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For searching purposes use http://parlinfoweb.aph.gov.au

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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
## Members of the Senate

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

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

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

Prime Minister
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. Nicola Roxon 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]
### Rudd Ministry—continued

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<td>Hon. Alan Griffin MP</td>
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<td>Minister for Housing and Minister for the Status of Women</td>
<td>Hon. Tanya Plibersek MP</td>
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<td>Minister for Home Affairs</td>
<td>Hon. Brendan O'Connor MP</td>
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<tr>
<td>Minister for Indigenous Health, Rural and Regional Health and Regional Services Delivery</td>
<td>Hon. Warren Snowdon MP</td>
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<tr>
<td>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</td>
<td>Hon. Dr Craig Emerson MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>Senator Hon. Nick Sherry</td>
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<tr>
<td>Minister for Ageing</td>
<td>Hon. Justine Elliot MP</td>
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<tr>
<td>Minister for Early Childhood Education, Childcare and Youth and Minister for Sport</td>
<td>Hon. Kate Ellis MP</td>
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<tr>
<td>Minister for Defence Personnel, Materiel and Science and Minister Assisting the Minister for Climate Change</td>
<td>Hon. Greg Combet AM, MP</td>
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<tr>
<td>Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery</td>
<td>Senator Hon. Mark Arbib</td>
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<tr>
<td>Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government</td>
<td>Hon. Maxine McKew MP</td>
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<td>Parliamentary Secretary for Defence Support and Parliamentary Secretary for Water</td>
<td>Hon. Dr Mike Kelly AM, MP</td>
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<tr>
<td>Parliamentary Secretary for Western and Northern Australia</td>
<td>Hon. Gary Gray AO, MP</td>
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<tr>
<td>Parliamentary Secretary for Disabilities and Children's Services and Parliamentary Secretary for Victorian Bushfire Reconstruction</td>
<td>Hon. Bill Shorten MP</td>
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<td>Parliamentary Secretary for International Development Assistance</td>
<td>Hon. Bob McMullan MP</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>Hon. Duncan Kerr SC, MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Trade</td>
<td>Hon. Anthony Byrne MP</td>
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<td>Parliamentary Secretary for Industry and Innovation</td>
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SHADOW MINISTRY

Leader of the Opposition
The Hon. Malcolm Turnbull MP

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

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

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

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

Shadow Treasurer
The Hon. Joe Hockey MP

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

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

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

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

Shadow Minister for Energy and Resources
The Hon. Ian Macfarlane MP

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

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

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

Shadow Minister for Health and Ageing
The Hon. Peter Dutton MP

Shadow Minister for Defence
Senator the Hon. David Johnston

Shadow Attorney-General
Senator the Hon. George Brandis SC

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

Shadow Minister for Employment and Workplace Relations
Mr Michael Keenan MP

Shadow Minister for Immigration and Citizenship
The Hon. Dr Sharman Stone

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

[The above constitute the shadow cabinet]
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<td>The Hon. Chris Pearce MP</td>
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<td>Shadow Assistant Treasurer</td>
<td>The Hon. Tony Smith MP</td>
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<td>The Hon. Bruce Billson MP</td>
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<td>Shadow Minister for Competition Policy and Consumer Affairs and Deputy Manager of Opposition Business in the House</td>
<td>Mr Luke Hartsuyker MP</td>
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<td>The Hon. Bob Baldwin MP</td>
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<td>Mrs Louise Markus MP</td>
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<tr>
<td>Shadow Minister for Veterans’ Affairs</td>
<td>Mrs Sophie Mirabella MP</td>
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<td>Shadow Minister for Early Childhood Education, Childcare, Status of Women and Youth</td>
<td>The Hon. Sussan Ley MP</td>
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Thursday, 17 September 2009

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

PETITIONS

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

The Bringing Them Home Report
To the Honourable President and members of the Senate in Parliament assembled.
The petition of the undersigned shows: Only 3 out of 54 recommendations of The Bringing Them Home Report 1997 have been fully implemented. Your petitioners ask that the Senate: begin implementing the rest of them NOW.

by Senator Siewert (from 220 citizens)

Petition received.

NOTICES

Presentation

Senator Fielding to move on the next day of sitting:

(1) That there be laid on the table, no later than 16 November 2009, a report by the Australian Securities and Investments Commission on its oversight of the disposal by the Future Fund of shares in Telstra during the past 12 months, including the following matters:
   (a) whether the Future Fund had any information which was not generally available and could be expected to have a material effect on the price or value of Telstra shares; and
   (b) other related matters.

(2) That there be laid on the table, no later than 16 November 2009, a report by the Future Fund Board of Guardians on the disposal by the Future Fund of shares in Telstra during the past 12 months, including the following matters:
   (a) whether the Future Fund had any information which was not generally available and could be expected to have a material effect on the price or value of Telstra shares; and
   (b) other related matters.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.32 am)—I move:

That the government business orders of the day listed on page 4 of today’s Order of Business, under the heading “At 12.45 pm” be considered from 12.45 pm till not later than 2 pm today subject to the Senate agreeing to government business notice of motion no. 1.

Question agreed to.

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.32 am)—by leave—I move:

That, on Thursday, 17 September 2009:

(a) the routine of business from not later than 4.30 pm to 6 pm shall be government business only;

(b) consideration of general business under standing order 57(d)(x) shall not be proceeded with;

(c) at 6 pm, orders of the day relating to government documents shall be called on under standing order 57(d)(xi); and

(d) divisions may take place between 4.30 pm and 6 pm.

Question agreed to.

NOTICES

Postponement

The following item of business was postponed:

General business notice of motion no. 527 standing in the name of Senator Xenophon for today, proposing the introduction of the Water Licence Moratorium Bill 2009, postponed till 26 October 2009.
COMMITTEES
Appropriations and Staffing Committee
Membership

The PRESIDENT—Order! I have received a letter from an Independent senator relating to the membership of a committee.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.33 am)—by leave—I move:

That Senator Xenophon be appointed to the Standing Committee on Appropriations and Staffing.

Question agreed to.

BUSINESS
Consideration of Legislation

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.34 am)—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:

Customs Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Bill 2009
Customs Tariff Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Bill 2009
Foreign States Immunities Amendment Bill 2009

Question agreed to.

NUCLEAR WEAPONS
Senator LUDLAM (Western Australia) (9.34 am)—I move:

That the Senate—

(a) notes that:

(i) more than 2 000 nuclear weapons tests have been conducted between 1945 and 2009,

(ii) the Comprehensive Nuclear-Test-Ban Treaty (CTBT) bans all nuclear test explosions in all environments, for military or civilian purposes,

(iii) the sixth Article XIV (Entry Into Force) conference of the CTBT will be held on 24 September and 25 September 2009,

(iv) for more than half a century countless scientific experts, political leaders and community organisations have pursued the goal of a more secure world free of the dangers of nuclear weapons test explosions,

(v) the CTBT is important to all states because it stigmatises nuclear testing, halts the qualitative and quantitative nuclear arms race and the development of increasingly more destructive weapons, and protects human health and the global environment from the devastating effects of nuclear weapons production and testing, and

(vi) nine states required for the entry into force of the treaty have not yet ratified the treaty; and

(b) calls on the Government to:

(i) renew and sustain dialogue with those nine states that have not ratified the CTBT urging them to do so without delay, most notably those states possessing nuclear weapons, the United States of America, the People’s Republic of China, India, Pakistan, Israel and the Democratic People’s Republic of Korea,

(ii) call on all states possessing nuclear weapons to refrain from research and development efforts that could lead to new warheads and the possibility of the resumption of nuclear testing,

(iii) participate in the conference at the highest level, and

(iv) continue to participate and support the development of the CTBT verification regime, including the international monitoring system.

Question agreed to.
RENEWABLE ENERGY (CERTIFICATES AND OTHER MATTERS) AMENDMENT BILL 2009

First Reading

Senator CASH (Western Australia) (9.35 am)—I move:

That the following bill be introduced: A Bill for an Act to amend the Renewable Energy (Electricity) Act 2000 in relation to certificates, and for other purposes.

Question agreed to.

Senator CASH (Western Australia) (9.35 am)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator CASH (Western Australia) (9.36 am)—I move:

That this bill be now read a second time.

I seek leave to table the explanatory memorandum to the bill and to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This Bill seeks to amend the Renewable Energy (Electricity) Act 2000 and deals with the quota of renewable certificates available to renewable resource technologies and the inclusion of energy efficient transmission systems as being eligible for renewable certificates.

The provisions of Schedule 1 ensure that the more mature renewable technologies, such as wind, will not crowd out from access to renewable energy certificates emerging renewable technologies which will have the potential to provide more reliable and cheaper renewable energy but which will require the financial benefits of renewable certificates to attract private investment to develop their technology.

I note that only last week Victorian company, Solar Systems went into voluntary administration, notwithstanding having been offered $75 million of federal government moneys and $50 million of Victorian government moneys to build a solar facility near Mildura. The reason was that they were unable, at that level and without the support of renewable certificates in sufficient numbers to attract private investment.

The purpose of this Bill is to limit any one renewable resource technology to 20,000 gigawatt hours in the ultimately available 45,000 gigawatt hour renewable target.

This would allow for a greater range of resources, for example the use of tidal power, wave power, thermal power or solar power or other renewables to deliver benefits which are long term and environmentally friendly.

Schedule 2 of the Bill recognises that energy saved in the transmission of power, as available in new technologies such as high-voltage DC current transmission, achieves the same purpose as renewable generation inasmuch as it requires fewer emissions from the generator to supply demand.

There is a very interesting comparison of the efficiency of a variety of transmission technologies in delivering energy to the point where Australians wish to consume it, be it domestically or for business.

For example, in my home State of Western Australia, the Dampier-Bunbury pipeline which delivers gas from the Pilbara Region in the North to the South West, the demand has grown exponentially in recent times and, as a result, the pressure in the pipeline has been increased for the purpose of delivering sufficient energy.

The energy required to deliver that gas through the pipeline is now the same as the output from one of the State’s Collie powerhouses—225 megawatts.

The emissions associated with pumping the gas that distance are about 700,000 tonnes. One might choose to compare that with the changeover from incandescent globes to fluorescent globes, where the national saving is estimated at 800,000 tonnes of emissions.

In other words, instead of having a highly inefficient system of delivering energy to consumers in the south-west of WA via a gas pipeline, it is
much more efficient to generate the electricity from that same gas and deliver it to the consumer via alternative means, for instance an underground high-voltage DC transmission system.

The Bill does not dictate what alternative energy source must be used, rather, it leaves it to the regulator to make a comparison where and how the energy is transmitted. It opens up a very real opportunity for renewable energies and lower emissions to be used as an alternative.

I remind honourable senators that high-voltage DC power now crosses Bass Strait. The provisions of this Bill will mean that if the regulator gives a rating to a particular transmission system where, as a consequence, more power gets to the other end, that would qualify, by government regulation, for the issue of certificates which are renewable energy rated.

The provisions of this Bill which has been originated in the other place by Hon Wilson Tuckey, member for O' Connor, are commendable and worthy of support and I sincerely hope the government looks very positively at this idea.

There are a mass of emerging technologies which should not be crowded out, particularly by wind generation.

The Government should take an upfront proactive role in developing and investing in Australia’s significant and valuable renewable energy technologies.

Senator CASH— I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES
Agricultural and Related Industries Committee
Reporting Date

Senator PARRY (Tasmania) (9.36 am)— At the request of senator Heffernan, I move:

That the report of the Select Committee on Agricultural and Related Industries on the incidence and severity of bushfires across Australia be presented by 26 November 2009.

Question agreed to.

Fuel and Energy Committee
Resolution of Appointment

Senator CORMANN (Western Australia) (9.37 am)— I move:

That the resolution of the Senate of 25 June 2008, as amended, appointing the Select Committee on Fuel and Energy, be amended to omit “21 October 2009”, and substitute “30 March 2010”.

Question put.
The Senate divided. [9.41 am]
(The President—Senator the Hon. JJ Hogg)

Ayes ............ 35
Noes ............ 33
Majority ........ 2

AYES
Abetz, E. Adams, J. Barnett, G. Birmingham, S.
Back, C.J. Bernardi, C. Brandis, G.H.
Boswell, R.L.D. Bushby, D.C. Coonan, H.L.
Colbeck, R. Cormann, M.H.P. Eggleston, A.
Ferguson, A.B. Fierravanti-Wells, C. Fielding, S.
Fisher, M.J. Johnston, D. Fifield, M.P.
Macdonald, I. Heffernan, W. Kroger, H.
McGauran, J.J.J. Mason, B.J.
Parry, S. * Minchin, N.H.
McGauran, J.J. Parry, S. * Payne, M.A.
Mason, B.J. McDonald, D. Ryan, S.M.
McGauran, J.J. Scullion, N.G. Troeth, J.M.
Parry, S. * Trood, R.B. Williams, J.R.
Parry, S. * Xenophon, N.

NOES
Arbib, M.V. Bilyk, C.L. Bilyk, C.L.
Bishop, T.M. Brown, B.J. Brown, B.J.
Brown, C.L. Cameron, D.N. Cameron, D.N.
Collins, J. Crossin, P.M. Crossin, P.M.
Feeney, D. Forshaw, M.G. Forshaw, M.G.
Furner, M.L. Hanson-Young, S.C. Hanson-Young, S.C.
Hogg, J.J. Hurley, A. Hurley, A.
Hutcheson, S.P. Ludlam, S. Ludlam, S.
Ludwig, J.W. Lundy, K.A. Lundy, K.A.
Senator LUDLAM (Western Australia) (9.44 am)—I move:

That the following matters be referred to the Joint Standing Committee on Foreign Affairs, Defence and Trade for inquiry and report by 26 November 2009:

(a) the human rights situation in Tibet subsequent to the events of March 2008;

(b) the status of dialogue between the Government of the People's Republic of China and representatives of the Dalai Lama; and

(c) policy and dialogue options by which the Australian Government can preserve a positive relationship with China while supporting genuine progress towards a peaceful and mutually-agreed resolution on the Tibet-China issue.

Question put.
The Senate divided. [9.46 am]

Senator HANSON-YOUNG (South Australia) (9.51 am)—I move:

That the Senate—

(a) notes that:

(i) the Socialist Republic of Vietnam continues to apply the death penalty, with
at least 19 reported executions in 2008 alone,

(ii) the right to life is a fundamental human right recognised in:

(A) the Universal Declaration of Human Rights, to which both Australia and Vietnam are parties, and

(b) the International Covenant on Civil and Political Rights, to which both Australia and Vietnam are parties,

(iii) respect for human life and dignity are values common to Australia and Vietnam,

(iv) abhorrence of the death penalty is a fundamental value in Australian society, and

(v) Australia is a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, which is aimed at the universal abolition of the death penalty; and

(b) calls on the Government of the Socialist Republic of Vietnam to follow the example recently set by Uzbekistan and Argentina and immediately cease all executions and waive the death sentences of some 59 prisoners currently awaiting execution.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.52 am)—by leave—The government has previously indicated in this chamber its objection to dealing with complex international relations matters by means of formal motions. It is our view that it is counterproductive for motions of this kind to single out one country when Australia’s opposition to the death penalty is universal. The Australian government’s policy on the death penalty is clear and consistent. Australia acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights on 2 October 1990. In keeping with the government’s policy of encouraging universal ratification of the second optional protocol, we call on all countries to abolish the death penalty. We consider the establishment of a moratorium on the use of the death penalty as a key step towards abolition.

We advance our universal opposition to the death penalty through the United Nations, including advocating for the death penalty’s abolition. Australia also encourages the abolition of the death penalty in its bilateral human rights dialogue with China, Vietnam and Laos and makes bilateral representations on the death penalty to other countries which still impose it. I want to add clearly, categorically and without question that this government is committed to working with the international community to achieve the death penalty’s universal abolition.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.53 am)—by leave—I would have thought that, instead of the government saying that the Senate ought not have the capacity that the executive has to make announcements or statements on matters as serious as the death penalty in our own region, it would have at least provided us with a report stating what approach had been made to the senior level delegation from the Republic of Vietnam that was in this country just a week ago on this matter of the death penalty—but there has been nothing at all. Instead, the government has indicated that the matter has been relegated to the bilateral talks—that is, buried talks—which takes it off ministerial and prime ministerial agendas. The Senate wants to take the matter more seriously, and it is doing the responsible thing. In fact, it is doing part of the executive’s job for it. But, if the government is indicating that the executive ought to have the sole say on matters to do with foreign relations and that the parliament should stand aside and give the executive that sole say, the Greens 100 per cent disagree.

Question put:
The Senate divided. [9.59 am]
(The President—Senator the Hon. JJ Hogg)

Ayes.............  7
Noes............. 26
Majority........ 19

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

NOES
Adams, J.     Back, C.J.
Bernardi, C.  Bilyk, C.L.
Boswell, R.L.D. Colbeck, R.
Cormann, M.H.P. Feeney, D.
Ferguson, A.B. Fifield, M.P.
Forshaw, M.G.  Furner, M.L.
Hogg, J.J.    Kroger, H.
Ludwig, J.W.  Marshall, G.
Mason, B.J.   McEwen, A.
Moore, C.     O’Brien, K.W.K. *
Parry, S.     Payne, M.A.
Ronaldson, M. Ryan, S.M.
Troeth, J.M.  Williams, J.R.

* denotes teller

Question negatived.

SWIFT PARROT HABITATS

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.01 am)—by leave—As to the responsibility for the habitat of the swift parrot, the buck stops right with the Minister for the Environment, Heritage and the Arts, the Hon. Peter Garrett, and the Rudd government. They cannot wash their hands of that responsibility under a national law and international responsibility and treaty obligations, as the minister has just tried to do. That is totally unacceptable from the government.

Question put.

The Senate divided. [10.04 am]
(The President—Senator the Hon. JJ Hogg)

Ayes.............  6
Noes............. 28
Majority......... 22

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

NOES
Adams, J.     Back, C.J.
Bernardi, C.  Bilyk, C.L.
Boswell, R.L.D.  Colbeck, R.
Cormann, M.H.P. Feeney, D.
Ferguson, A.B. Fifield, M.P.
Forshaw, M.G.  Furner, M.L.
Hogg, J.J.    Kroger, H.
Ludwig, J.W.  Marshall, G.
Mason, B.J.   McEwen, A.
Moore, C.     O’Brien, K.W.K. *
Parry, S.     Payne, M.A.
Ronaldson, M. Ryan, S.M.
Troeth, J.M.  Williams, J.R.

* denotes teller

Question negatived.

The PRESIDENT—I will now go back. I think the rest of the matters probably will not
need divisions, but I cannot guarantee that. I will deal with them seriatim, starting with No. 567, standing in the name of Senator Boswell.

**RENEWABLE ENERGY (FOOD PROCESSING ACTIVITIES) AMENDMENT BILL 2009**

**First Reading**

**Senator BOSWELL** (Queensland) (10.07 am)—I move:

That the following bill be introduced: A Bill for an Act to amend the *Renewable Energy (Electricity) Act 2000* in connection with food processing activities.

Question agreed to.

**Senator BOSWELL** (Queensland) (10.07 am)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator BOSWELL** (Queensland) (10.07 am)—I move:

That this bill be now read a second time.

I table the explanatory memorandum, and I seek leave to have the second reading speech incorporated in *Hansard*.

Leaf granted.

*The speech read as follows—*

The Bill seeks to amend the *Renewable Energy (Electricity) Act 2000* by providing assistance to Australian dairy and livestock farmers and food processors. The Bill also seeks to protect Australian farming families against costs being passed backwards from food processors that would lead to substantial farm gate income losses. The Bill seeks to protect the future viability of farming in Australia by providing assistance to Australian trade-exposed food processors, including dairying and abattoirs.

The Bill requires regulation to determine that food processing activities, to the extent they are trade exposed, be given a 90 per cent exemption from liabilities associated with the Renewable Energy Target (RET). It seeks the same protection for farmers as that given to industries such as cement, newsprint, glass and those sorts of industries.

