. Are Australians allowed to apply to adopt from any country that is a signatory to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention); if not, what legislation or policy prevents families from adopting from countries that are a signatory to the Convention.

5. What is the legal standing of the department’s Intercountry Adoption Strategic Plan 2008.

6. (a) Does Australia have a program with any of the five African countries that are signatories to the Convention (Burkina Faso, Guinea, Burundi, South Africa and Madagascar); (b) have any Australian families adopted children from any of these countries; and (c) are Australian families currently allowed to apply to adopt from any of these countries.

7. Given that Australians have adopted from Burkina Faso (during 2006 and 2007) and Burundi (during 2008), are other families allowed to apply to adopt children from these countries; if not: (a) what are the reasons for the change in Australian Government policy; and (b) what circumstances have changed in Burkina Faso, Burundi and Australia to require this change.

8. (a) Are families from other Commonwealth countries and signatory countries to the Convention allowed to adopt from any of the five African countries mentioned in (6)(a) above; (b) on what basis has the intercountry adoption program between these African countries been halted or discouraged, whereas adoption continues between other countries where child trafficking concerns have been raised and documented, for example India; and (c) is preventing Australian families from applying to adopt from these African countries consistent with the findings of the House of Representatives Standing Committee on Family and Human Services report, Overseas adoption in Australia: Report on the inquiry into adoption of children from overseas.

Senator Wong—The Attorney-General has provided the following answer to the honourable senator’s question:

1. (a) December 2006. (b) Intercountry adoption is now included within the Marriage and Intercountry Adoption Branch. There are 16 full-time equivalent staff within the Branch working on intercountry adoption.

2. (a) AGD expanded the Hong Kong and Taiwan programs in late 2008 by establishing arrangements with three new agencies. (b) Eight (c) Zero, four children have been matched with families but are yet to be placed.


4. No, Australia does not automatically work with all countries that are a party to the Convention. Although membership is an important and positive factor, its does not necessarily ensure Convention implementation and compliance, nor does it necessarily mean that a country will accept applications from Australia.

As stated in the Intercountry Adoption Strategic Plan 2008, as a general principle individual requests to countries with which there is no ongoing program will not be consistent with a coordinated, strategic and therefore effective approach to Australia’s management of intercountry adoption programs. The Strategic Plan provides for ad hoc applications to countries where Australia does not have an established program to be considered on a case by case basis.
(5) The Commonwealth-State Agreement for the Continued Operation of Australia’s Intercountry Adoption Program was signed by relevant Commonwealth, State and Territory Ministers in July 2008. The new Agreement assigns overall responsibility for the management of intercountry adoption programs to the Commonwealth. States and Territories retain responsibility for processing individual adoption applications and providing services directly to adoptive families. The new Strategic Plan is an overarching policy document, to provide a consistent and coordinated approach to the establishment and management of intercountry adoption programs.

(6) (a) No; (b) Yes, this includes expatriate adoptions, specific cases managed by States and Territories prior to AGD’s role, and special cases such as relative adoptions. (c) The Strategic Plan provides for ad hoc applications to countries to be considered on a case by case basis.

(7) It is not appropriate to comment on specific cases. The adoptions referred to by the honourable senator were commenced before the Commonwealth assumed responsibility for the management of intercountry adoption. Any such applications made prior to IAB’s establishment and the development of the Strategic Plan are a matter for the relevant State or Territory Central Authority.

(8) (a) I am unable to comment on other countries intercountry adoption processes. (b) Australia has never had an established intercountry adoption program with any of the five African countries mentioned in 6(a). The Government is committed to ensuring that Australia’s intercountry programs are ethical, and that the relevant country has sufficient infrastructure and safeguards in place to protect against the abduction, sale or trafficking of children. The Australian Government takes an appropriately cautious approach to establishing new programs, and must be satisfied that potential programs are able to fully comply with the principles of the Hague Convention. Existing programs, including India, are subject to the same requirements and are continuously reviewed to ensure they remain ethical and viable. (c) The Australian Government’s management of intercountry adoptions is consistent with the Overseas Adoption in Australia report. Recommendation 19 recommended that responsibility for establishing and managing overseas adoption programs be transferred to the Attorney-General’s Department in consultation with the Department of Foreign Affairs and Trade and the Department of Immigration and Multicultural and Indigenous Affairs. IAB now has primary responsibility for the management and establishment of all intercountry adoption programs. Recommendation 20 recommended that future overseas programs be established on the criteria of the number of children needing families and the extent to which the country of origin has implemented the Hague Convention, given the resources available to it. These considerations are reflected in the Strategic Plan.