Processed agricultural products are among the most trade exposed in the world and any additional cost imposed on Australian production cannot be passed on to customers. These costs will inevitably be passed back to farmers.

I refer to the case of the Murray Goulburn Dairy Co-operative. The Murray Goulbourn Dairy Cooperative is a high energy user and trade exposed. The RET squeezes their profit margins to the extent they will have a lot of trouble competing in export markets. They cannot sustain the cost increases and will be forced to pass the costs back to dairy farmers or actually go out of business.

Murray Goulburn Dairy Co-Operative told the Senate Standing Committee on Economics that liabilities under the CPRS would result in income losses to its 2,500 farming members of between $5,000 and $10,000 and that the RET would impose an additional $1 million in 2010, rising to over $2 million by 2020. I have been told by regional Queensland abattoirs that the RET costs will start at $315,000 in 2010 and rise by $850,000 by 2020. Like dairy, these additional costs cannot be absorbed and will be passed back to the graziers.

The Australian Dairy Industry Council’s submission to the economics committee inquiry states:

Although dairy processing is highly trade exposed in most products – the main activities do not meet the cut-offs for EITE classification …

I believe this is a flaw in the CPRS system which will see less competitive food processing and farming in Australia and lead to carbon leakage. Our major competitors in the world dairy market will provide support for dairy processors and exclude farm emissions or will not have an ETS at all.

In speaking to my bill, I refer to the comments of the shadow minister for climate change, environment and water, the Hon. Greg Hunt, relating to the Renewable Energy (Electricity) Amendment Bill 2009. He said that if the government was
willing to consider the opposition’s amendments then the legislation would pass.

The government did in fact undertake to agree to a number of those amendments but it did not agree to those dealing with food processing. The Coalition supported the bill, which was passed, but feels very strongly about the need to protect farmers from adverse consequences of the renewable energy target—hence my private senator’s bill, which I hope the government will permit a second reading and vote.

The case to give food processing activities the same exemption from the RET as aluminium and other industries—that is, 90 per cent—is compelling. If the same treatment is not given to food-processing activities to the extent that they are trade exposed then the Australian dairy industry, livestock farmers and food processors in particular, and farming families in general, will unfairly suffer. If food-processing costs incurred because of the RET were passed back to farmers, this would lead to substantial farm gate income losses. All of this will impact on industry viability, such as food cannyy firms, our food security and rural jobs.

In not accepting the amendments at the time of the passage of the original bill, we believe, the government erred. Hence, I am presenting them in a private member’s bill, enforcing the argument that there is a need for farmers to have the same degree of protection that other industries are going to be given by the government. I commend the bill to the Senate.

Senator BOSWELL—I seek leave to continue my remarks later.

Leave granted.

Senator BOB BROWN (Tasmania)—by leave—I welcome Senator Boswell’s legislation coming into the Senate. There is at least another bill to come today, and there were some yesterday. But I put this to the Senate: how on earth are these private members’ bills going to have any effect at all if, as today, we see what little private members time there is given over to government business? I put it to the Senate, Mr President, that there needs to be a very serious look—not just by the Procedure Committee but by the Senate itself—at facilitating private members’ legislation being dealt with by the Senate and the Senate not simply being given over to government business. The opposition has made a major mistake in facilitating that process this afternoon and I think it needs to think again. If Senator Boswell’s legislation is important, and I am sure it is, it should be dealt with, but there is no hope for it if the opposition keeps giving what little time we have for dealing with important pieces of legislation like this across to the government for government business.

Senator PARRY (Tasmania)—by leave—I do not agree with Senator Brown’s views totally. The government and the opposition, ever since the Senate was established, have worked cooperatively where necessary. We do not give away time willingly and easily; we discuss that quite seriously with the government. The government are always on notice that, if they do not manage the time that is allocated, we will not give them that time. In fact, we have berated the government for mismanagement in not allowing enough time for consideration during sitting weeks earlier in the year. So I do not agree with Senator Brown’s comments. And can I add, Mr President, without denigrating this debate: if we did not sometimes waste time on frivolous divisions where the outcome is known, we could gain four to eight minutes per division. At least the government is sensible about dividing in this place.

Senator FIELDING (Victoria)—Leader of the Family First Party)—by leave—There are a couple of points to be raised here, and one of them is that the government set the schedule this year with the fewest sitting weeks we have had for some time, which is hard to explain. The second critical point is that the amount of time and
taxpayers’ money the Greens waste in this chamber is outrageous to say the least. They stand up and say more time should be spent on private members’ business—I agree with that, but they waste time and taxpayers’ money in this chamber, and it should not be allowed to occur the way it does.

Senator XENOPHON (South Australia) (10.11 am)—by leave—This indicates that there is scope for reform in relation to private members’ business and in the way that private members’ bills are treated. In my time as a member of the Legislative Council in South Australia, there was a process for private members’ bills to be brought to a vote, time was set aside on a regular basis, and that system seemed to work quite well. The sky did not seem to fall in for the government’s legislative agenda in the South Australian parliament under either Liberal or Labor governments, and I would like to think that we could move forward with some substantive reforms in that way.

Debate adjourned.

WORLD ALZHEIMER’S DAY

Senator CORMANN (Western Australia) (10.12 am)—I move:
That the Senate—
(a) notes that:
(i) World Alzheimer’s Day, 21 September, is a day when organisations around the globe unite in their efforts to raise awareness about the disease and its impact on our families, communities and nations,
(ii) in 2010 the first baby boomers will turn 65 years and by 2020 there will be an estimated 75,000 baby boomers with dementia,
(iii) the prevalence of dementia in Australia is projected to increase from 245,000 today to more than 1.1 million by 2050,
(iv) dementia will have a dramatic impact on health and care costs, with dementia likely to outstrip any other health condition by the 2060s,
(v) in 2005 Australia was the first nation to adopt dementia as a national health priority by implementing the ‘Dementia Initiative — making Dementia a National Health Priority’ with bipartisan support, and
(vi) in 2010 the Government will determine Australian dementia funding priorities for the next 5 years; and
(b) calls on the Government to:
(i) continue the Dementia Initiative and to support the promotion of prevention, early intervention and diagnosis of dementia, to improve access to community and residential care services and to support dementia research, and
(ii) adopt the twin objectives of a national strategy to improve the provision of quality dementia care for all Australians and to reduce the prevalence and incidence of dementia in the future.

Question agreed to.

NATIONAL BABIES DAY

Senator HANSON-YOUNG (South Australia) (10.12 am)—I move:
That the Senate—
(a) notes that:
(i) Saturday, 19 September 2009 is National Babies Day,
(ii) this day is about remembering the babies who passed away too soon and celebrating the lives of healthy babies across Australia, and
(iii) 1 in 4 pregnancies end in miscarriage or stillbirth;
(b) recognises the great work of the Bonnie Babes Foundation in providing, among other things:
(i) much needed support and counselling to families struggling with the loss of a baby through miscarriage, stillbirth or prematurity, and
(ii) medical equipment to hospitals for premature babies; and
(c) calls on the Government to work closely with organisations such as the Bonnie Babes Foundation in assisting with vital medical research projects into pregnancy loss and complications to women’s health during and following pregnancy.

Question agreed to.

**BRITT LAPHORNE BILL 2009**

**First Reading**

Senator FIELDING (Victoria—Leader of the Family First Party) (10.13 am)—I move:

That the following bill be introduced: A Bill for an Act to ensure that families of Australians reported missing overseas are given essential help and information, and for related purposes.

Question agreed to.

Senator FIELDING (Victoria—Leader of the Family First Party) (10.13 am)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

Senator FIELDING (Victoria—Leader of the Family First Party) (10.13 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Tomorrow, it will be the one year anniversary since Britt Lapthorne, the fun loving Melbourne backpacker went missing in Dubrovnik, Croatia. As many people in this chamber would know all too well, Britt’s body was found just under 3 weeks later, badly decomposed and floating out at sea.

It was a crime which shocked everyone in this nation because of both its horrific nature and also because the details still continue to remain largely a mystery, with the perpetrators still continuing to roam free.

The tragic events and the obvious pain which Britt’s family have been forced to go through are every parent’s worst nightmare. And it’s a nightmare which Britt’s parents, Dale and Elke together with Britt’s brother Darren are forced to live with every day.

I remember clearly when Britt went missing. I was in Croatia around the time when Britt went missing and have stayed in contact with Dale and Elke during the past 12 months. I have seen up close how hard it has been for them to lose their daughter and all the pain which they have had to endure.

But besides the obvious pain felt by Britt’s family at losing a daughter and sister, what has also hurt deeply for them has been the fact that initially they were not contacted until 6 days after Britt was first reported missing.

That’s 6 vital days which were lost in searching for Britt. It’s 6 vital days that were lost in putting pressure on the Croatian police to look into this matter seriously so that perhaps a different outcome could have occurred. We may never know the details of this tragic crime and whether Britt’s death could have been prevented if the authorities had started investigating the matter earlier, but it is clear that the likelihood of Britt’s family ever seeing justice done quickly evaporated each day that they were left unaware of their daughter’s disappearance.

For 6 days, Australian officials were aware that Britt Lapthorne had gone missing and didn’t tell Britt’s family. One of the reasons given for this delay in notifying Britt’s family was due to privacy concerns.

Quite frankly, as far as I’m concerned, this was an embarrassing mistake and the issue of privacy considerations just isn’t an excuse. If a 21 year old girl goes missing in a foreign country under suspicious circumstances, her family ought to be contacted immediately, not only after 6 days once the Croatian Police have finally decided to list her as an official missing person.
The Bill that I have put forward would ensure that this terrible mistake would never occur again. Under the Bill, called the Britt Lapthorne Bill, this would make sure that families of Australians reported missing overseas are told immediately and are provided with essential help to do all that is possible to help increase the chances that they are safely found. It removes the red tape so that precious time can be used more efficiently in actually locating the missing person rather than wasting this time going through hoops just to make sure there is permission to contact the family.

This Bill makes it clear that nothing in the Privacy Act would prevent the Department of Foreign Affairs and Trade from telling someone that their family member has gone missing should this occur. The Government should not be allowed to hide behind privacy concerns for their failure to take immediate action. This Bill makes the Government accountable and gives them no excuse to delay speedy assistance.

There is also an opt out provision contained in the Bill which allows someone to request that the department not contact their family in the event that they are reported missing. This provision has been included to help alleviate any privacy concerns that some people may have in relation to this bill and ensures that everyone who goes missing and wants their family to be contacted is able to have that done.

The Britt Lapthorne Bill also requires the Australian Government to offer all reasonable assistance to family members of those missing overseas in helping to locate the missing person and to also regularly report on the measures it is taking to improve international agreements to locate Australians missing overseas.

Australians have a right to expect their Government to do everything in its power to ensure their safety, and while the Government may be more limited in what it can do when they head overseas, they still expect their Government to do all it can to look after them.

When an Australian person goes missing, this needs to be a top priority for the Australian Government and this bill effectively puts that policy into law.

We need to change the way that the Government responds when an Australian goes missing overseas. We shouldn’t allow any other family to through the hell and the horror that the Lapthorne family had to go through when Britt went missing.

The Britt case also highlighted the need for international agreements with other countries on how to handle missing persons. We all know there were huge issues surrounding how the Croatian Government and their police handled this case. Creating international agreements with countries such as Croatia would go a long way to ensuring that when things go wrong, we have an agreement we can rely on to make sure that the overseas country takes the investigation seriously and devotes adequate resources to pursuing the criminals.

When Britt went missing, Australia had no agreement with Croatia. An agreement would mean that when an Australian goes missing there are agreed procedures and expectations of what must be done to try and find them.

As tragic as the death of Britt Lapthorne has been, it will be an even greater tragedy if we learn nothing from this and allow situations like this to occur again in the future where are family if left unaware that their child is missing in a foreign country.

Senator FIELDING—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Senator FIELDING (Victoria—Leader of the Family First Party) (10.14 am)—I seek leave to make a short statement.

The PRESIDENT—Leave is granted for two minutes.

Senator FIELDING—One year ago tomorrow, Britt Lapthorne went missing. The reason I am introducing this bill today is that a year has passed. I just want to say that our thoughts should be with Britt Lapthorne’s parents, who are over in Croatia today. If it was anyone else’s kid, we would all feel the same thing. When someone goes missing, we certainly want all the help we can get. I just
hope that this bill can be supported by both sides of the chamber.

DEATH PENALTY

Senator O’BRIEN (Tasmania) (10.14 am)—At the request of Senators Moore and Humphries, I move:
That the Senate—
(a) notes that:
(i) the right to life is a fundamental human right recognised in:
(A) the Universal Declaration of Human Rights, and
(b) the International Covenant on Civil and Political Rights,
(ii) respect for human life and dignity are values common to all Australians,
(iii) abhorrence of the death penalty is a fundamental value in Australian society, and
(iv) Australia is a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, which is aimed at the universal abolition of the death penalty; and
(b) calls on all governments to follow the example recently set by Uzbekistan, Argentina and Togo and immediately cease all executions.

Question agreed to.

Senator HANSON-YOUNG (South Australia) (10.15 am)—Mr President, I seek leave to make a short statement.

The PRESIDENT—Leave is granted for two minutes.

Senator HANSON-YOUNG—The Greens obviously support this motion because we believe that we need to be doing more to encourage countries right around the world to abolish the death penalty. I think it is in complete contradiction that the government insist that they are happy to make generic statements, which are simply wishy-washy, in our international negotiations and discussions in encouraging other countries to abolish this inhumane treatment, which is obviously against various UN conventions, yet vote down motions on and not have the guts to name countries such as Vietnam and speak directly to them about abolishing the death penalty. It seems a complete contradiction that the government and the opposition could not support the motion relating to the death penalty in Vietnam but they are more than happy to put up a wishy-washy motion, which actually does nothing, and support it.

TIMOR SEA OIL SPILL

Senator SIEWERT (Western Australia) (10.16 am)—I move:
That the Senate—
(a) notes the intention of the Government to hold an inquiry into the Montara oil spill; and
(b) calls on the Government to ensure that the terms of reference for the inquiry include:
(i) the resource management implications of the oil spill,
(ii) the environmental impact and potential impact of the oil spill,
(iii) an assessment of the management and effectiveness of responses to the oil spill, including coordination across the Commonwealth Government and across jurisdictions,
(iv) the provision and accessibility of relevant information to affected stakeholders and the public, and
(v) other related matters.

Senator O’BRIEN (Tasmania) (10.16 am)—by leave—The government will not be supporting this motion but we recognise that, with the opposition supporting it, it will have a majority and we will not call a division.

Question agreed to.
SAFE CLIMATE (ENERGY EFFICIENT NON-RESIDENTIAL BUILDINGS SCHEME) BILL 2009

First Reading

Senator MILNE (Tasmania) (10.17 am)—I move:

That the following bill be introduced: A Bill for an Act to introduce an emissions intensity cap and building efficiency certificate trading scheme for non-residential buildings to provide an economic incentive for investment in energy efficiency, and for related purposes.

Question agreed to.

Senator MILNE (Tasmania) (10.17 am)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator MILNE (Tasmania) (10.18 am)—I move:

That this bill be now read a second time.

I table the explanatory memorandum to the bill and seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

Safe Climate (Energy Efficient Non-Residential Buildings Scheme) Bill 2009

While the Rudd Government and the Opposition are still enamoured of the idea that Australia has to balance acting on the climate crisis with the economic cost of such action, around the world forward-thinking businesses and governments are recognising that it is not either or, but both. There are tremendous economic opportunities in reducing our greenhouse pollution.

Energy efficiency is not only the fastest way to reduce our emissions but, when thoughtfully implemented, it also saves us more money than we spend to achieve those savings. With the implementation of sensible energy efficiency policies, Australia can achieve far greater emissions reductions than the Government has proposed in the Carbon Pollution Reduction Scheme and at a lower cost. Indeed, the Government’s failure to understand the huge economic benefits of embracing energy efficiency is central to the failure of ambition in the CPRS.

This Bill is designed to seize the huge environmental, social and economic benefits of upgrading Australia’s non-residential buildings to be energy efficient - saving money for businesses and making a big dent in energy sector greenhouse pollution.

In order to play our fair part in avoiding catastrophic climate change, Australia needs to commit to at least 40% emissions cuts below 1990 levels by 2020, on our way to building a zero emissions economy. Whilst the Greens see an environmentally effective and economically efficient emissions trading scheme as key to that transformation, it is widely acknowledged that there is a range of non-price barriers to action in various sectors of the economy. If deep cuts are to be achieved an emissions trading scheme must be complemented by policies to urgently drive a huge expansion in renewable energy generation and the systematic exploitation of energy efficiency. Indeed it is likely that these complementary measures, particularly those which drive improvements in energy efficiency, will be more effective in reducing greenhouse gas emissions for the next several years.

Energy efficiency policies and measures are needed to overcome the non-price barriers and drive change in industrial facilities, non-residential buildings and homes. The Greens have legislative proposals to give effect to these measures at all three levels. This Bill proposes a new scheme to drive energy efficiency upgrades in existing non-residential buildings, including offices, hotels, shopping centres, hospitals and schools.

The main barriers to taking up energy-efficient measures include:

- energy costs are typically a small proportion of total expenditure for most people. The potential savings are perceived as small compared to the time and effort needed to re-
search and implement energy efficiency improvements;

- frequently, the person who pays the energy bill is not the person responsible for the selection and purchase of energy-using equipment;

- the benefits, or payback of these investments, are often gradual, accruing over the medium to long term, as savings on energy bills;

- information is not always available at the right time to consumers, tradespeople, managers and policy makers to enable informed energy efficiency choices to be made; and

- many consumers lack capital to buy new energy-efficient equipment or make the required changes to their homes or businesses. Energy efficiency has to compete with other priorities for capital investment.

Because many of these barriers remain unaddressed, there is tremendous untapped potential in Australia for energy efficiency. The very high greenhouse intensity of our economy means that every gain in efficiency gives us a larger cut in emissions than almost any other OECD country. According to the Climate Institute Australia has the third highest energy intensity of OECD countries, with only Canada and US worse performers. During the period 1990-2004 Australia's energy efficiency improved at a rate three times slower than the OECD average.

Energy use in Australia's non-residential buildings alone was responsible for 17.7% of our total energy related emissions in 2005, according to energy policy and planning consultant George Wilkenfeld. Yet this energy demand, principally for heating or cooling, lighting, and equipment, can be substantially and cost-effectively reduced.

In June this year US President Obama talked about "technologies that are available right now or will soon be available", which can "make our buildings up to 80 percent more energy efficient". According to conservative research published by the Australian Sustainable Built Environment Council (ABSEC):

- Electricity demand in residential and commercial buildings can be halved by 2030, and reduced by more than 70 per cent by 2050 through energy efficiency;

- Energy efficiency alone could deliver savings of 30-35 per cent across the whole building sector, including the growth in the overall number of buildings, out to 2050;

- Energy savings across the entire building sector could reduce the costs of greenhouse gas abatement across the whole economy by $30 per tonne, or 14 per cent, by 2050;

- By 2050, GDP could be improved by around $38 billion per year if building sector energy efficiency is adopted, compared to previous economy-wide estimates of the 60% deep cuts scenario.

Failure to respond to the tremendous potential presented by energy efficiency is a major weakness of the Government's approach to climate change.

Information provided to a Senate inquiry by Szencorp highlighted that Government statements to the UNFCCC indicate it believes that improving energy efficiency across all sectors could result in savings of just 3Mt per annum by 2020. Contrast this to estimates from McKinsey & Co—about 50 Mt and ASBEC—39-45Mt, both by 2020. Considering that the savings identified by just 165 companies in the first round of the Energy Efficiency Opportunities report amount to 4.7Mt, it is clear that the Government just doesn't understand or has chosen not to calculate the real potential of energy efficiency for greenhouse gas reduction.

Options for creating an incentive to improve commercial building energy efficiency

A number of policy options to improve non-residential building energy efficiency — primarily related to disclosure of energy performance, green tax incentives or some form of 'white certificate trading' — have been promoted in the past with limited success locally and internationally — including the UK and European Union.

Mandatory disclosure of building energy performance and greenhouse gas emissions, a policy that the Greens took to the last election, requires all commercial office buildings to assess and disclose their energy intensity prior to sale or lease, and for large commercial office buildings to dis-
close their energy performance on an ongoing basis. The Greens note that COAG has recently agreed to introduce energy performance disclosure prior to sale or lease. Disappointingly, however, no time frame has been agreed for all other building types and no information has been provided to confirm the requirement will be the important disclosure of energy intensity and greenhouse gas emissions. In addition to the mandatory disclosure of a building’s energy performance the Greens believe the Government must create a stronger incentive for building owners to invest in energy efficiency retrofits.

One increasingly popular way to create such an incentive is with a ‘white certificates’ trading scheme. A white certificate represents avoided energy consumption and so can be created by voluntary improvements in energy efficiency. A market for the certificates is created by requiring electricity retailers to buy a certain number of certificates each year. These schemes, in various forms, are common including in Victoria, South Australia and New South Wales. The New South Wales Scheme is the longest running and it has had a less than 1% uptake by the non-residential building sector, creating doubt about its potential to unlock the environmental and economic opportunity.

How the Energy Efficient Non-Residential Buildings Scheme would work

There is, however, an alternative energy efficiency trading approach which can build upon these ideas. This approach has been developed and promoted by Lend Lease Corporation, Lincoln Scott and Advanced Environmental and we believe this idea, which prompted the development of this Bill, has a number of advantages over a white certificates trading scheme.

The scheme would have four main steps:

Consistent with the Greens existing policy on mandatory disclosure of energy and carbon intensity, the scheme will start with building owners reporting the energy and carbon intensity of their base building, measured as greenhouse gas emissions per square metre. We envisage that the scheme would start with large office buildings (say those with a net lettable area greater than 5,000m²), with smaller office buildings and other building types (such as hotels, hospitals, retail centres schools, etc) being phased in over a few years.

Once two years of data on the building energy and carbon intensity is received, the Minister would then set an intensity cap for each building type, each year for 10 years, probably starting with the average intensity for a city or region. This would vary by city or region due to local climatic conditions impacting the average. As with the proposed Carbon Pollution Reduction Scheme, the cap would decline predictably over time, with cap ‘gateways’ to balance investor certainty with the need for regulatory flexibility.

The scheme administrator (the same as would be used for the Carbon Pollution Reduction Scheme) will then allocate tradable certificates, each worth one tonne of greenhouse gas (known as CO₂equivalents), to each participating building owner, up to the cap. In other words the amount of certificates each building owner would receive would be determined by the emission intensity cap for their building type, and the size of their building.

A trading mechanism would then allow building owners to buy and sell the tradable certificates. Owners of buildings which are more efficient than the cap will be allocated more certificates than they actually need, so these can then be either banked or sold to owners of relatively inefficient buildings. In this way the owners of all building types will have a long-term and predictable financial incentive to improve energy efficiency. Non-compliant building owners will face a shortfall penalty which in effect will act as a safety valve on the cost of the efficiency certificates.

The primary advantages of the scheme are that:

i. It is mandatory rather than voluntary for the building owner, thus leading to the systemic upgrade of all of Australia’s non-residential buildings. The scheme requires that many thousands of participants seriously apply themselves to the question of improving efficiency.

ii. It creates both incentives for action and penalties for inaction, in other wards it can be characterised as a carrot and stick approach.

By contrast a white certificate scheme (from
the point of view of the building owner) is just a carrot approach.

iii. In addition to creating an incentive to upgrade a building itself, including heating and cooling solutions for example, the scheme also creates an incentive to reduce energy consumption by changing behaviour.

iv. The price signal created by the scheme is long term and predictable, increasing investment confidence.

v. It rewards early movers, advantaging those who have already undertaken improvements in energy efficiency.

vi. It requires the disclosure of energy and carbon performance information which in itself will improve the awareness of many building owners and tenants and motivate improvements especially when coupled with minimum standards for government tenancy.

vii. It will stimulate the upgrade of inefficient buildings which will mean clean energy jobs

viii. It will also stimulate investment in innovative solutions—clean energy products and materials.

ix. And it will serve as a much needed building performance measure for building occupants.

The Bill requires the Minister to prescribe a number of methodologies, including to measure energy and carbon performance; to manage situations where a building lacks sub-metering; and if necessary to provide for certificate banking and or means to vary annual caps to account for annual climate variability.

On the question of measuring energy and carbon performance, there are main two schools of thought as to how to achieve this.

The original designers of the scheme have proposed a simple measurement and reporting process which would require building owners to determine the energy intensity for their building(s) based on electricity and gas bills, and official greenhouse gas coefficients, taking into account the buildings size and climatic location. An advantage of this would be the negligible cost of reporting.

Alternatively, others have submitted that one of the existing environmental reporting tools with a requirement for independent verification could be modified and improved to enable them to measure and report energy and carbon performance. This would add to the cost of reporting.

On the question of sub-metering, it’s important to understand that the scheme applies to the base building only. In other words only energy which is the responsibility of the landlord is relevant, not energy used by tenants.

Even in buildings with tenants, the majority of the energy used is the landlord’s responsibility. Typically this is energy used in heating and cooling, installed lighting etc. Tenant energy consumption is still important, however, and in the longer term phasing in mandatory reporting of energy performance and participation in the scheme for large tenants could be considered.

The Bill requires the Minister to develop a methodology to deal with typically older or regional buildings which lack sub-metering, thereby exposing the building owner to the entirety of the tenant’s energy consumption. It would be expected that the data collected over the transitional reporting period would inform the development of a rule to estimate the proportion of the total building’s energy consumption which is the building owner’s responsibility. This rule could expire in time to create an incentive to install sub-metering.

We believe some degree of certificate banking is appropriate, as is common in trading schemes generally, to provide participants some flexibility and to help smooth year on year market volatility. In this case, where demand for certificates will in part be determined by climate conditions, the extent of banking should be determined after the transitional reporting period. If it were assessed that the effect of annual climate variability on the operation of the scheme was significant, it would also be feasible for the Minister to develop a methodology to apply a climate correction factor each year.

The Minister’s deliberations about the best and most cost-effective measurement and reporting tool, and other scheme design features would be assisted consultation with business and community in a Senate inquiry into this Bill.
Embracing energy efficiency across Australia

As I indicated at the beginning of this speech energy efficiency measures must be developed to apply to industrial facilities and all homes as well as the non-residential sector.

The Greens remain committed to the substantial upgrade of the energy efficiency of all homes. The Greens’ Energy Efficiency Access and Savings Initiative, or EASI scheme, would:

- organise a free energy audit by an accredited auditor;
- advise householders of all efficiency opportunities with a payback period of ten years or less;
- organise and pay the upfront costs of implementing cost-effective opportunities;
- collect repayments as a proportion of savings on the home’s energy bills over a ten year period. Repayments will be less than the savings on energy bills so that no householders will ever be “out of pocket”.

Typical home energy efficiency refurbishments would include items such as ceiling, wall and floor insulation, solar hot water systems, efficient lights and shading of windows. This scheme needs to be complemented by new ambitious minimum standards for all new buildings and renovations as well as appliance standards.

The Greens are currently finalising plans for a new legislative scheme that would similarly drive systemic energy efficiency upgrades in the industrial sector.

Unlocking the obvious greenhouse abatement opportunities from our non-residential buildings provides a significant immediate solution to reducing Australia’s greenhouse gas emissions and creating new skills and employment opportunities.

This opportunity must be pursued as a matter of urgency. I commend this Bill to the Senate.

Senator MILNE—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NUCLEAR NONPROLIFERATION

Senator LUDLAM (Western Australia) (10.19 am)—I seek leave to amend general business notice of motion No. 576 standing in my name for today by omitting paragraph (b)(i).

Leave granted.

Senator LUDLAM—I move the motion as amended:

That the Senate—

(a) notes that the United Nations Security Council will hold a summit on nuclear non-proliferation and disarmament on 24 September 2009 with the President of the United States of America, Barack Obama, presiding; and

(b) calls on the Government to:

(i) welcome the recent renewed optimism for a world free of nuclear weapons as expressed by the leaders of some nuclear weapons states,

(ii) affirm the commitment made at the 2000 Nuclear Non-proliferation Treaty [NPT] Review Conference to the diminishing role of nuclear weapons in security policies, and

(iii) urge all states possessing nuclear weapons to concrete and substantive action towards the elimination of their nuclear arsenals.

Question agreed to.

AFFORDABLE HEALTH CARE

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.20 am)—I seek leave to amend general business notice of motion No. 575 standing in my name in the terms circulated in the chamber.

Leave granted.

Senator BOB BROWN—I move the motion as amended:

That the Senate—

(a) notes the effort by the President of the United States of America (US), Barack Obama, and his administration to ensure
all US citizens have access to affordable health care; and

(b) commends this course as one Australia has long since undertaken with success and sends assurances to our trans-Pacific neighbours that since Australia adopted universal health care in 1984:

(i) life expectancy for males has increased from 72.6 to 79.1 years and for females from 78.7 to 83.5 years,

(ii) spending on health care has increased from 3.5 per cent of federal government outlays to 4.4 per cent in the 2008-09 financial year, and

(iii) lives have been saved and suffering reduced in Australia.

Question agreed to.

TRAVESTON CROSSING DAM

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.21 am)—I move:

That the Senate—

(a) rejects the assertion by the Queensland Premier, Ms Anna Bligh, that the proposed Traveston Crossing Dam will save threatened species like the Mary River cod, Mary River turtle and Australian lungfish from farmer-induced extinction;

(b) recognises that, to the contrary, the Traveston Crossing Dam presents real threats to these species and others and to the farmlands in question; and

(c) calls on the Minister for the Environment, Heritage and the Arts (Mr Garrett) to reject the Premier’s crude and misinformed assessment.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.21 am)—Mr President, I seek leave to make a short statement.

The PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—I think this matter was also dealt with in part yesterday. Minister Garrett’s statutory decision-making responsibility for the Traveston Crossing Dam proposal will not commence until the Queensland government submits the Coordinator-General’s final assessment report. A decision on the proposal will then be made, but only after thorough consideration of all relevant information, including all relevant scientific information, in strict accordance with the requirements of the Environment Protection and Biodiversity Conservation Act.

It is inappropriate to seek to have the environment minister express views on the potential environmental impact of a project prior to a final decision being made or to ask the minister to comment before the final assessment report has been submitted. In asking the minister to effectively comment on the potential environmental impacts of the proposal at this time, the motion is calling on the minister to breach due process and compromise the integrity and legal validity of any decision he may ultimately make. As the minister’s track record in relation to this and other proposals demonstrates, he is committed to ensuring he carries out his statutory responsibilities in a rigorous, comprehensive, transparent and legally robust manner. The same approach will be applied to any decision he may ultimately make in relation to the Traveston dam proposal.

I understand the opposition is supporting the Greens’ motion, and on that basis we know the numbers will lie on the positive side of that motion. Therefore we will not be calling a division; we will just indicate our opposition to the motion.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.23 am)—I seek leave to make a brief statement.

The PRESIDENT—Leave is granted for two minutes.

Senator BOB BROWN—Senator Ludwig says that Minister Garrett is treating this matter in a transparent fashion, but that
is just not so. The motion yesterday called on Mr Garrett to release the draft report from the Queensland Coordinator-General so that the public could have a look at it and the government and the minister are steadfastly refusing to do that. Moreover, there is no commitment to the final report being a matter for public comment either.

However, in the Queensland parliament the Premier, Anna Bligh, has made these very injudicious comments about the potential extinction of the lungfish, the Mary River turtle and the Mary River cod—because of farmers, for goodness sake. She was coming up with this extraordinary logic—hillbilly logic—which says that, if the dam is put there, it will help these species and that flooding the farmlands will prevent the impact that farmlands may have on the species. I have a certain regard for Premier Bligh. She did not think that up; she was given it as advice and she did not take time out to think about before she got to the floor in the Queensland parliament and put it forward. She did the case for destroying those farmlands no good at all.

It is perfectly reasonable to ask the minister for the environment to say whether he is entertained or influenced by the statements being made in Queensland. This is a public debate. The other ministers in this parliament had no problem putting their point of view in a public debate like this. Why on earth the minister for the environment is the one who is self-nobbled, I do not know.

Question agreed to.

COMMITTEES
Publications Committee
Report
Senator STERLE (Western Australia) (10.25 am)—On behalf of Senator Carol Brown, I present the 13th report of the Senate Standing Committee on Publications Committee.

Ordered that the report be adopted.

BUDGET
Consideration by Estimates Committees
Additional Information
Senator STERLE (Western Australia) (10.26 am)—On behalf of the government whip, I present additional information received by the Senate Community Affairs Legislation Committee, the Senate Education, Employment and Workplace Relations Legislation Committee, the Senate Environment, Communications and the Arts Legislation Committee, the Senate Foreign Affairs, Defence and Trade Legislation Committee, the Senate Legal and Constitutional Affairs Legislation Committee, and the Senate Rural and Regional Affairs and Transport Legislation Committee.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2009
First Reading
Bill received from the House of Representatives.
Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.26 am)—I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.26 am)—I move:
That this bill be now read a second time. I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—
This Bill gives the force of law to two taxation agreements, with the British Virgin Islands and
the Isle of Man. The Agreements were signed in London on 27 October 2008 and 29 January 2009 respectively, and this Bill will insert the text of both Agreements into the International Tax Agreements Act 1953.

The Agreements provide for the allocation of taxing rights between Australia and the British Virgin Islands, and Australia and the Isle of Man, over certain income of individuals who are residents of Australia or the British Virgin Islands, or the Isle of Man, thereby helping to prevent double taxation.

These Agreements are the first two of their type between Australia and low-tax jurisdictions. Their operative provisions are consistent with corresponding provisions contained in Australia’s bilateral tax treaties.

The key outcomes from these Agreements are:

• Australia, the British Virgin Islands and the Isle of Man will have sole taxing rights over the salaries they pay to individuals undertaking governmental functions; and

• Certain payments received by visiting students and business apprentices will be exempt from tax in the country visited.

• Further, in the case of the Isle of Man Agreement:
  • income from pensions and retirement annuities will be taxed only in the country of residence of the recipient, provided that country taxes such income; and
  • a non-binding administrative mechanism will be established to assist taxpayers to seek resolution of transfer pricing disputes.

These two Agreements were signed in conjunction with tax information exchange agreements between Australia and the British Virgin Islands, and Australia and the Isle of Man.

Together, these two Agreements and the related tax information exchange agreements support Australia’s efforts to combat tax avoidance and evasion through the establishment of transparency and effective exchange of information for tax purposes. They will promote fairness and enhance the integrity of Australia’s tax system.

Negotiating Tax Information Exchange Agreements is an important part of the Government’s efforts to combat international tax evasion. It is pleasing to see that Hong Kong, Liechtenstein and Singapore have recently agreed to adopt OECD standards of transparency and effective exchange of information for tax purposes. We look forward to implementing effective exchange of information arrangements with each of those countries at the earliest opportunity.

Earlier this week there were reports that Switzerland, Luxembourg and Austria will also review their position on bank secrecy for tax information exchange purposes. I look forward to further developments in relation to this. Australia has been at the forefront of global action to enhance tax transparency and information exchange, having demonstrated strong support at the Finance Ministers’ meeting hosted by France and Germany in October 2008.

In relation to the two Agreements in this particular Bill, each Agreement will enter into force after Australia, the British Virgin Islands and the Isle of Man advises that they have completed their domestic requirements which, in the case of Australia, includes enactment of this Bill.

The Agreements have been considered by the Joint Standing Committee on Treaties, which has recommended that binding treaty action be taken.

Full details of the amendments brought forward in this Bill are contained in the explanatory memorandum.

Debate (on motion by Senator Ludwig) adjourned.

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

HIGHER EDUCATION SUPPORT AMENDMENT BILL 2009
PERSONAL PROPERTY SECURITIES BILL 2009

First Reading

Bills received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.28 am)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second read-
ing has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.28 am)—I move:

That these bills be now read a second time.

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

Leave granted.

*The speeches read as follows—*

Higher Education Support Amendment Bill 2009

This Bill makes minor amendments to provide for administrative efficiencies in the operation of the FEE-HELP and VET FEE-HELP Assistance Schemes under the Higher Education Support Act 2003.

FEE-HELP and VET FEE-HELP assistance is available to full fee-paying students studying in higher level education or training, and provides a loan for all or part of a student’s tuition costs. This assistance is aimed at encouraging students to take up higher level skill qualifications by reducing the financial barriers associated with study. From 1 July 2009, the VET FEE-HELP Assistance Scheme will be extended to assist certain state government subsidised students.

This Bill makes amendments to streamline the application and assessment process for higher education and training organisations applying for approval to offer FEE-HELP and VET FEE-HELP assistance to students. The amendments will provide for administrative efficiencies resulting in faster approvals of higher education and VET providers, therefore giving students access to financial assistance sooner.

In particular, the Bill amends the tuition assurance provisions in the Act, to remove the administrative requirement for higher education and training organisations to have tuition assurance arrangements in place at the date of their application for approval to offer FEE-HELP or VET FEE-HELP assistance to students.

In addition, the bill provides for amendments to allow recommendations from approved national or state-based agencies to be used as part of the assessment and approval of training organisations to deliver VET FEE-HELP assistance. This will help to eliminate duplication between Commonwealth and State and Territory agencies, and reduce the cost and time taken to assess a training organisation’s application.

These amendments deliver increased efficiencies in the administration of the FEE-HELP and VET FEE-HELP Assistance Schemes, making it easier and faster for higher education and training organisations to be approved to offer assistance to students.

—

Personal Property Securities Bill 2009

This Government went to the election with an ambitious deregulation agenda - a promise to reduce the regulatory burden on Australian businesses and to address impediments to the growth of productivity in this country. In the 18 months since coming to office, the Government has amply demonstrated its commitment to that agenda.

In a country such as ours - with a federation of Commonwealth, State and Territory Governments and a Constitution which divides responsibilities between the jurisdictions - each of the jurisdictions will inevitably have laws which overlap with laws in another jurisdiction. Where the laws between the jurisdictions regulate a similar issue but differ in terms, the practical outcome is that businesses and other users whose work crosses borders are left to grapple with a range of different legislative regimes.

Single or harmonised laws, where they can be achieved, are the most obvious way to overcome these burdens. Identifying them and working towards single or harmonised laws, with the cooperation of the States and Territories, is an important priority for this Government and is part of our broader de-regulation agenda.
Which brings me to the Bill that I introduce into this Parliament today.

The Personal Property Securities Bill 2009 implements a significant reform to Australia’s law on secured financing using personal property.

The Bill will replace the existing complex, inconsistent and ad hoc web of common law and legislation, involving over seventy Commonwealth, State and Territory Acts. It will implement a single national law creating a uniform and functional approach to personal property securities.

Personal property is any form of property other than land. It includes goods such as cars, machinery, crops and livestock, financial property such as currency and letters of credit and intangibles such as intellectual property rights.

The Bill will apply to all transactions which create an interest in personal property that secures a loan or other obligation.

Secured finance using personal property is a major area of business for Australia’s banking and finance sectors. And borrowing using personal property has the potential to assist businesses to grow – particularly small and medium sized businesses.

The Government’s reform in this area recognises the need to make it easier for businesses to use personal property to obtain finance. Given the current uncertainty in global financial markets, improving the capacity of businesses to borrow is crucial. And, of course, this is bound to have positive flow-on effects in terms of job growth and overall productivity.

The Bill will more closely align Australia’s secured transactions law with that in other jurisdictions. In doing so, it will increase the confidence of international investors and creditors in Australia’s secured transaction law and should make it easier for Australian businesses to secure finance in international capital markets.

Why reform is necessary

Personal property securities reform is necessary to facilitate investment and to ensure Australia remains a competitive economy both domestically and in the international arena.