Nuclear Waste Dump
(Question No. 2055)

Senator Ludlam asked the Minister for Resources and Energy, upon notice, on 6 August 2009:

Given that the draft Parsons Brinckerhoff report on proposed sites for a nuclear waste dump was provided to the department on 28 July 2008 and subsequent reports, namely the CH2M HILL’s peer review, the Parsons Brinckerhoff’s response to the peer review and the final Parsons Brinckerhoff report were provided to the Minister on 19 March 2009, and given that an article in The Australian on 24 July 2009 stated that a ‘spokesman for Mr Ferguson said the minister was awaiting reports on the appropriateness of a series of possible dump sites in the Northern Territory’:

(1) Which additional reports was the spokesman referring to.
(2) Who commissioned these additional reports.
(3) What issues and sites are these additional reports examining.
(4) Who is conducting this additional work.
(5) When does the Minister expect these reports to be provided to him.

(6) Is the Minister considering any potential dump sites outside of the Northern Territory.

Senator Carr—The Minister for Resources and Energy has provided the following response to the honourable senator’s question:

(1) The spokesman was referring to advice from the Department of Resources, Energy and Tourism rather than a further report from consultants.

(2) See answer to (1).

(3) See answer to (1).

(4) See answer to (1).

(5) See answer to (1).

(6) The Minister for Resources and Energy is currently considering an appropriate way forward to achieve a comprehensive, national approach to radioactive waste management. This strategy will be announced once it has been completed and agreed within Government.

Australian Security Intelligence Organisation Headquarters Building

(Question No. 2057)

Senator Bob Brown asked the Minister representing the Prime Minister, upon notice, on 11 August 2009:

With reference to the answer to question on notice no. 1764, which stated that on ‘4 October 2007, the Governor-General granted the ASIO [Australian Security Intelligence Organisation] Headquarters building project… an exemption from the Parliamentary Standing Committee on Public Works… scrutiny, declaring that the work is for defence purposes’: on what grounds was the ASIO headquarters held to be ‘for defence purposes’.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

The ASIO building was exempt from the Public Works Committee on the grounds that the work is for defence purposes and reference to the Committee would be contrary to the public interest because detailed enquiries could lead to public disclosure of sensitive information regarding the ASIO central office building’s protective security features.

In the public arena, such information would be of particular interest to hostile intelligence services and, potentially, to terrorist groups. Such disclosure would be prejudicial to national security and so contrary to the public interest.

United States of America: Defence Force

(Question No. 2058)

Senator Bob Brown asked the Minister for Defence, upon notice, on 11 August 2009:

With reference to the article by Mr Jeff Sharlet in the May 2009 issue of Harper’s Magazine, ‘Jesus killed Mohammed: The crusade for a Christian military’: is the Government aware of the evangelical activity in the operations of the United States of America (US) in Afghanistan: (a) if so, what action has the Government taken to ensure this activity does not endanger Australians on duty in Afghanistan; and (b) if not, will the Government pursue the matters raised in the article with US officials; if not, why not.

Senator Faulkner—The answer to the honourable senator’s question is as follows:

The behaviour of United States (US) soldiers is a matter for the United States Government. We are confident that, should there be evidence of adverse behaviour affecting the reputation of the US or the safety of US and Coalition troops, the United States Government would take the appropriate action to
Neither the Australian Government nor the Australian Defence Force intends to raise this issue with the United States Government.

**Taxation**

(Question No. 2062)

**Senator Bob Brown** asked the Minister representing the Attorney-General, upon notice, on 11 August 2009:

With reference to the decision in the case of *Pape v Commissioner of Taxation*:

(a) will federal payments continue to local government for: (i) roads, and (ii) infrastructure; and

(b) if there are questions surrounding the constitutionality of these payments, what action is the Government considering to ensure local councils can continue to rely on these revenue streams.

**Senator Wong**—The Attorney-General has provided the following answer to the honourable senator’s question:

(a) (i) Yes, (ii) Yes.

(b) Constitutional questions and considerations routinely arise in the development of Commonwealth programs, including programs which involve spending. The various judgments in *Pape v Commissioner of Taxation* (2009) 257 ALR 1 form part of a larger body of constitutional law which is taken into account where relevant.

**Defence: Freedom of Information Requests**

(Question Nos 2095 and 2096)

**Senator Johnston** asked the Minister for Defence, upon notice, on 13 August 2009:

For the period 1 January to 30 June 2009 and for the department and each agency within the responsibility of the Minister/Parliamentary Secretary:

(1) Were any advices on how to respond to freedom of information (FOI) requests received.

(2) How many FOI requests were received.

(3) How many FOI requests were granted or denied.

(4) How many conclusive certificates were issued in relation to FOI requests.

**Senator Faulkner**—The answer to the honourable senator’s question is as follows:

(1) The Freedom of Information (FOI) Directorate has received external legal advice from Clayton Utz for two FOI cases. Both cases are still pending a decision.

(2) 89.

(3) See table below:

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(4) None.