The complexity of the existing secured lending arrangements, and the lack of consistency between them, is a major source of uncertainty.

By harmonising existing laws, the Bill will reduce that complexity and increase consistency in the arrangements for creating, dealing with and enforcing security interests in personal property.

In streamlining lending arrangements in this way, the Bill will provide greater certainty for both lenders and borrowers. It will lower the risk for lenders, improve the efficiency of secured financing and increase competitors among providers of finance.

Under the functional approach implemented by the Bill, a security interest will be a transaction that ‘in substance’ secures payment or performance of an obligation.

The Bill will focus the law on the real or economic effect of the transaction and not on the legal form of the borrower or the financial arrangement, or the location or nature of the property.

The reform will be supported by a single national online register of personal property securities replacing the existing confusing array of both electronic and paper-based national, State and Territory registers.

This is twenty-first century reform for twenty-first century circumstances.

The Bill takes advantage of the technology available to us in this digital age, by creating a real-time online noticeboard of personal property over which a security interest has been, or may be, taken.

Users will be able to search the Register via a web browser, or, alternatively, via their mobile phone using SMS message connectivity.

This is in stark contrast to some of the registers that are currently used for recording an interest in personal property. There are, for example, paper registers that have been around since the 1920’s and 30’s, which continue in use today.

If nothing else, this Bill will simplify things – not just from the perspective of convenience, but also from a costs perspective.

A telephone contact centre will also be available to facilitate access to the Register.
The Bill also includes transitional arrangements to transfer the data on the existing registers to the new personal property securities register. The migration of data will take place before the Register goes live and is available to the public.

History of PPS reform

I might just say a few words about the history of reform in this area.

It has had a long history in this country, with initial discussions about personal property securities reform commencing in the early 1970s.

In June 1990, the then Attorney-General Michael Duffy referred a review of the adequacy of personal property securities law to the Australian Law Reform Commission.

In 1995, Attorney-General Michael Lavarch released a discussion paper on the draft legislation and issues raised in the ALRC’s report.

This began a process of further development of reform options through several options papers and extensive consultation with stakeholders right across the country.

At this point, I should acknowledge the contribution of my predecessor, the Member for Berowra and former Attorney-General, Phillip Ruddock, who was genuinely interested in this reform and who made sure it was given the priority that it deserved.

It would also be remiss of me not to acknowledge that this reform is being pursued by all Australian Governments through the Council of Australian Governments.

In April 2007, COAG endorsed the need for a national system to deal with the creation and enforcement of security interests in personal property.

COAG signed an inter-governmental agreement in October 2008, making clear its commitment to this issue.

Since then, personal property securities reform has been included as part of the ‘Seamless National Economy’ National Partnership Agreement reached between the Australian Government and the States and Territories.

In November 2008, a draft Bill was referred to the Senate Legal and Constitutional Affairs Committee. That Committee considered the Bill and consulted with stakeholders over a number of months.

The Committee tabled its report on the draft Bill in March this year, and made a number of recommendations for improving the Bill.

I am pleased to say that the Government tabled a reply to that report in the Senate last week, accepting or agreeing to give further consideration to all of the Committee’s recommendations.

Following from this, the Bill has been reviewed to simplify its language and structure. It is more consistent with comparable legislation in Canada, New Zealand and the United States, while taking into account some of the unique circumstances surrounding Australian consumer law, commercial practices and recent technological advances.

Privacy concerns raised by the Committee have also been addressed.

In addition, the Government has carefully considered the Committee’s recommendation to delay implementing the new register to May 2011.

The significance of this reform for business cannot be underestimated and the Government is committed to making sure business and the financial sector are prepared for the reform – particularly in view of the realities of the economic situation faced by business in the current climate.

The Government will consult with the States and Territories about the most appropriate start date for the reform and should be in a position to make an announcement about this shortly.

I wish to extend my thanks to the members of the Senate Legal and Constitutional Affairs Committee for their work and their recommendations on the Bill.

I mentioned before that the Bill has been the subject of extensive consultation. In fact, the private sector has been heavily involved in developing the bill right from the start.

The support shown by members of the Personal Property Securities Consultative Group, the business community, the legal profession and the banking and finance sectors has been invaluable.

And the contribution of the many professionals who have commented on the Bill has helped shape this into a Bill that meets the needs of Australian businesses.
The co-operation of State and Territory governments in advancing this reform has been essential. The Standing Committee of Attorneys-General has played an important role in the development of this bill, and I am encouraged by the commitment of my State and Territory colleagues to the process of legal harmonisation.

The measures contained in the Bill not only demonstrate this Government’s commitment to deregulation, but also demonstrate the continued cooperation between the Commonwealth, the States and Territories on regulatory reform.

This Bill demonstrates precisely the kind of thing that can be achieved by the simple act of Governments working together to bring about the kind of reform that is absolutely essential to a modern, functional economy.

Given the constitutional arrangements in this country, the Personal Property Securities Bill will be supported by a referral of legislative power by the States and I am pleased to say that the referral process has already begun.

The first of the State referral bills was passed by the New South Wales Parliament last week. I look forward to the remaining States passing their referral legislation shortly.

Specifics of the bill
I turn now to a few specific aspects of the Bill.

All kinds of personal property will be covered by this Bill, subject to some very limited exceptions such as fixtures and water rights.

These kinds of property have been excluded as there are existing schemes in place to deal with security interests in them.

The Bill will also establish the offices of Registrar and Deputy Registrar to oversee the personal property securities register and its functions.

The Bill provides default rules for the creation, priority and enforcement of security interests in personal property. The Bill deals with most aspects of personal property security transactions, such as when they are enforceable between the parties and against others, how a priority dispute will be resolved, how they are enforced and when security interests will be extinguished.

It goes without saying that having one law in this area will significantly simplify personal property security arrangements and make it easier for parties to establish and arrange the terms of their particular security agreement.

Conclusion
As I have said, the Personal Property Securities Bill will increase certainty for all users of secured finance by removing barriers that inhibit businesses and individuals from securing credit over personal property.

By reducing complexity and introducing greater consistency among the different kinds of secured finance, the Bill will generate wide ranging benefits for all parties who secure personal property to raise finance.

This Bill will meet the needs of businesses and other users of secured finance. It will simplify the way they conduct their business and, more importantly, it will contribute to the growth of productivity and jobs in this country.

I commend the Bill.

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.

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

ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

Motion for Disallowance

Senator COLBECK (Tasmania) (10.29 am)—I move:

That the Inclusion of ecological communities in the list of threatened ecological communities [Lowland Native Grasslands of Tasmania], made on 18 June 2009 under section 181 of the Environment Protection and Biodiversity Conservation Act 1999, be disallowed.

The disallowance motion that I have just moved constitutes a very important issue for farmers, particularly those in the northern Midlands of Tasmania and also in other areas of the state. This matter demonstrates, as we on this side have said so many times in this chamber before, the way that the Labor gov-
ernment deal with farmers in Australia and their attitudes towards these farmers, particularly their lack of consultation and the way they are prepared to ride roughshod over the rural sector. You really have to wonder what the government have got against Australia’s farmers. We saw this with the removal of the 40 per cent rebate on AQIS fees and charges where the government just made a decision to go ahead with that—there was no consultation; they just took it away, effectively putting an additional 60 per cent burden on farmers from AQIS export fees and certification processes and then telling farmers that they needed to pay for the government to reform itself.

We saw it over summer last year in Tasmania with the Minister for the Environment, Heritage and the Arts, Peter Garrett, when farmers wanted some water out of a couple of lakes in the Clyde catchment, and Peter Garrett would not even speak to or meet with these farmers. He came to Tasmania on five occasions during that period of time. He came down in October last year to visit the CSIRO offices in Hobart, to announce a new marine species, with some happy snaps and some smiling faces. He came down in November for the community cabinet. He came down in January, to see the Tasmanian Museum and Art Gallery state collection and to announce a reserve, with more happy photos and smiling faces. He came to launch a Tasmanian Symphony Orchestra CD with more happy shots. He came down in May this year to announce $2½ million would be spent on some convict site protections. But not once, despite invitations and requests to come and have a look at the sites, did he go near the farmers in the Clyde catchment.

Here we have in this circumstance the minister listing lowland native grasslands in Tasmania as critically endangered, again without the support of farmers, and, according to the Tasmanian government, without due consultation. In fact, according to the member for Lyons, Mr Dick Adams, it was without due process. Mr Adams said, in his press release of 26 June, when this announcement was made:

“We should work towards voluntary conservation with incentives and if the only way to have conservation of a particular area is to pay for it, then that is what should occur.

We have seen nothing like that in the interim. Mr Adams said:

“The farmers have gone through enough lately with the drought and all the trauma that was associated with that. Now this new threat looming is not reasonable and I will fight it.”

Mr Adams continued on to say he was now working with the minister. So he is no longer fighting it. He has conceded that this measure will go through. He is not prepared to stand up for the constituents in Tasmania whom he has told he would fight it. So he is doing one thing in Tasmania and doing something else here in Canberra. He said:

“It is not good enough to prevent farmers from using their land in an economic way and not compensating them.

When Mr Garrett made this listing back in June, he suggested to the farmers that they should apply for Caring for Our Country funding to assist them with this process. You can imagine the farmers’ surprise when a week later—a week after the announcement and Mr Garrett’s saying to the farmers, ‘Go away and apply for some Caring for Our Country funding’—Mr Garrett rejected an application by the farmers through NRM North, in cooperation with other regional NRM groups, for funding to do just that. So Minister Garrett does not consult, surprises everybody, including the Tasmanian government—and I will come to that in a moment—says, ‘Apply for Caring for Our Country funding to assist you with the problems that you have,’ and then a week later rejects the application. What are farmers
supposed to think? What are farmers supposed to do?

Tasmanian Minister David Llewellyn wrote to Mr Garrett and made some very salient points, one of which was:

As your own threatened species scientific committee notes in its advice, private landholders play a critical role in the conservation of grassland.

That is certainly the case. In fact, a lot of these grassland communities would not exist but for the fact that landholders continue to care for them. Mr Llewellyn also said:

I am also extremely concerned that your decision—

to list—

has not taken into account the available evidence. It is particularly disappointing that, in deciding to include POA grassland that occurs on the slopes as a result of past clearing of derived or induced grasslands, you have ignored the advice provided by my department. This advice was based on extensive and detailed field work which concluded that POA grassland on the slopes did not meet EPBC Act criteria. I ask you to explain why you consider it necessary to list derived grasslands and urge you to reconsider the listing in light of this information. I note that in your letter you state that funding to protect and restore threatened ecological communities is available to landholders and the community through the Australian Government’s Caring for Our Country package.

Yet we already know that they have rejected such an application. So against advice Minister Garrett has gone ahead and listed this. Mr Adams says he is out there fighting, he is working really hard and he is going to support the farmers—but now he is working with the government and in the period since June, when the listing was made, we have seen nothing.

Yesterday I received communication from a farmer—a landowner at Swansea. He has managed the property that he lives on for the last 40 years and which his family has managed since 1846. He says that he is disgusted and disappointed about the way in which this listing has come about. He was not consulted. Even to this day, he has received no letter or contact from departmental or government officers, and yet the jackboots are walking all over his farm. This guy is not a mad farmer—he does not run off doing crazy stuff on his property. In fact, he has an extraordinarily proud record of preserving and working on his land, with not only productive land management but also conservation projects on his land. He has worked with NRM South and his local council on landcare issues; he has fenced off his riparian areas to protect waterways; he has dedicated areas to the private forest scheme; and he has on-sold to the Tasmanian Land Conservancy, with covenants for future protection, among many other things. This farmer is a progressive farmer, working to look after his property because he knows the benefits of doing that. He has also been president of his local Landcare committee, so obviously he is not anticonservation, but he is very much against the process that brought about this listing.

There are things that he believes could and should have been done. He, as someone who is living on the land, working on the land and protecting the land, makes sense. He would like to see clear and accurate identification of the areas in question. He says there has been no ground-proofing and that the areas listed on the DPIW website in Tasmania are grossly inaccurate, so the government does not know what it is declaring. There should be considered discussions and wide consultations of what sorts of management practices are needed. It does not have to be a lock-up so that these grasslands can never be utilised. They can be utilised but with careful management. That is what he says. He wants to continue to carefully manage these grasslands.

The opinions of the landowners should be considered. These people know the land and
they work with the land. I have seen what they have done in Tasmania. The north-facing slopes project that was developed in the southern Midlands in Tasmania has had a brilliant outcome: high productivity for the farmers, greater conservation of the grasslands and a better return for everyone. Yet that was funded through the NHT process—a cooperative process with the farmers. It is Mr Cotton’s view that this process has set landcare back 20 years. He is not a radical. He works actively to protect his property for generations after him. His family has been there since 1846; he has been there for 40 years. He wants to see future generations of his family continue to work that parcel of land.

I find it absurd that we continue to have processes where the jackboots come out with respect to agriculture. This government is continuing to trample all over them, against the advice of the Tasmanian government, without consultation with landowners and without consultation with farmer groups. It just does not seem to add up. The local member says it is a bad idea and that he will fight it, and yet what do we get? Peter Garrett just wants to continue with the listing process. The lands are not even properly measured. It just does not seem to add up to me that we should continue with this process.

It has been said that what we are proposing in the chamber today is nothing more than a stunt. I can assure Mr Adams that this is serious. This is about working cooperatively with farmers. I have been to meetings where they have wanted to talk about how they manage their lands. They have insisted for a long time that they are more than happy to work with governments—not have the jackboots roll across their farm—to continue to maintain their properties. The environment department recognises that itself, and yet here the minister is happy to trample across these properties without consultation and without measurement to properly identify how this process could be taken forward, and then he knocks back the funding that he invited the farmers to apply for to do the work. I cannot see why these regulations should be allowed to continue.

Senator MILNE (Tasmania) (10.42 am)—What we have here today is a terrible precedent. I do not know if Senator Colbeck, the Liberal Party, the Tasmanian member for Lyons, Mr Adams, or Mr Llewellyn, the minister in Tasmania, know the full consequences of what they are doing. It was the Howard government that passed the Environment Protection and Biodiversity Conservation Act. It was the Howard government that set up the process by which areas could be listed as threatened under the EPBC Act. There has never been a precedent for the disallowance of an area recommended to go onto a threatened species list since the act was introduced. This would set a precedent whereby political decisions are made to destroy the integrity of the threatened species lists associated with the EPBC Act. Henceforth, anytime anyone does not like a threatened species listing, they will be able to use the parliament to block it, so you will get only those things on the list that are deemed to be politically acceptable, and that would be wrong. This would set the worst-case precedent.

I am no fan of the EPBC Act. At the time it was introduced by the government, I was one of those who said that it was a terrible piece of legislation and that it would not protect threatened species. That has been proved time and time again, no more so than in recent times when my colleague Senator Bob Brown went to the Federal Court to demonstrate the complete failure of the EPBC Act to protect threatened species because of its deference to the regional forest agreements. That was a whole court process, and gov-
ernments came in behind it and altered the law in order to destroy the court decision that Senator Brown had achieved. But the fact of the matter is that we do have the Environmental Protection and Biodiversity Conservation Act and the integrity of its threatened species list is critical.

At the minute, we are in Biodiversity Month. I think it is really interesting that in Biodiversity Month—7 September is Threatened Species Day—we should have the Tasmanian Liberal senators, the Labor member for Lyons, Mr Adams, and the Tasmanian minister, Mr Llewellyn, trying to stop the lowland grasslands of Tasmania being added to the threatened species list. No-one, it seems, is disputing the fact that these grasslands are threatened species. This is a political argument as to whether an identified threatened species should be listed, and the Liberal Party and the National Party are saying, ‘No, it should not be listed.’ That is wrong. It is a political decision.

The evidence has been gathered over three years. This was first nominated for listing in 2006, and there has been, contrary to what has been said, extensive consultation. Senator Colbeck has identified one property owner who says that he was not consulted. I have no reason not to believe that that is the case, and there may be others. Nevertheless, three years of consultation and assessment have determined that these grasslands are threatened, and they are of national importance. The temperate grasslands are one of the most underrepresented ecosystems in Australia’s conservation estate, according to Gilfedder et al, 2008. They are recognised as one of the most threatened vegetation types, according to one of Tasmania’s leading academics, Jamie Kirkpatrick. In February 2009, only four natural temperate grasslands had been formally listed as threatened under the EPBC Act: the natural temperate grasslands of the Southern Tablelands of New South Wales and the Australian Capital Territory, which are listed as endangered; the iron-grass natural temperate grasslands of South Australia; the natural temperate grasslands of the Victorian volcanic plain; and the natural grasslands on the basalt and fine textured alluvial plains of Northern New South Wales and southern Queensland.

The remnant lowland native grasslands of Tasmania are regarded as one of the most threatened and fragmented ecosystems and the most depleted vegetation formation in Tasmania and they deserve to be listed. The evidence is there, the assessment has been done and they are not currently listed as a threatened vegetation community under the Tasmanian Nature Conservation Act. Why is that? I assume it is because of our minister, Mr Llewellyn, who has the proud record of being the person who has most proactively throughout his entire parliamentary career done everything in his power to destroy conservation efforts in Tasmania to promote the logging of as much native forest as he could possibly facilitate. He has also acted against the interests of maintaining species through his proactive prosecution of the case for every development under a Labor government policy of dig it up, cut it down, build a road into it, put a resort on it or shoot it. That has been the conservation policy prosecuted by the Tasmanian government. It does not surprise me one iota that they would object to the listing of these grasslands, but these are one of the most threatened vegetation communities.

The Tasmanian Midlands, one of the main areas where the lowland native grasslands of Tasmania are found, is one of the 15 national biodiversity hotspots declared by the Australian government, but the Liberal Party senators and the National Party senators want to deny one of these hotspots listing under the act. In addition, the grasslands and the orchids, herbs and reptiles that depend on them
are identified as one of the conservation priorities for the Tasmanian Northern Midlands in the Australian Natural Resources Atlas biodiversity assessment of Tasmania. The grassy ecosystems in the Campbelltown-Ross Tunbridge areas of Tasmania are considered to be particularly important. The township lagoon nature reserve at Tunbridge is a 16-hectare site listed on the National Estate that contains lowland grasslands. The 116 native species found in the reserve represent approximately 15 per cent of the 750 native plant species of grasslands in Tasmania. Significant populations of a large number of threatened species at the national or state level can be found in the reserve. These include Basalt peppergrass, grasslands paper daisy, Tunbridge leek orchid, Tunbridge Buttercup, the tussock skink and the Tunbridge looper.

In addition to their value as a habitat for endemic and threatened species, the lowland native grasslands of Tasmania are an economically valuable resource for Tasmania’s agricultural sector. I notice that Senator Colbeck did not mention that, but they are used in the wool industry, where around half of Tasmania’s high-value fine-wool sheep graze on native grasslands. This talk about jackboots and locking up fails to recognise that that use will continue in spite of the listing of the grasslands as a threatened species. Native pastures are known to produce some of the finest wool, due to their low nutritional value and more even growth through the year when compared to sown pastures. The natural wildflower displays of some remnants in spring may also offer future ecotourism potential.

The interesting thing about the native grasslands is that one of the most threatening processes to these grasslands—and there are many—is climate change. At the awards ceremony the other night for young scientists involved in agriculture, fisheries and forestry, one of the awards was for a young person doing research on perennial grasses. We know that we need to be maintaining, looking after and looking at perennial grasses as a mechanism for sowing into them. There is a lot of work being done in New South Wales using native perennial grasses as a way of improving agricultural systems. These native grasses must be conserved for their own sake and for the species they support and also because they can potentially have significant use in agriculture.

I mentioned that there were many threatening processes. You would assume, from what Senator Colbeck said, that there was none. The main identified threats to the ecological community include: clearing and conversion of land, and consequent fragmentation of native vegetation remnants; pasture improvement and fertilisation; invasion by weeds and feral animals; inappropriate grazing and fire regimes; urban expansion; off-road-vehicle disturbance; salinity; and the low level of protection in reserves.

Of course, those things are still impacting on threatened species and threatened communities as we speak today. You only have to drive into any service station on the Midland Highway at any particular time to see off-road vehicles covered from head to toe in mud and dust from being out there in the bush, ripping up the bushland as fast as they possibly can. And that is encouraged by car industry advertisements suggesting that that is an appropriate way to engage in recreation in the countryside—by taking a vehicle in there and seeing how much mud and slush you can get all over the top of it.

Invasion by weeds and feral animals is really significant, but remember also that these grasslands provide incredible habitats for species that are threatened. We already have, on the threatened species lists federally, the wedge-tailed eagle in Tasmania, the...
spotted-tailed quoll, the tiger quoll, the eastern barred bandicoot, the Tasmanian devil and the Bass Strait wombat. All of them are vulnerable except for the wedge-tailed eagle, which is endangered. And all of those rely on habitat. They are known species in the landscapes and vegetation communities near or inside these ecological communities that need to be protected.

So when you say you will not allow these to go onto the threatened species list you are saying that the habitats for some of these iconic native species, already vulnerable or endangered, should not be allowed to be registered on a national list. What a disgrace! What a shame! We had the Minister for the Environment, Heritage and the Arts saying recently that it has got to the point where we have more than 1,750 species in Australia listed as threatened. And now we have a situation where many of them are on the road to extinction—one of those being the Tasmanian devil, which is suffering from devil facial tumour disease. There are many diseases in our wildlife.

We are losing wildlife at a great rate. The International Union for Conservation of Nature—which I retired as vice-president from last year—is the global expert on environment policy and it predicts that one-third of all species on the planet will be extinct by 2050. And people say: ‘Well, that must be referring to the polar bear, which will be extinct in the wild in the next 15 years. That’s a shame; we can go to the zoo and see a few sad creatures as long as they last.’ But Australia is contributing to that one-third of all species which will be extinct. We have the highest rate of mammal species loss in the world. This is a disgrace. And it has happened because governments have successively failed to protect our native ecosystems—whether they are wetlands, forests, grasslands or marine environments—because always, when it comes to a choice between extracting as much as possible in an unsustainable way out of those ecosystems and protecting them, extraction is what is preferred under legislation at a state and national level. That has certainly been the case in Tasmania and continues to be the case there.

At last we have recognition of the work of Professor Jamie Kirkpatrick and Louise Gilfedder. I have to say that they have worked tirelessly for decades to have grasslands recognised as a significant threatened species. Often they have said that, whilst they totally support the movement for the protection of high-conservation-value forests, they worry that the forests have really taken the focus off the critically endangered nature of our grasslands. At last we have here before the Senate the prospect that these grasslands might be listed under the Environment Protection and Biodiversity Conservation Act. But, no, we have the Liberal Party and the National Party, in what is becoming a fault line in rural Australia, trying to set a precedent under our conservation legislation to prevent the listing. It would be a political precedent under this act.

Why do I say that there is a fault line in rural and regional Australia?—because out there we have progressive farmers who recognise that what is driving extinction, loss, and a lack of productivity is the unsustainable way in which Australia has managed landscapes in the past. Senator Colbeck mentioned one of the progressive farmers on the east coast who are engaged in all of these activities—fencing remnant vegetation, fencing riparian areas, working in land care and so on. Those people want natural resource management and ecological sustainability to be a key part of that process. They recognise feral animals and weeds as a great problem, not only to productivity but to biodiversity. They recognise that climate change is real and urgent and adding pressure. Those peo-
ple are turning around and saying, ‘Why is it that those people who purport to represent rural and regional Australia are failing the bush—the country—so badly by not recognising that if you do not have a sustainable environment you do not have productivity in agriculture?’

As long as they have climate change denial, opposition to conservation and a refusal to recognise the plight of endangered species, you will see the Liberal Party and the National Party continue to lose support in the countryside as people there recognise that they need to go with progressive thinkers on climate, ecosystem protection and the kinds of research that will guarantee productivity whilst protecting animal welfare, ecosystems and species. That is where the fault line is developing.

Increasingly, we see the dinosaurs emerging. This disallowance is a dinosaur disallowance. It purports to represent farmers. I do not believe that, because the consultation that has gone on over the last three years demonstrates that there is support. Where is there a coalition of interest in terms of this is between the conservation movement and the farmers who say that we must pay people in rural Australia to maintain ecosystems and to carry out ecosystems services on behalf of the whole community. I recognise that people think that one of the problems with the emissions trading scheme is that it fails to look at green carbon and ways in which you might pay farmers—make money available—for weed eradication, eradication of feral animals, restoration of native vegetation and restoration and rehabilitation of bushland on their own land. I could not agree more. The conservation movement and the farmers are actually as one in recognising that that needs to happen.

I urge the Senate to recognise that, if this disallowance happens to be passed—and I hope that there are enough progressive people in here who recognise that that would be a backward step so it is not passed—you will be disembowelling the EPBC Act. You will be setting a precedent whereby stopping a listing of a threatened species becomes something that people who want to develop at any cost around the country will be able to do by coming to a political party that is prepared to go with a predevelopment-at-any-cost argument against the environment. This is a shocking precedent and I urge the Senate not to support this disallowance.

Senator XENOPHON (South Australia) (11.01 am)—I will reflect on what Senator Milne said about this being a shocking precedent. I take issue with Senator Milne: it is not a precedent unless it happens. In relation to the EPBC Act, I want to express my concerns in relation to the north-south pipeline, the so-called Sugarloaf pipeline in Victoria, which is planning to take 75 billion litres of water out of the Goulburn River—which is struggling, as is the entire Murray-Darling Basin. I look forward to hearing from the minister shortly. We are having discussions with the minister’s office in relation to the EPBC process around that particular pipeline. The EPBC Act has important work to do to prevent environmental catastrophes, to prevent sometimes irreparable environmental damage. I am grateful for the discussions that I have had with Senator Colbeck and Senator Brown and the material that I have received from the minister’s office in relation to this.

This is a decision that has been reached as a consequence of an independent process under the act. It is a decision that has been reached by independent scientists on the Threatened Species Scientific Committee. It is a decision that has been reached as a result of consultation. I do not think that there is an issue so much about consultation with respect to the process; there are concerns in
relation to the outcomes and the ramifications of the decisions. But it is fair to say that the decision that has been reached followed due process. It followed the advice of an independent panel that includes some of Australia’s leading scientists. There was wide expert and public consultation, as required by the act.

The concern is that these grasslands are critically endangered because they have undergone a severe decline, have a very restricted geographic distribution and continue to be threatened. Voluntary mechanisms have been insufficient to ensure the protection of this ecological community. These grasslands provide a habitat and resources for some 20 nationally listed threatened species and 60 state listed species, including the Tasmanian devil. It is also fair to say that this regulation does not prevent farmers and other land managers from continuing to use land for farming as they have always done. But I acknowledge the point that Senator Colbeck has made, that where there needs to be change in land use, such as for irrigation, these regulations will apply—hence the concerns in relation to that.

I note the comments of the Tasmanian Labor member Dick Adams, who has been quite critical of these changes in the media. He has as recently as 27 June this year been quoted in the Hobart Mercury saying that he is angry with the federal government not considering the need to compensate affected farmers and that it simply is not reasonable to go down this path. Farmers need to do something about their drought-ravaged land through irrigation. I can consider the arguments. The policy imperative here is to look at what the effect will be if these species are destroyed and if these grasslands become further damaged.

That is why, as a result of discussions that I have had with the minister’s office—and I am looking forward to the government indicating this and putting this on the record formally—the government will look at a number of processes to deal with the concerns of farmers, including, firstly, setting up a hotline number so that they can discuss their concerns with the department as well as a liaison officer with the National Farmer’s Federation and, secondly, making available officers to carry out on-site visits and to provide information to potentially affected farmers. Reflecting on that, both Senator Colbeck and Senator Milne, even though they have come at this from quite different positions, have talked about those farmers who are innovators and who are willing push the envelope in terms of working with the land. I do not think that that is ideological in any sense. It does not have anything to do with the politics of the farm; it has to do with wanting to look after the land. Those farmers should be encouraged and commended.

Thirdly, the Australian government is willing to undertake, with the cooperation of the Tasmanian government, a strategic assessment of the midlands regions, a process under which planning can be carried out on a regional scale in consultation with local communities and other stakeholders, taking into account a broad range of matters, including the concerns of regional communities. I see that as a mechanism whereby the concerns that have been expressed by Mr Adams on behalf of his constituents could be ventilated appropriately in a constructive way so that these matters could be dealt with.

Fourthly, the government will undertake a strategic assessment of this kind under the act that would benefit farmers by reducing red tape and clarifying future development opportunities for rural communities wherever grasslands are located and, at the same time, provide better protection for the fragile grassland environment. Fifthly, the Australian government is willing to commence its
assessment, with Tasmania’s cooperation, before the end of this year and that a report on the impacts and proposed management arrangements could be publicly released within six months of that commencement.

I think that all of these measures, and I am looking forward to the government confirming them, keep the integrity of the regulations in place but take into account the concerns of some of the stakeholders and communities. I think, in some cases, these measures will allay those concerns by enabling better communication. If this review indicates that there is a need for some adjustment—not to the regulations but in terms of allowing communities to adjust—then so be it. That is a matter for another day.

I think this is a constructive way forward. I acknowledge what Senator Milne says: that we need to look at this process very seriously and that we need to keep the integrity of the EPBC process. I believe the process has had integrity, but I also acknowledge that, insofar as there have been concerns expressed by local communities, these can be dealt with adequately in the manner which I understand the government will set out shortly. If that is the case, I cannot support the disallowance. However, I commend Senator Colbeck for raising this because I think it is legitimate to raise concerns. I think it is legitimate to ventilate concerns of communities, but I believe these concerns can be adequately dealt with by the measures that I have set out. I think it is important that these grasslands be protected, given the impact they have on a number of endangered species.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.09 am)—I will not take long. There is a very noticeable fault with the Environment Protection and Biodiversity Conservation Act, which, as Senator Milne indicated, was brought through by the Howard government. You can describe the fault this way. You can disallow the listing of rare and endangered species, habitats and ecosystems, which have gone through a very long and rigorous scientific assessment, analysis and potential listing process, as has occurred with these critically endangered grasslands in Tasmania. However, for the many, many species, habitats and similar places which are critically endangered and which are, as governments come and go, being lost forever in Australia, there is no process for us to bring them up and get them listed. It still has to go via the minister. The whole thing is completely loaded against the environment.

But here we are with this provision that no listing can occur without there being a political opportunity to use numbers to knock it out. I am aware—you will not be, Acting Deputy President, because you do not have to cross Bass Strait— that it is almost impossible to get a plane seat to Tasmania this weekend. You have to ask: sporting activities and other things aside, why is that? It is because of the global economic situation. Many, many Australians on the mainland want to spend holiday time in Tasmania. In fact, the hospitality industry is doing very, very well and thousands of jobs are being created and supported by it. The airlines have not been able to keep up. Why is that? It is not just an accident at this cool time of the year. It is the sheer beauty and international reputation of Tasmania’s wildness and the preservation of its natural assets.

We have a choice here whether we are simply going to be exploiters, as in the past, or guardians, which is the way of the future—and also where the economy and the jobs are. That it is not understood by last-century thinking, the last-century thinking which disparages all that, does not understand the new economy, does not understand where the jobs lie these days, and is inherent in this motion coming from Senator Colbeck.
It is part of an old, but weakening, political culture, not just in Tasmania but elsewhere in Australia.

Senator Milne mentioned the protection of grasslands on the Southern Tablelands, in South Australia and elsewhere. The question we might put to Senator Colbeck is: can he demonstrate where that has been against the interests of local communities? I might put another question. We have had the state government come up with a proposal, and it gained national prominence quite recently, for turning the very region we are talking about into the so-called food bowl of Australia by diverting rivers and waters from western Tasmania into one of the driest regions of Tasmania. These are the very areas where the grasslands we are talking about are. This would presumably change one of the richest fine wool growing areas in the world into a highly irrigated, food-producing area, with as yet unspecified crops. This would be a complete change of land use, which inevitably means a complete change to the natural pattern of those lands and the elimination of the cohabitation of the existing productive grasslands—their replacement with a new form of industry which would see, perhaps, the elimination of some of these grasslands.

I ask: where was the consultation about that? Where is the environmental assessment, let alone the economic and social assessment? Who has consulted with the Indigenous people, who occupied these regions for thousands of years, let alone with the townpeople of Campbelltown, Tunbridge, Ross and the other townships—Jericho and the other townships of the Midlands—or with the people on the land who absolutely love their land as it is. These people on the land are extremely proud of the fact of the persistence of rare, endangered and very, very special natural attributes. They are taking on, with a great deal of enthusiasm, the roles of ensuring that the grasses, the orchids, the skinks, the butterflies, the eagles, the devils and the whole wondrous natural amenity are going to be there for future generations and of warding off the coming inevitable threat—the millions of people coming to Tasmania to enjoy its naturalness.

That is what is at threat from this very poorly-thought-out motion from Senator Colbeck. It runs against the economy and the job creativity, which is now established as Tasmania’s greatest boon for the future. Tasmania is on the threshold of a magnificent future based on its naturalness and its heritage, including its human-built heritage, which are very, very rare in this highly crowded, highly destructive human community that we have on the planet at the moment. There are 6.8 billion people at the moment, there were 2.5 billion when I came onto the planet and there will be nine or 10 billion by mid-century on this very, very stressed planet. Here we have a jewel but somebody says, ‘Well, let’s make sure we vouchsafe that jewel,’ and immediately there is this political reaction saying, ‘No, we will not be part of that process.’ It is pretty disappointing that Senator Colbeck has brought this motion forward. It is pretty disappointing that there should not be a thirst and a wonder and an excitement and enthusiasm about protecting these fabulous remnant grasslands and their ecosystems in Tasmania.

Senator Stephens (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (11.16 am)—I will just make a few comments about the government’s position on this disallowance motion. Of course, we are not supporting it, for some very important reasons. Fundamentally, the most critically important of them is that, as Senator Milne so rightly pointed out, the effect of this disallowance motion would be to destroy the integrity of the EPBC Act,
and I do not think that would be in the interests of anyone.

When listening to Senator Colbeck’s contribution to the debate in speaking to his disallowance motion, I was intrigued to note that he did not acknowledge that the lowland native grasslands of Tasmania were publicly nominated for assessment in 2005, not only when he was a member of the government but in fact when he was the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry. The decision to list the lowland native grasslands of Tasmania as a critically endangered ecological community under the EPBC Act followed a very rigorous, transparent and fair process that is set out in the legislation. Minister Garrett’s decision to list the grasslands was informed by the advice of the Threatened Species Scientific Committee, an independent panel that includes some of Australia’s leading scientists. Senator Milne described the influence and capacity of those scientists, and we appreciate that.

The scientists spent over three years carrying out a very rigorous scientific assessment of the grasslands. In that time there was wide expert and public consultation, as required by the EPBC Act. In particular, the outcomes of the Tasmanian government review of the grasslands in 2008 were taken into consideration, as was the latest vegetation mapping data provided by the Tasmanian government. The input from the experts and the listing advice received from the scientific committee showed that the grasslands are of national importance and that they are critically endangered because they have undergone a severe decline in extent, they have a very restricted geographic distribution and they continue to be threatened. There has also been a severe reduction in the ecological community’s integrity because of fragmentation, weed invasion and the loss of species diversity. Again, Senator Milne spoke to those very issues.

The assessment of the grasslands clearly demonstrates that they meet the criteria for listing under the EPBC Act. I note that the Tasmanian government review also came to that conclusion. It highlighted that the loss of remnant grasslands has continued at a considerable rate in recent years. This indicates that voluntary mechanisms alone have been insufficient to ensure the protection of this ecological community. The remnant lowland native grasslands of Tasmania are regarded as one of Tasmania’s most threatened and fragmented ecosystems and the most depleted vegetation formation in Tasmania because more than 83 per cent of the grasslands have disappeared since European settlement. Protection of the grasslands is also vital. Senator Milne described the habitat and resources of more than 20 nationally listed threatened species and 60 state listed species, including the iconic Tasmanian devil and the other species that she drew from the threatened species list. It is critical to support the broader ecosystem and habitat of those species as well.

Senator Colbeck made, I thought, some fairly rash statements about the impact of this listing on farming. It is very important to emphasise that the listing of the lowland native grasslands of Tasmania will not prevent farmers and other land managers from continuing to use land for farming, as they have always done. We know that some of the best wool in Australia comes from this part of Tasmania and half of Tasmania’s sheep graze on those native pastures. The listing does not prevent farmers from continuing with existing sustainable grazing principles and practices. Farmers will only need to seek approval for actions that significantly change or intensify their activities, and that is fair enough in circumstances where these new or intensified practices are likely to signifi-
cantly impact on the critically endangered grasslands? There is an assessment process under the EPBC Act for any new or intensified activities that may have a significant impact upon the listed ecological community. Approval for such actions would only be withheld if significant impacts on the critically endangered grasslands could not be avoided.

As Senator Xenophon contributed in his remarks, the Australian government is aware of the concerns about the impact of listing on farmers who may have listed grasslands on their property and has committed to taking a number of actions to assist these landholders. Firstly, the Australian government is setting up a special hotline number for potentially affected farmers to discuss their concerns with an officer of the Department of Environment, Water, Heritage and the Arts currently stationed as a liaison officer with the National Farmers Federation.

Secondly, the Australian government will make departmental officers available to carry out site visits and to provide additional information to potentially affected farmers. Specifically, departmental officers will be able to help farmers determine whether the ecological community is present on their properties and whether any proposed changes to their land use are likely to significantly impact on that grassland. In addition, an information guide is currently being finalised to supplement the listing advice that is already available. This advice will help people understand the reasons for the listing, how to recognise and manage the ecological community and the implications for landowners. This information guide will be widely distributed. As both Senator Brown and Senator Xenophon commented, the issue here is really about land management and stewardship. We acknowledge that those good farmers who engage in sustainable farming practices are very mindful of these processes, as is the farmer that Senator Colbeck spoke about. He is obviously someone who takes his responsibility for land management very seriously.

Thirdly, the Australian government is willing to undertake, with the cooperation of the Tasmanian government, a strategic assessment of the midlands region. Under this process, planning is carried out at a regional scale, in consultation with local communities and other stakeholders, and takes into account a broad range of matters, including the concerns of regional communities. A strategic assessment of this kind under the EPBC Act would certainly benefit farmers by reducing red tape and clarifying the future development opportunities for rural communities where the grasslands are located. At the same time, it would provide better protection for the fragile grassland environment. The Australian government would be willing to commence this assessment, with Tasmania’s cooperation, before the end of this year. The government anticipates that a report on the impacts and proposed management arrangements could then be publicly released within six months of commencement.

The government recognises the vital and valuable role that private landholders have played in the conservation of native grassland remnants and believes that the listing of the grasslands can complement other conservation measures in ensuring its survival for the benefit of future generations.

I would like to touch on some of the specific claims that Senator Colbeck made in his contribution—one of which was about lack of consultation. I want to put on the record that the picture that Senator Colbeck painted about lack of consultation is not exactly accurate. The government undertook wide consultation throughout the assessment process. In 2006, a technical workshop was held in Hobart to assist with the assessment of the
ecological community and then a formal public consultation was also undertaken. At the very beginning of the assessment, stakeholders were invited to provide written submissions, and they were invited to do so again in March 2009, before the assessment was completed. The key stakeholders groups who were consulted included local councils, conservation groups, the Tasmanian Farmers and Graziers Association and state government authorities. There were a range of responses received, both supportive and non-supportive.

Between 2006 and 2009, several face-to-face meetings were held with key stakeholders, along with a range of other regular communications around the process. Departmental staff met with officers from the Tasmanian Farmers and Graziers Association on four occasions between December 2007 and May 2009 to discuss the potential listing of the ecological community. A formal submission was received from that association in March 2009. As well, the Tasmanian government was regularly consulted and it provided ongoing technical assistance during the assessment of the ecological community. The notion that this has happened by stealth and without consultation is an absolute furphy.

In response to the concerns about the inclusion of derived—that is, human induced—grasslands, the listed ecological community certainly includes both natural and derived, or human-induced, grasslands. The Threatened Species Scientific Committee and the experts in grasslands found that some patches of lowland native grasslands that are historically derived from other ecological communities—for example, through clearing of trees in woodlands—may be similar in vegetation composition and structure to the natural grasslands, and some of these derived grasslands can be extremely rich in native species and contain in themselves numerous threatened species. It can be impossible to determine which grasslands are natural, which have developed as a result of post-European settlement land management practices and which have been the result of Indigenous burning regimes or historic severe climatic events. Not all the patches of grassland, be they derived or natural, are actually included in the listed ecological community. The listing only applies to vegetation remnants that are in good condition, and the listing advice clearly sets out the condition thresholds that determine whether a patch of grassland is protected under the EPBC Act. There is significant information about the whole classification process and the way in which it came into being.

Most importantly, the government does not support this disallowance motion, because it concerns native grassland that is categorised as critically endangered as an ecological community. It is of national importance and it is something that needs to be protected for all of Australia. The natural environment is a critical part of Tasmania’s pristine attraction and, as such, we want to do what we can as a government to ensure that it is protected. Senator Colbeck, that very important message that stands to a disallowance motion in this respect and that would actually go to the integrity of the EPBC Act cannot be underestimated.

Senator COLBECK (Tasmania) (11.29 am)—I will address some of the issues that have cropped up as part of the debate on this disallowance motion. This motion certainly was not brought into this place lightly. I find some of the assertions that have been made, particularly by the Greens, quite disappointing. The fact that when somebody disagrees with them they have to resort to labelling and calling people names to try and denigrate their stance demonstrates a real lack of capacity, in my view. I am really disappointed that labelling people just because they have a different perspective on the way to go about
things from the Greens has been part of the process today. I think the Greens criticising any senator for using the processes of this place to achieve what they want is extraordinarily hypocritical because they do not hesitate to do that. That is their right and I would defend that right of members of this place. That is what this place is about—

Senator Bob Brown—Are you hurt?

Senator COLBECK—No, I am not hurt, Senator Brown. I have watched you work in this place and recognise your capacity to use the mechanisms of this place to defend the things that you believe in. I recognise that that is what you do—

Senator Bob Brown—I am a Tasmanian.

Senator COLBECK—You are a Tasmanian, Senator Brown, and I acknowledge and admire the fact that you are prepared to stand up for what you believe in. That is important and is what we should be doing in this place. You should use the mechanisms that exist in this parliament to stand up for the things that you believe in and to try and achieve outcomes. That is what we should be doing, but to criticise somebody else for doing that is something I find disappointing. That is what we are here for; that is what we are here to do. It is an important part of the processes of being a member of this place. I make the point that it seems to be okay to criticise another senator for doing what is your stock in trade, and you are very good at it.

This is not about trying to destroy; this is trying to alert the government that there needs to be a proper way of dealing with this. I tried very hard, during my initial presentation, to ensure I did not give the impression that we were all about knocking over, destroying, raping and pillaging, as has been suggested. That is not what I am about and that is not what this process is about. The theme that I bring in today is the way that the government has managed this. Senator Milne spoke of Jamie Kirkpatrick, who was a part of this process and is recognised as having some real authority in making a contribution to this process. Let me put on the record what Mr Kirkpatrick actually said as part of the listing:

The only way of doing it in the longer term is to make it financially attractive for land owners to maintain grasslands. And that means stewardship payments—

and I acknowledge that Senator Milne talked about that, as did Senator Xenophon—payment for performance. And it’s really necessary to have that in the case of grasslands because they are not simple to manage.

And I acknowledge that the government made comments in respect of that as well. He went on:

I agree with the listing, but I don’t agree with just having a listing and just leaving it at that. That is worthless.

But that is what this government has done. The landowners made an application for funding to assist them with protecting the grasslands. A week after announcing the nomination, the government rejected it. Here is one of the experts, one of the authorities that Senator Milne quoted, saying that the process that the government has undertaken is worthless. Why shouldn’t we question that? It is more than a legitimate process.

I acknowledge Senator Xenophon’s contribution to this and his negotiations with the government. If the only thing that this disallowance motion does is prompt the government to put in place some real actions to carry this forward, given that nothing has happened since the listing in June, then at least we have achieved something. This goes back to the principles I spoke about before and Senator Brown using the mechanisms of this place to achieve outcomes. At least we have achieved something if it has sparked the government to do something. The local
member has not been able to achieve anything at this stage. At least the government is now putting in place a process based on the pressure of this process to take it forward.

I thank my colleagues for their contribution to this debate. I again express my disappointment that the Greens come in here trying to label people who disagree with them. They will not argue the case. They try and denigrate anyone who has a different view—their stock in trade, unfortunately. I commend the motion to the Senate because it does place pressure on the government. That is why the mechanisms were put into this bill in the first place. That is part of this process. It does not necessarily always have to be about politics, Senator Brown. It can be about trying to do the right thing and getting the government to do the right thing. I think you understand that because you are more than capable and have demonstrated your willingness to use the processes of this place to try and pressure the government into achieving outcomes. That is what I hope we can achieve out of this process today.

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

The Senate divided. [11.40 am]
(The President—Senator the Hon. JJ Hogg)

Ayes............. 34
Noes............. 34
Majority......... 0

AYES

Heffernan, W.                Humphries, G.
Johnston, D.                Kroger, H.
Macdonald, I.                Mason, E.J.
Minchin, N.H.                Nash, F.
Parry, S.                Payne, M.A.
Ronaldson, M.                Ryan, S.M.
Scullion, N.G.                Troeth, J.M.
Trood, R.B.                Williams, J.R.

NOES

Arbib, M.V.                Bilyk, C.L.
Bishop, T.M.                Brown, B.J.
Brown, C.L.                Cameron, D.N.
Collins, J.                Conroy, S.M.
Crossin, P.M.                Farrell, D.E.
Feeney, D.                Forshaw, M.G.
Furner, M.L.                Hanson-Young, S.C.
Hogg, J.J.                Hurley, A.
Hutchins, S.P.                Ludlam, S.
Ludwig, J.W.                Lundy, K.A.
Marshall, G.                McEwen, A.
McLucas, J.E.                Milne, C.
Moore, C.                O’Brien, K.W.K. *
Polley, H.                Pratt, L.C.
Sherry, N.J.                Stierwalt, R.
Stephens, U.                Sterle, G.
Wortley, D.                Xenophon, N.

PAIRS

Boyce, S.                Wong, P.
Fierravanti-Wells, C.                Faulkner, J.P.
Joyce, B.                Evans, C.V.
McGauran, J.J.                Carr, K.J.

* denotes teller

Question negatived.

BUSINESS

Rearrangement

Senator BUSHBY (Tasmania) (11.44 am)—by leave—On behalf of the Senator Eggleston, I move:

That business of the Senate orders of the day nos 1, 2 and 7, relating to the presentation of reports of the Economics References Committee, be postponed till a later hour.

Question agreed to.
ENVIRONMENT PROTECTION
(BEVERAGE CONTAINER DEPOSIT AND RECOVERY SCHEME) BILL 2009

Report of the Environment,
Communications and the Arts Legislation
Committee

Senator FURNER (Queensland) (11.45 am)—On behalf of the Chair of the Environ-
ment, Communications and the Arts Legis-
lation Committee, Senator McEwen, I pre-
sent the report of the committee on the Envi-
ronment Protection (Beverage Container De-
posit and Recovery Scheme) Bill 2009, to-
gether with the Hansard record of proceed-
ings and documents presented to the commit-
tee.

Ordered that the report be printed.

Senator LUDLAM (Western Australia) (11.45 am)—Mr Acting Deputy President, I
seek leave to make a short statement.

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

Senator LUDLAM—I rise to make a
couple of brief comments about the report
into the Environment Protection (Beverage Container Deposit and Recovery Scheme)
Bill 2009, which the Greens introduced. The
Environment, Communications and the Arts
Legislation Committee has looked at the is-
 sue of Australia’s waste streams in the past.
This report specifically goes to the question
of container deposit legislation, which has
existed in South Australia for decades, and it
is now time that we had a national scheme.
This report looks into a very specific pro-
posal for a national container deposit
scheme, which is a national model of how
we should deal with over 11 billion drink
containers used by Australians every year.
About three billion of those containers end
up by the side of the road. Eleven billion
glass, plastic, steel, aluminium, PET and
HDPE bottles translate into about half a mil-

lion tonnes going to landfill every single
year.

The last time a Senate committee dealt
with this issue they bounced the idea off to
COAG, which is the place where quite a lot
of good ideas go to die or at least lie around
paralysed for long periods of time. Because
so many COAG meetings are processes that
are held behind closed doors it is very hard
to know the reasons or the thinking behind
why that happens. The ECA committee has
expressed some impatience and has some
expectation that the Environment Protection
and Heritage Council will actually deliver on
a container deposit scheme when it meets on
5 November in Perth.

The committee is not the only one ex-
pressing impatience and expectation on this
issue. It learned in the process of the inquiry
that there is in fact overwhelming support for
such a scheme and that there has been for
quite some time. Local councils understand
the benefits. At their national meeting earlier
this year, Australia’s umbrella local govern-
ment organisation passed a resolution in sup-
port of the scheme, as have many individual
local governments around the country. Key
industry players, including Alcoa, Revive
Recycling, Eco Waste and SITA Environ-
mental Solutions, have also expressed sup-
port, so this is not an idea that is coming
from the margins. Many non-government
organisations, including all peak environ-
mental organisations in the country under the
umbrella of the Boomerang Alliance, are
behind this scheme. Community support runs
in the 80 to 90 per cent range and the mid-90
per cent range in consecutive polls. The gov-
ernment of South Australia strongly supports
a national version of the scheme which has
operated successfully there for many dec-
ades.

The reason there is so much support for
the scheme, obviously, is that it makes good
sense. When we recycle a drink container we reduce the amount of drink containers that we produce in this country and will reduce our greenhouse gas emissions by nearly one million tonnes of CO2 per year, which is the equivalent of switching 135,000 tonnes to 100 per cent renewable energy. The scheme will save enough water to permanently supply more than 30,000 Australian homes. It will deliver air quality improvements equivalent to taking 56,000 cars off the road. It will create approximately 1,000 direct jobs and it will decrease the litter that we see by the side of roads and around our communities.

The time has clearly come for a national container deposit scheme. The benefits of the scheme that are contained in the Greens bill are that it will fund the establishment of a network of recycling centres, which are sorely needed, into which other waste streams can then be folded. Once they are established you could take e-waste, batteries or other kinds of materials that we do not want going to landfill to those centres. Another benefit, of course, is that the surplus created by the scheme can be used to support industries to reprocess and recycle materials. This point was made very strongly in the committee hearings by representatives from Alcoa.

For decades the South Australian scheme has shown the way. Now other jurisdictions around the country are impatiently waiting for some Commonwealth leadership. This report really is another missed opportunity for that leadership to be expressed. The 5 November meeting of the Environment Protection and Heritage Council will consider investigations undertaken on the community’s willingness to pay for a greater uptake of recycling. It is essential that the EPHC delivers a timetable and a costed proposal at that meeting in Perth in November.

I would like to thank all of the people who made submissions and who came to the hearings that were held. I thank other members of the committee for the really constructive way in which they approached this issue. Most particularly I thank the committee staff, who worked very diligently behind the scenes to produce a report that is quite useful. The report is another piece of evidence, if that were needed, that the time is firmly here for a national container deposit scheme.

**ACCESS TO JUSTICE (CIVIL LITIGATION REFORMS) AMENDMENT BILL 2009**

**Report of Legal and Constitutional Affairs Legislation Committee**

Senator FURNER (Queensland) (11.50 am)—On behalf of the Chair of the Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I present the report of the committee on the Access to Justice (Civil Litigation Reforms) Amendment Bill 2009, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**CRIMES LEGISLATION AMENDMENT (SERIOUS AND ORGANISED CRIME) BILL 2009**

**Report of Legal and Constitutional Affairs Legislation Committee**

Senator FURNER (Queensland) (11.51 am)—On behalf of the Chair of the Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I present the report of the committee on the provisions of the Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.
PARLIAMENTARY SUPERANNUATION AMENDMENT (REMOVAL OF EXCESSIVE SUPER) BILL 2009
Report of the Finance and Public Administration Legislation Committee

Senator FURNER (Queensland) (11.51 am)—On behalf of the Chair of the Finance and Public Administration Legislation Committee, Senator Polley, I present the report of the committee on the Parliamentary Superannuation Amendment (Removal of Excessive Super) Bill 2009, together with the Hansard record of proceedings and additional information.

Ordered that the report be printed.

Senator BERNARDI (South Australia) (11.52 am)—Mr Acting Deputy President, I seek leave to make a short statement.

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

Senator BERNARDI—I will not even take the five minutes, but I understand that there may be another comment coming from someone else. This is a very serious issue because it plays out in the public mind the benefits attached to being a politician and the pecuniary benefits, particularly in regard to superannuation. For the record, and for the people in the gallery who are here today, politicians’ superannuation was changed in 2004 at the insistence of then Labor leader Mark Latham, who decried superannuation entitlements for politicians. I note he continues to take pot shots at the Labor Party whilst luxuriating on the benefits that he so railed against.

The Prime Minister at the time, Mr Howard, changed politicians’ superannuation entitlements to bring them into line with the Public Service. Accordingly, the Parliamentary Superannuation Amendment (Removal of Excessive Super) Bill 2009, presented by Senator Fielding, is seeking to wind back the clock, if you like, and to change the rules midstream for those who had served in this parliament for years before 2004. This is a matter of fairness and equity. Whether you agree with what politicians receive in remuneration or not, whether you think it is excessive or not enough, is not the point.

When people enter into service in public life, they do so under a number of conditions and expectations. It is wrong to change those expectations retrospectively. I believe that this is a matter of equity not only in regard to this particular issue but also in regard to matters of taxation and matters of other benefits. It just beggars belief that people will continue to invest in our country and put themselves forward for public service or any other endeavour, quite frankly, under a set of terms and conditions if then a government of any persuasion can simply wind back the clock and say, ‘I am sorry; we are going to change those terms and conditions, and you are going to have to make up the other issues.’ I see Senator Fielding has come in. I am glad I have been able to provide you with an opportunity to comment on your own bill, Senator Fielding, and I am sure you will want to do so.

As I said, this comes back to an issue of principle. I am opposed in principle to retrospective legislation that disadvantages people who have done nothing to deserve disadvantage in their own sense. I am pleased too that we have reached agreement on this with the major parties. The Labor Party and the coalition have agreed to this report and that this bill should not be passed because it does deny what I would term ‘natural justice’. It is possibly not the correct legal term, but it is, I think, an appropriate term about how we are going to deal with people who enter into particular circumstances and agreements under the stated conditions. We should not roll
them back. I will leave my comments there because I understand there is another speaker who would like to talk on this.

Senator FIELDING (Victoria—Leader of the Family First Party) (11.56 am)—Mr Acting Deputy President, I seek leave to make a statement of no more than five minutes.

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

Senator FIELDING—I appreciate the chamber’s courtesy. The Parliamentary Superannuation Amendment (Removal of Excessive Super) Bill 2009 looks at the parliamentary super for politicians that were elected prior to 2004. The community was quite concerned in the lead-up to the 2004 election about how the superannuation entitlements of politicians were way out of kilter with the general community. In actual fact, it was acknowledged by Mr Latham, who was the leader of the Labor Party at the time. He said that ‘these schemes are well outside the community standard in Australia’ and that it is a ‘major source of public dissatisfaction’. Mr John Howard, the Prime Minister at the time, also made some statements. He said, ‘There is a community perception that this super is too generous.’

They are statements that are in the report that has been tabled today. What happened was that they stood there and said, ‘We’ll fix this for all the new people who come in.’ That was good; I have no complaints there. I am certainly not asking for any more benefits. I think politicians are well paid. But the cheek was that both the coalition government of the day and Labor knew they could have closed this scheme down for themselves, but they did not have the guts to actually do it. They decided to do it for everybody that was new. Knowing that the entitlements were way over the top, they decided to come up with an agreement that it was for new people but not for the existing people in the scheme. They knew quite clearly that they could close that existing scheme down. There are over a hundred politicians still on that scheme. The scheme is out of line with community expectations. It is out of line with community standards and it is a pity that this report says that they are going to do nothing about it.

I make it quite clear that Family First believes that the super entitlements should be changed for all. I recommend that the community have a bit of a look at this report and see how statements made back in 2004 only apply going forward when quite clearly they could have applied to all those politicians who were on the scheme prior to 2004. It is a scheme which is out of line with community standards and expectations and it allows the rort to continue for quite some time for those parliamentarians elected prior to 2004.

BUSINESS
Rearrangement

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (11.59 am)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 3 (Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009).

Question agreed to.

CORPORATIONS AMENDMENT (IMPROVING ACCOUNTABILITY ON TERMINATION PAYMENTS) BILL 2009

Second Reading

Debate resumed from 10 September, on motion by Senator Wong:

That this bill be now read a second time.

Senator COONAN (New South Wales) (12.00 pm)—I speak, on behalf of the coali-
tion, on the Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009. I will be foreshadowing an amendment to the bill to be moved in the committee stage and I will address some comments in relation to the proposed amendment, in my remarks in this second reading debate, for the convenience of the chamber. The bill before us seeks to amend the Corporations Act 2001 to give shareholders the right to veto termination payments, more commonly known as golden handshakes, to major company directors and senior executives where the payments are greater than one year of the recipient’s base salary. The veto will only apply to termination payments made in relation to retirement from an office or a position held under an agreement or a condition of agreement entered into, varied or extended on or after the commencement of part 1, schedule 1 to the bill, being the day the proposed act receives royal assent. I say at the outset that the coalition broadly supports the objective of the government’s termination payments amendment to the Corporations Law. However, after closer inspection of the practical implications of this bill and its design, the coalition believes the stated intention will be undermined, given the way the bill is currently framed, and also the bill will have unintended consequences.

The original intent of the bill that we are examining today was to lower unjustifiable executive payments and to further align the interests of shareholders with those of directors and executives, as well as to provide appropriate long-term incentives to directors to act in the best interests of companies and, of course, in the interests of their shareholders. However, having looked at how the bill is likely to be implemented, we believe it will have a number of unintended consequences. One such consequence is that it is likely to have what would obviously be a perverse effect of raising executive and director payments on a permanent basis, in other words raising those payments which currently are not at risk or which are incentive based. To put it another way, it will have the unintended consequence of causing base pay to rise. This poor policy design reflects a government making these kinds of decisions on the run. As we have seen, it is a government which enjoys playing popular politics on issues but then has to face the consequences of some real difficulties when it comes to getting down into the weeds and having a look at what the legislative effects will be. Short-term political gain does not always translate into sound policy, and we have seen that approach taken towards such failed policies as Fuelwatch and the famous GroceryWatch, both of which have had to be abandoned.

When looking at the circumstances which have led to the bill being introduced into this place, it is not hard to see how such unintended consequences have arisen. If you act in haste often you miss out on the real effort that is needed to go into drafting bill clauses and provisions that will actually resonate appropriately and have the intended outcomes. It is of concern that no regulatory impact statement has been prepared for this bill. Then there is the fact that the Productivity Commission, which was asked by the government to undertake an inquiry into the current Australian regulatory framework around the remuneration of directors and executives of companies regulated under the Corporations Act, is due to report to the government in December this year, less than a couple of months away, and to release a public report on the matter, which no doubt will inform us all very significantly. Yet the government will not wait to see if the results of this inquiry should be incorporated in some way, shape or form into this bill, so obviously we are having the cart before the horse.
here and that is what we are currently dealing with.

Such oversights and omissions have been highlighted by coalition senators in additional comments provided to the report on this bill by the Economics Legislation Committee. But it is not just the oversights and omissions which are of concern to coalition senators as there are also various overreaching features of the bill that have been highlighted as a concern, and I think it is important that I mention them. Some of these features include the scope of the provisions which have been broadened to include unlisted companies; the lowering of the threshold provisions which will capture middle managers serving as directors; the broadening of the definition of ‘termination payment’ with the concern that it will catch the genuine retirement of long-serving director employees, those facing redundancies and also the situation of deaths in office; the anticipated impact on departing executives, particularly as to international recruitment, and on firms operating internationally; and the expected compliance costs, a particular burden for unlisted companies. As well, there is the anticipated difficulty of securing senior managerial employees to sit on boards of overseas subsidiary companies. My understanding is there is already a dearth of available suitable candidates for these appointments and this bill will certainly make the situation all the more difficult.

As well as highlighting these overreaching features of the bill, coalition senators have highlighted the potential distortionary effects which have arisen in executive remuneration as new recruits negotiate packages around the revised shareholder approval required framework. As new packages are negotiated around the new framework, there is, we think, the very clear potential for shifting or reweighting of remuneration components so that it achieves certainty or an optimal outcome for the executive. These distortions have been commonly referred to as ‘golden hello’ payments, front-loading or sign-on bonuses, and such distortions are in addition to the expected increases to base salary. Such distortions, or abnormalities, have arisen because of the drafting of the bill and stand in direct contrast to the aims of shareholder groups, who have argued strenuously against the disconnect between executive stakeholders, sharing in the pain and the upside with shareholders.

Having highlighted very briefly concerns which we in the coalition have in relation to the evolution of this bill and how it will impact, I will now move on to various elements of the bill, some of which, as I mentioned earlier, we will be seeking to amend. The bill before us has four key objectives. I want to stress very clearly that we broadly support the objectives of this bill. It is some of the detail and unintended consequences that we point out to the chamber and seek to address.

The first objective seeks to expand shareholder approval coverage to additional executives and senior management. Currently, only certain executives are covered by termination pay provisions of the Corporations Act 2001. This proposed requirement will extend coverage to senior executives and key management. Coverage of these additional persons will be determined through the accounting standards. This will occur through the Australian application of the International Financial Reporting Standards, otherwise known as the IFRS. The second objective of the bill broadens and clarifies the definition of a termination benefit. The definition of a termination benefit has been widened and regulation has been provided for the government to amend the definition at any given time.

The third objective of the bill provides a facility for minor changes to the Corpora-
tions Act 2001, including repayment of unauthorised termination benefits and stronger penalty provisions for contraventions. The fourth objective of the bill lowers the threshold limit for termination benefits which can be received by directors and executives without shareholder approval. The current threshold provides for an unapproved termination pay limit of seven times a recipient’s total annual remuneration. Under the proposed changes the new threshold before a shareholder vote will be triggered would be an amount exceeding one year’s average base salary over three years.

The definition of base salary is provided by accompanying regulation. As mentioned previously, it is this aspect of the bill, in relation to base salary, which will have the unintended consequence of causing base salary to rise in order to compensate for the potential loss of incentive based remuneration. We think this clearly defeats one of the key purposes of the bill, which is to limit excessive executive salaries. A lower base pay is more likely to improve the performance of an executive or director as opposed to a situation where they would be remunerated regardless of their outputs and achievements.

The foreshadowed amendment which is being sought by the coalition today in the committee stage seeks to change the definition of one year’s base salary to one year’s total salary as the threshold trigger for a shareholder vote on an executive’s termination payment. The coalition believes this amendment will encourage executive pay and performance to be linked and aligned and will maintain that alignment of shareholder and executive interests. The coalition’s position was announced by Mr Chris Pearce on behalf of the coalition in some media statements on 9 September this year. As we foreshadowed, in our view such an amendment empowers shareholders and improves governance and disclosure but not at shareholders’ expense. Such concerns around the dangers of a creeping base pay have been highlighted throughout the Senate Economics Legislation Committee’s inquiry into this bill and reflects concerns expressed by industry groups, such as the Business Council of Australia, and representations conveyed by Rio Tinto, the Insurance Australia Group, the Australian Institute of Company Directors—the AICD—the Australian Bankers Association and Guerdon Associates, who, of course, are remuneration consultants.

The failure of this bill to link remuneration with performance goes against the principles espoused by the Financial Stability Board of the G20, which, of course, the government is very keen to champion. In addition, the one year’s base pay threshold puts Australia in a position where it will have, if unamended, the lowest base pay thresholds of comparable corporate law in any country. Such a change, we believe, would threaten our nation’s ability to attract and retain talented executives and managers from overseas. We have the very firm view that this is not an incidence where Australia should be trying to distinguish itself from the way in which the G20 and the Financial Stability Board make recommendations and go forward with this matter by having the lowest pay of any comparable country for this purpose.

The coalition will be attempting to address this in our amendment—and I will have some more to say when I move this amendment—to bring to rights one of the major unintended consequences of this bill. Our amendment goes towards ensuring that performance and pay are linked, as, indeed, executive and shareholder interests should be linked. We do hope that the government will not be so stubborn as not to recognise the unintended consequences of the bill the way it is drafted. We hope that it will instead give very careful consideration to the very impor-
tant amendment that we have foreshadowed for very good and sound reasons and because of the obvious support that it has in the broader community.

The bill’s unintended consequence of causing base pay to rise will make the original intent of this legislation much harder to achieve. We think that is an outcome that the government clearly does not wish to have, and nor would the government wish to see the adverse consequences that would be borne by all shareholders, the very ones that this bill sought to help. Assaults on shareholders are never a good look. In the circumstances of this bill, there is absolutely no reason why there should not be attention given in the committee stage to looking at the plight of shareholders and better aligning their particular interests with those of remunerating in an appropriate way executives in corporations of which they are shareholders.

We do urge on the Senate consideration of the amendment that we will be putting forward. Otherwise, I commend the bill to the Senate. As I say, we do support its objectives and we would certainly hope that there could be some cooperation on the part of the government and, indeed, other senators, to ensure that this issue that we have raised and highlighted is taken seriously and that we look at how we can better improve the legislation. That is exactly what we in the coalition are seeking to do—to get a better outcome from a bill that we think fails on that account, but in circumstances where we support its objectives.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.17 pm)—We in the Greens support the concept of people being rewarded for their contribution to the nation. But I ask about a nation in which the CEO of the Commonwealth Bank gets, in an average working day, more than the persons who come here late at night to clean our offices get in a whole year. I ask about an Australia in which the growth in CEO pay has increased six, seven, eight or nine times as fast as it has gone up for ordinary workers—who are every bit as committed to and as important a part of this nation’s progress—in the last three or four decades.

We hear—I heard it just then from Senator Coonan—the argument that we have to be able to increase corporate pay and make sure that our corporate executives go from, presumably, millions of dollars to tens of millions of dollars to hundreds of millions of dollars per annum, as we have seen in the United States, in order to keep up with the rest of the world. It is the exact opposite argument to the argument being put forward by the opposition that we must not do what the rest of the world does on an emissions trading scheme; we should let the rest of the world get everything in place before we make any move at all. Here, we have the opposition arguing that we should stay in front, otherwise we will see not a brain drain but a money-chase loss of our executives out of the country.

Of course, the facts do not support that anyway, when you get to look at them. For example, a recent RiskMetrics study found that, between 2003 and 2007, only 17.3 per cent of confirmed departures of executives from the top 50 companies were of those going to other companies. Indeed, only 4.3 per cent were going offshore. The majority of departures were retirements. It was also found in that study that 57 per cent of those replacing senior executives were internal appointments and that only 18 per cent were recruited overseas.

We Greens have been working hard in the last several years—going back into the Howard government’s years and the period before the global recession—to bring some decency into what the Prime Minister has described...
as the ‘obscene’ payments going to some of the more greedy executives in the corporate system. It is just not reasonable to have corporate executives, rather than being paid for their work, being given totally illogical and indefensible payments, running sometimes into tens of millions of dollars per annum, and with so-called golden parachute severance payments going, in one case in Australia, to over $80 million.

When you get outside the public sector, there is a mythical concept that, in some way or other, these huge payouts, made supposedly to reward executives, are not paid by anybody and that they are part of the profitability of the company. Of course, nothing could be further from the truth. They are paid for by pensioners, shareholders and ordinary workers and through higher prices at the supermarket, in the bank, in the service industries or wherever it might be. This money is being purloined out of the pockets of poorer Australians in the tens of millions of dollars by people, simply because they have the ability to wangle the system.

The figures all show that this process has not only got worse but accelerated in recent decades. What was considered totally indecent in the United States mid last century is now part of the norm in Australia and has been accepted practice for some decades here. We have the situation where CEOs, by dint of where they are, get hundreds of times the pay level of the people who build the buildings, provide the plumbing, check the electrical work, give us the transport systems, work in our schools and do all the basic work that maintains the fabric of society.

As far back as this time last century, President Theodore Roosevelt was warning about the power of corporations over democracy. He said not only that it could be tackled but that it must tackled, and that the corporations must be put in their place. Teddy, as you know, believed in walking quietly and carrying a big stick. Unfortunately, his idea of being able to contain the self-investment of corporations and the power of corporate lobbyists over the body politic has been found to be totally blighted by the passage of history.

Now we are in a democratic system where corporate executives are almost a law unto themselves when it comes to taking obscene—as the Prime Minister has labelled them—payments from the pockets of their fellow citizens, and parliaments have been remiss. I sheet this home directly to the two big existing parties, who have serially exchanged governance at state and federal levels and who allowed this situation to arise.

Thankfully, we now have the Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009 here in the Senate. As we will see in the coming committee stages, the Greens will be amending this legislation. It is a step in the right direction but it is very short of the mark. Last year the Greens attempted a number of times to amend legislation so that golden handshakes could not be as obscene as the Prime Minister described, but serially he and the Leaders of the Opposition—both Mr Nelson and, now, Mr Turnbull—refused to respond to the actions of the Greens in this place. We will be testing the ardour of the government and the opposition in this matter in the committee stages.

I want to make it clear that this legislation is far from the end of the matter. We will be continuing to bring to this parliament measures that will not deny corporate executives a fair go but will have them share a fair go with the rest of the Australian workforce. That is what it should all be about.

We are supporting this bill but we have a series of good amendments which will improve the outcome. Those amendments
would give a stronger hand to shareholders, who most directly are disadvantaged by executives being able to take millions unnecessarily but repeatedly out of the companies’ bottom line. It will therefore more fairly compensate the shareholders, who take the risk. We will also be moving to see that, where shareholders have a vote, it is not just indicative but binding. Why should that not be agreed to in a parliament that believes in democracy?

Why is it that the private sector is so far behind in democracy? Why has the private sector rebuffed all efforts to have an improved democracy? Did it not support the war in Iraq to promote democracy? Does it not support the pursuit of democracy, which, we hear repeatedly from our leaders, should be improved elsewhere around the world? I submit that there is far too little democracy in the private sector and it is high time that we legislated to improve that democratic shortcoming. Some of the measures the Greens will be moving in the committee stages will tempt both the government and the opposition to endorse democracy rather than leave things as we have them at the moment, where shareholders are gnashing their teeth and wondering why they take such risk and why sometimes they see such poor results after a series of announcements in the newspapers has indicated that executives are increasing their pay, even where their performance has been abysmal.

Senator HURLEY (South Australia) (12.28 pm)—I think it was the onset of the global financial crisis that saw a renewal of public concern about the trend to large termination payments for senior executives. Despite the more benign financial circumstances in Australia, we here also saw very large termination payments. That rekindled the debate that had previously been had. There were well publicised examples of excessive termination payments, or golden parachutes, paid to senior executives. Particularly companies were drawn to our attention where they had posted reduced profits or significant losses and this served to heightened public anger at what was felt to be a reward for failure.

Under the current legislation an executive can receive up to seven times his or her total annual remuneration before shareholder approval is required. Under the Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009 shareholder approval will be required if a termination payment exceeds one year’s average base salary for directors and all executives named in the company’s executive remuneration report. I wish to emphasise that this bill does not impose a cap on what can be paid as a termination payment, but simply forces a shareholders’ vote if it exceeds the threshold of one year’s base salary. In other words, the executive and the company have to justify the termination payment if it exceeds one year’s base salary.

There has been argument about using the base salary as the point. The coalition have said that this may lead to an increase in base pay and have noted that Australia has the lowest base pay threshold for its executives. Indeed, this indicates the imbalance of executive remuneration in Australia. If we do have the lowest base pay threshold, it means that the bonus and incentive payments form a disproportionate percentage of the remuneration of those executives. This is exactly what has led to the problem in the global financial crisis. These incentives and bonus payments resulted in some executives taking undue risks, putting the company in danger, resulting in poor company performances and then being bought off by the golden handshake.

There is no inherent ill in the base pay rising if this addresses some of the problems with bonus and incentive payments that are
unbalanced. This is clearly not a problem in itself. There is provision for a review of this proposal after two years. Shifts in remuneration can be examined at that stage; if there is a problem with the so-called golden hellos or with excessive increases in base pay, they can be addressed at that time. Treasury argued during our hearing that the existing rules in the corporate law for setting executive base salaries would act as sufficient restraint on increasing salaries as a result of this bill. They said:

Such payments are required to be disclosed in the company’s remuneration report, and the company is required to clearly explain the policy for determining the nature and amount of remuneration and a discussion of the relationship between such policy and the company’s performance.

Since the report was brought down, Minister Bowen has released regulations and explanatory material which provide a definition of ‘base salary’, provide clarity around the definition of ‘termination benefits’ to ensure that statutory entitlements are not included as payments requiring shareholders’ approval, and prescribe the circumstances in which a benefit is given in connection with a person’s retirement, which addresses a number of issues that were raised during the inquiry.

In conclusion—I do not want to take too much of the chamber’s time—these excessive termination payments and the broader issue of executive salaries and entitlements have been much debated aspects of corporate accountability standards for some years. I commend the government in taking this action on termination payments, because they have been lacking in transparency, accountability or disclosure due to the ridiculously high and internationally out of touch threshold needed to trigger shareholder agreement. One year’s base salary is a much more realistic value.

With workers and their families facing the real prospect of unemployment and falls in their superannuation returns as a result of the global financial crisis, it is particularly galling that those at the top of the tree could be in an environment where they can potentially reap up to seven times their total annual remuneration as a golden parachute even if their performance has been poor. Given the stark juxtaposition this presents for the people of Australia, I urge all senators to strongly support this bill and give their support to the reassessment of the way that termination payments are treated in corporate law.

**Senator BUSHBY (Tasmania) (12.35 pm)**—The Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009 represents the government’s first legislative response to the general public outcry about the obscene amounts that are paid to some chief executives when they leave their employment. Every time such an executive moves on from their position and the terms of their final entitlement become public, sometimes including literally millions of dollars, the public rightly question how and why these individuals receive such a significant payout—a payout of a size and scale that most Australians would have no hope of even relating to, nevertheless ever receiving.

Clearly, the issue of termination payments for executives is closely related to their remuneration generally. Indeed, their entitlement to termination payments and their size and makeup are often a specific part of the terms of their engagement and of the size and terms of the overall remuneration package. It is no misrepresentation to say that, if the Australian public have concerns about termination payments, they also have concerns over the size of some remuneration packages as a whole paid to top executives.

This is why I am so disappointed that the government, on the very same day that it
announced that it would commission the Productivity Commission to examine the issue of executive remuneration as a whole, pre-empted an area subject to that review—being the part of executive remuneration we are looking at today: termination payments. I must say that the tendency of this Labor government to act on matters that it says it is inquiring into is symptomatic of its approach to and the weight it gives to many, if not most, of the inquiries it commissions—that is, that such inquiries are far more about the perception it wishes to foster in the electorate that it is properly considering issues before making decisions on them than actually finding out the facts.

Of course what the government’s action in respect of the Productivity Commission executive remuneration inquiry and other inquiries shows is that the government has its own agenda and that the inquiries it holds are held, more often than not, at worst, to validate that agenda rather than determine it and, at best, to provide a smokescreen for that agenda. This tactic of holding inquiries to create the perception that the government is consultative seems to have been a clear trait of state Labor governments like the highly controversial state Labor Party governing in New South Wales and, again, state Labor in my home state of Tasmania, and it is a trait picked up with glee by the national Labor government. I guess it is just more evidence that Labor governments at all levels are cut from the same cloth.

But there is no escaping the fact that community sentiment about inequality or unfairness cannot be ignored by governments, and neither should it be. However the consequences of any intervention by government into business affairs must also be considered and balanced against the need for that action. This is because ill-considered government interventions to promote fairness can have perverse effects, sometimes even working against the interests of those very groups whose interests are sought to be protected through the intervention.

This bill has been considered by the Senate Economics Legislation Committee. Coalition senators, of which I was one, broadly supported the objective of the bill. However we were concerned about legislative overreach, that the parliament’s intervention in the corporate sphere in this manner will almost certainly introduce distortions in executive remuneration, and that this could occur to the extent that shareholder interests may not be best served.

Coalition senators also found that there were a number of specific issues regarding this bill including that this legislation appears to be a knee-jerk reaction to appease public opposition to ex gratia payments made to executives to remove them from office. That is, despite it commissioning a full review of executive remuneration it went for the low-hanging fruit of golden handshakes because it saw political advantage in pre-empting the review’s findings. The government is acting after the event insofar as companies are already reviewing their policies in this area. In response to community outrage, consultation with shareholder groups and governance consultants, effectively the market is doing what it should be doing and adapting to properly voiced and highlighted shareholder and community concerns without government intervention.

This is evidenced by the downward trend in executive payouts in the last five years and evidence provided that 12 of the top 20 listed companies already limit termination payments to about 12 months entitlements. There are reported instances of perceived excessive termination payments but we recognise that these decisions are matters for boards and are generally taken for sound reasons, and that the legislation pre-empts
the report by the Productivity Commission into executive remuneration, as already mentioned, and is typical of the rushed approach of the Rudd government.

Coalition senators were also of the opinion that Australia’s corporate framework is sound and that the capacity of boards to respond to community concerns is reasonably fluid and flexible. As such, we believe it is right to be cautious about wholesale interference in the decisions of boards, such as that proposed in this bill. As mentioned, we noted with satisfaction the Australian Council of Superannuation Investors study finding that most companies already have policies in place which will deliver termination payments around the bill’s proposed base pay threshold.

This and other evidence received back the fact that the vast majority of large listed companies—the very same group with the high-profile headline offenders—are self-regulating on this issue, whether that be in response to cyclical changes, cash constraints or, more likely, other drivers such as community or shareholder outrage. Coalition senators also recognised the particular broader importance of oversight of executive remuneration packages in the banking and insurance sectors because of the potential for executives to chase the rewards of short-term risks at the cost of financial stability.

Of course coalition senators also found that there would be a number of adverse effects and unintended consequences of the bill as written. Having expressed our broad support for the signal effect of the bill, coalition senators noted that they are concerned that its passing may have unhelpful consequences for our corporate sector and protested the fact that the legislation has been introduced before the Productivity Commission report into executive remuneration has been released. It is worth noting here that the Productivity Commission was due to release its draft report this month and the final report is due only a couple of months later, in December. That is right: the Productivity Commission, which was commissioned by the Labor government to look at all aspects of executive remuneration, particularly regarding the extent to which it can be considered excessive, is due to report this month. And here we are today debating an aspect of executive remuneration that certainly falls directly within the purview of the PC’s terms of reference. It seems incredible to me that the Labor government could not wait another few weeks to see how the PC viewed the issues around the executive remuneration in its draft report and the extent to which any recommendations it makes is likely to impact on the matters which are the subject of this bill. Now, because the government pig-headedly wants to proceed without waiting for the results of its own inquiry, the Productivity Commission has decided to delay its draft report pending the outcome of this debate. Generally, I would have preferred to receive the full, frank and complete findings of the Productivity Commission on this issue without their being informed by policy decisions of the government.

Coalition senators also shared the view of many that presented or submitted evidence to the inquiry that the bill has elements of regulatory overreach. In its rush to be seen to be legislating in the area of executive termination payments the government has forgone a regulatory impact statement on this bill and, hence, failed to highlight legislative overreach in the bill which, in the view of coalition senators includes a number of instances. The scope of existing provisions is broadened so as to include unlisted companies and the lowered threshold provisions may potentially capture middle managers serving as directors of subsidiary companies particularly those who have accumulated long ser-
vice and other entitlements. The definition of termination payment is broadened and there is concern that it may catch genuine retirement of long-serving director employees, redundancies and deaths in office. There is an anticipated impact on international recruitment and impact on firms operating internationally. In addition there are expected to be compliance costs, that is, for the holding of general meetings of shareholders to consider retirement packages, which would constitute an additional financial and administrative burden particularly for unlisted companies, and there is the potential difficulty of securing senior managerial employees to sit on the boards of overseas subsidiary companies.

As part of our additional comments in the report, coalition senators also foresaw possible distortion arising in executive remuneration as new recruits negotiate packages around the revised shareholder approval required framework producing what a number of witnesses to the inquiry referred to as the ‘squeezing the balloon effect’. That is, executives will continue to seek to negotiate a package reflecting what they believe they are worth and, if part of the package is limited, negotiations will see other parts of the package inflated to compensate.

This likely outcome was put forward by every business representative organisation based on their own experiences and those of their members, but was also very compellingly put to the committee by Guerdon Associates, an executive remuneration firm. When put to Treasury, their comment was that this would not occur because such increases in other aspects of executive packages would show up on the remuneration reports which go to shareholders.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

FOREIGN STATES IMMUNITIES AMENDMENT BILL 2009
Second Reading

Debate resumed from 14 September, on motion by Senator Faulkner:

That this bill be now read a second time.

Senator BRANDIS (Queensland) (12.45 pm)—The Foreign States Immunities Amendment Bill 2009 will amend the principal act, the Foreign States Immunities Act, to provide for immunity for foreign states and their emergency management personnel in tort proceedings for acts or omissions that occur in the course of the foreign state providing emergency management assistance to Australia. The amendments will principally apply in practice to the United States firefighters deployed in Victoria under a cooperative exchange program. Negotiations are currently underway to finalise a new agreement to continue the existing program. It is intended that this new agreement will apply Australia wide, to allow states and territories to benefit from United States resources. However, the United States will require reciprocal immunity from tort proceedings in order for the agreement to proceed.

The bill amends the principal act to provide regulations for immunity from tort proceedings for a foreign state which assists an Australian government in preparing for, preventing or managing emergencies or disasters. The immunity would only apply to the acts and omissions of the foreign personnel in the course of providing that assistance. It will not apply to criminal proceedings.

Australians have benefited enormously in recent years from the expertise and resources of United States firefighters and, of course, from their generosity. Their contribution in times of sometimes dire emergency has been very much appreciated by all Australians. This arrangement assists both countries not only in the tasks one can perform for the
other but for the experience which can be put to use in the firefighters’ home countries. It is therefore very much in our interest to ensure that this arrangement continues. This legislation will facilitate the formalisation of that arrangement. While it is not common here for firefighters to be sued for negligence committed in the course of their duties, such claims do arise from time to time. They may arise more often as our society becomes more litigious. It is clearly not in our interest that any deterrent exist to having access to foreign assistance, expertise and resources in times of emergency.

This is sensible legislation which seeks to secure a very important arrangement and which has the coalition’s support.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.48 pm)—I thank Senator Brandis for his comments and support and for helping ensure the bill’s passage through parliament before the next bushfire season, which is what we are all about. The Foreign States Immunities Amendment Bill 2009 would amend the Foreign States Immunities Act 1985 to enable regulations to be made conferring immunity from tort proceedings on a foreign state that assists Australia in preparing for, preventing or managing emergencies or disasters. This is necessary to permit the states and territories to finalise a new agreement with the United States for the exchange of vital fire suppression resources. Due to their domestic legal requirements, the United States cannot finalise this agreement unless immunity is provided for its firefighters under Australian law. Without the new agreement in place, the United States may not be able to assist Australia in the upcoming bushfire season, potentially leaving state and territory fire services dangerously exposed. This regulation-making power is subject to important limitations. Firstly, immunity can only apply to actions of foreign personnel in the course of providing emergency management assistance to the Australian government or a state or territory government; secondly, no immunity can be granted for criminal proceedings or for actions of foreign personnel outside of their duties; and, finally, the bill does not affect the liability of the Australian government, state or territory governments, agencies or officers. Any regulation made under the new power will be subject to disallowance by parliament.

The bushfire exchange program with the United States is an integral part of Australia’s fire management and response capability and this bill is a critical step towards ensuring that this important program can be maintained and strengthened in the future. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

NATIONAL HEALTH SECURITY AMENDMENT BILL 2009

Second Reading

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

That this bill be now read a second time.

Senator CORMANN (Western Australia) (12.50 pm)—The coalition supports the National Health Security Amendment Bill 2009, which will amend the National Health Security Act 2007 to widen controls over security of biological agents that could be used as weapons—agents known as security sensitive biological agents, or SSBA. This bill will enable the Minister for Health and Ageing to respond immediately to secure public health and safety in the event of an SSBA
related disease outbreak and to establish new controls in the handling of biological agents and the responsibilities of those who do handle them by extending the provisions of the legislation to suspected security sensitive biological agents. The bill will also give inspectors involved in monitoring entities and facilities dealing with such biological agents search and seizure powers.

The National Health Security Act passed by parliament in 2007 under the previous coalition government was the culmination of lengthy consultations and negotiations between the Commonwealth and state governments, dating back to 2002. It is an important part of Australia’s national security framework. The coalition acknowledges that, in the circumstances of a biological threat to Australian citizens or institutions, the government must be able to use all means at its disposal to negate the threat, which is why, as I have already stated, the coalition supports this bill.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.52 pm)—I thank Senator Cormann for indicating the opposition’s support of this important bill. As he so rightly said, it enhances Australia’s obligations for securing certain biological agents that could be used as weapons. Such biological agents, also known as SSBAs or security sensitive biological agents, include the causative agents of diseases such as anthrax, smallpox and the plague.

The National Health Security Amendment Bill 2009 enhances the regulatory scheme for the SSBAs in three important ways. First, the proposed amendments enable the responsible minister to respond immediately and appropriately to the challenge of safeguarding public health and security in the event of an SSBAs related disease outbreak. The proposed change enables the suspension of certain existing regulatory requirements and the imposition of new conditions to ensure that adequate controls are maintained. Second, the amendment will extend reporting controls to biological agents suspected to be SSBAs. The new provisions will require an entity to report its handlings of suspected SSBAs and comply with new standards of suspected SSBAs. Third, the bill will enhance the investigative powers available under the National Health Security Act, which introduces powers to search premises and seize evidential material and to use necessary and reasonable force in executing the warrant. Importantly, this increase in the investigation powers is complemented by necessary safeguards to ensure proper use of those powers.

In addition, the bill makes some less significant but equally important amendments to improve the administration of the scheme, such as reporting requirements and enabling cancellation of registration. In particular, the bill requires that, in addition to reporting certain events such as the loss or theft of an SSBAs to the Secretary of the Department of Health and Ageing, the entity must make a report to local police. While entities would as a matter of practice make a report to police in these circumstances, the proposed changes put that matter beyond doubt and ensure a comprehensive investigation of the incident, including law enforcement input. The proposed amendments also enable the Secretary of the Department of Health and Ageing on application by a registered entity to cancel the registration of an entity or its facility if they no longer handle any SSBAs. This is a sensible change that simply ensures that the entity or its facility is no longer captured by the act and its reporting obligations.

The measures introduced by this bill appropriately enhance the existing regulatory
scheme for the SSBAs and it underlines the Rudd government’s commitment to protect all Australians through maintaining controls on biological agents that could be used as weapons.

I thank Senator Cormann for his contribution to the debate. I note that the bill also received the opposition’s support in the House of Representatives, where the honourable members recognised the need for the bill’s measures and supported the government’s position to be ever vigilant against the threat of bioterrorism. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

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

CUSTOMS AMENDMENT (ASEAN-AUSTRALIA-NEW ZEALAND FREE TRADE AGREEMENT IMPLEMENTATION) BILL 2009
CUSTOMS TARIFF AMENDMENT (ASEAN-AUSTRALIA-NEW ZEALAND FREE TRADE AGREEMENT IMPLEMENTATION) BILL 2009

Second Reading
Debate resumed from 16 September, on motion by Senator Faulkner:
That these bills be now read a second time.

Senator BRANDIS (Queensland) (12.56 pm)—The Customs Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Bill 2009 and related bill, Customs Tariff Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Bill 2009, implement the ASEAN-Australia-New Zealand Free Trade Agreement by amending the Customs Tariff Act to provide for the elimination or reduction of customs duties for many goods that qualify as originating in Australia, New Zealand or ASEAN nations.

The coalition has a long and proud record of supporting free trade agreements, including important regional free trade agreements such as this. The concept of an ASEAN-Australia-New Zealand Free Trade Agreement has a long history. It was initially floated in the period of the Hawke-Keating government in the early 1990s but formal discussion towards such an agreement did not commence until the Howard government, when they were initiated by the then Minister for Trade, Mr Vaile, in 1999. Formal negotiations commenced in 2004 and continued under his successor Minister for Trade, Mr Truss. An agreement was finally signed by the current Minister for Trade, Mr Crean, on 27 February 2009. The text of the agreement was tabled on 16 March 2009.

The FTA provides for reciprocal tariff reductions for motor vehicles, textiles, clothing and footwear and for a range of other manufactured goods. All Australian tariff rates on agriculture imports will be reduced to zero on and from the commencement, with only marginal concessions to be phased in from the other signatories. Concessions on the services area are also marginal. The horticulture sector is particularly disappointed with the outcome of the FTA. The FTA was referred to the Joint Standing Committee on Treaties, which reported on 24 June 2009. The JSCOT recommended that binding treaty action be taken but was critical of the treatment of the horticultural industries. The JSCOT made a number of recommendations to improve the negotiation process, to which I will return shortly. The bills will result in a loss of revenue of $971 million over the four years from 2009-10 to 2012-13. There will of course be other benefits from the introduction of free trade in the scheduled goods and services.
The bills were introduced in the House of Representatives yesterday. The minister sought the agreement of the opposition to pass the bills as noncontroversial in the Senate today. This will enable the minister to attend the East Asia Summit on 25 October where he anticipates that at least New Zealand and four of the ASEAN countries will also have completed their internal arrangements, thereby enabling the FTA to come into force on 1 January next year. All the signatories are in any case required to advise of progress with their internal arrangements by 2 November 2009. It would clearly be embarrassing for Australia if the minister were not able to certify the finalisation of our domestic arrangements by that date, which is why the opposition is happy to facilitate the expeditious passage of the bills through the parliament this week.

Given that the JSCOT report was tabled on 24 June 2009, it must be said that the government has had ample time to introduce and pass the legislation in a more orderly fashion. However, the opposition, as I said a moment ago, will facilitate its passage this week, given that the minister has provided assurances that the government will accede to four recommendations of the Joint Standing Committee on Treaties. They are as follows. The first recommendation is:

...that the Australian Government pursue all possible bilateral and multilateral avenues to secure improved tariff outcomes for the horticulture industry.

The second is:

...that, in the absence of other measures designed to improve free trade, a free trade agreement negotiated by Australia should not include a tariff outcome on a tariff line that is worse than the existing tariff on that tariff line.

The third is:

...that in future free trade agreements, Australia should negotiate for the binding tariff rate to be the lower of either the rate at the time of binding, or the Most Favoured Nation tariff rate at the time the free trade agreement comes into force.

And the fourth is:

...that the Department of Foreign Affairs and Trade prepare a report for the Committee examining mechanisms to allow negotiators to directly consult with industry representatives during the negotiation process.

In view of these assurances, the opposition supports the bills, which, notwithstanding the brief parliamentary time set aside for their consideration due to their noncontroversial character, are in fact very, very significant legislation facilitating a most important international trade agreement.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.01 pm)—I thank Senator Brandis for indicating the opposition’s support for this important set of bills. As he said, the amendments give effect to the agreement establishing the ASEAN-Australia-New Zealand free trade area that was signed on 27 February 2009.

The agreement covers some 20 per cent of Australia’s total two-way trade in goods and services, worth $112 billion in 2008. As Senator Brandis described, there were 16 negotiation rounds, and the agreement is the most comprehensive trade agreement that ASEAN has ever concluded, covering goods, services, investment, intellectual property, competition policy, economic cooperation, movement of natural persons and electronic commerce. There is considerable potential for the agreement to create new trade opportunities and contribute to boosting Australia’s modest investment relationship with ASEAN, and the use of regional rules of origin available under the agreement will help Australian and ASEAN industry develop greater linkages into regional supply chains.
The agreement provides for the progressive reduction or elimination of tariffs facing Australian goods exports to ASEAN. Tariffs will be eliminated on between 90 and 100 per cent of tariff lines in the more developed ASEAN markets and in Vietnam, covering 96 per cent of Australia’s current exports in the region. The agreement will reduce or eliminate tariffs across a region that is home to 600 million people and a region with a combined GDP of A$3.2 trillion. That means greater job opportunities here in Australia.

Senator Brandis reported on the agreement to respond to the report by the Joint Standing Committee on Treaties into the agreement establishing the ASEAN-Australia-New Zealand Free Trade Agreement. The government has committed to formally responding by the end of this month, Senator Brandis. Prior to that formal response, the trade minister has advised that the government is positively disposed to the thrust of the committee’s recommendations, which for the most part are broadly consistent with Australia’s free trade agreement objectives and processes. The free trade agreement is expected to enter into force on 1 January 2010, upon the conclusion of domestic processes by Australia, New Zealand and at least four ASEAN member countries. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading
Bills passed through their remaining stages without amendment or debate.

BUSINESS
Rearrangement

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.04 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 1 (Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008); order of the day relating to the (International Tax Agreements Amendment Bill (No. 1) 2009) and government business order of the day no. 3 (Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009).

Question agreed to.

FEDERAL COURT OF AUSTRALIA AMENDMENT (CRIMINAL JURISDICTION) BILL 2008

In Committee

Consideration resumed from 16 September.

The TEMPORARY CHAIRMAN (Senator Mark Bishop)—The committee is dealing with the bill, as amended, and with Greens amendment (1) moved by Senator Bob Brown.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.06 pm)—I was asking the government last night about the departure of the registrar from Hobart and whether his job in Hobart had effectively terminated yesterday. Given overnight consideration, I wonder if Senator Stephens could tell me that.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.06 pm)—Senator Brown, yesterday when we were having this discussion the department advised me that they had been advised that was to occur tomorrow, and I have not received any contrary advice since that time. I have just received advice that there is a farewell function for him today but that the position actually ceased on 4 September.
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.07 pm)—So the position ceased on 4 September and here we are, dealing with this amendment now. There has been a commitment to allow the amendment, which I have moved to ensure the continuation of that job, to be attached to the next potential bill dealing with the Federal Court. Has Senator Stephens been able to establish whether there is a commitment from the government to pass that bill this year if this amendment is attached?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.08 pm)—Yesterday you asked me that question as well. The response now is the same as the response then: the government has given an undertaking to the opposition that that bill will be dealt with expeditiously and appropriately. That is as much as I can say to you at this time.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.08 pm)—I will accept that from Senator Stephens, because there are other people making these decisions, but it means that the government, in its own good time, is now wide open to dudding the coalition, and therefore Tasmania, on this matter. I ask the senator representing the Attorney-General if she could, having also given this overnight consideration, come up with an assessment of what the travel and communication costs will be for Tasmania and Tasmanians, both public and private, of dealing with the registrar in Melbourne as against having the registrar available in Hobart.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.09 pm)—Senator Brown, when we discussed this yesterday and we discussed the decision-making process around the Federal Court’s determination on this issue, the figure of $200,000 was mentioned, which I understand is in the public documentation. The commentary was that it would represent a saving of $200,000. The department has not been able to provide me with any additional information in answer to the question that you have just posed.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.10 pm)—The problem there is that, as we all know, that $200,000 does not take into account the cost being borne by litigants and their representatives in Tasmania by the need to communicate with Melbourne or go to Melbourne. It may be a saving for the court of $200,000, but part of that impost is transferred straight across to the Tasmanians who are disadvantaged by this decision. The government are unable to give answers as to what that cost will be. In other words, the survey that was done of the cost was loaded to give an outcome that sounded good but in effect did not take into account the costs to the people who matter here, and that is the people who want to approach the Federal Court, defend themselves or take action in the Federal Court, and their legal representatives in Tasmania. We know that it will be tens of thousands of dollars, but it is the sort of figure that should be made available here. If we are going to make a decision based on the incentive of saving $200,000 then the Commonwealth—and, indeed, His Honour Chief Justice Black and the court—should know what that cost is. But apparently there has been no assessment of it, and that is simply not good enough.

I want to complete this submission by saying here that I think the coalition is potentially going to be totally dudged by the gov-
ernment on this matter. That is okay because that is how things happen in politics, but it is not okay for Tasmania. It is not okay when it comes to ensuring that this office is not taken out of Tasmania because it is described as a minor or small or less significant place to make available these facilities. I can only appeal to the coalition to reverse yesterday’s wrong decision and to support the Greens amendment to ensure that the registrar is kept in Hobart.

Senator MILNE (Tasmania) (1.13 pm)—I just have one question for the government and it is in relation to the contention that clause 18N of the legislation, by saying that a district registry must have a district registrar, actually sets up the context for Tasmania having its own registrar. So I would like to ask Senator Stephens whether the government took legal advice as to whether it could abolish the position in Hobart and still comply with the law. I would like to know whether legal advice was sought and I would like to know whether the decision to declare the Victorian registrar to be also the Tasmanian registrar was taken in light of that legal advice.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.14 pm)—First of all, for those people in the gallery who are trying to work out what is going on, we are debating the Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008, which sets up a procedural framework to ensure that the Federal Court can exercise the criminal cartel justification that it will be given under the Trade Practices Amendment (Cartel Conduct and Other Measures) Act 2009.

We had a long debate from the Tasmanian senators about a decision by the Federal Court to reorganise its own resources and to make adjustments to the Tasmanian registry. There is no intention that the Tasmanian registry will close. While registrar services will be provided from other Federal Court registries, three staff will remain there. It is very important that we understand that those services to Tasmanians will be still available and that there is no suggestion that Australians living in Tasmania will not be served well. On the question that Senator Bob Brown asked: I can guarantee that the civil litigation bill will be dealt with this year. On the advice that I provided to the Senate yesterday, that the registrar of the Victorian registry will hold the dual role of registrar for the Victorian and Tasmanian registries: it is not the practice of the government to comment on the legal advice that it has sought or has been given in any circumstances so I can neither confirm nor deny that that has occurred.

Senator MILNE (Tasmania) (1.16 pm)—I am fully cognisant of the fact that government does not have to divulge to the parliament what its legal advice is. That is why I asked the question: did the government seek legal advice? It is quite within the remit of the parliament to ask these questions. Did the government seek legal advice on this matter? Was the decision to name the Victorian registrar as also the Tasmanian registrar made as a result of the advice? I recognise that it is up to the government to determine whether they answer that. It is incumbent on the senator to explain to the parliament whether they took legal advice on this. The mere taking of advice confirms what I am actually saying here—that is, that under section 18N, Personnel other than the Registrar, there is clearly an intent. At 1(a) the provision says there will be: a District Registrar of the Court for each District Registry …
That implies that you would have a registrar with a registry. That is why I seek advice from the government as to whether they sought legal advice on this 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) (1.17 pm)—What I can say to Senator Milne is that this is the decision of the Federal Court and it is the Federal Court that has determined that this is an appropriate way to go.

Question put:

That the amendment (Senator Bob Brown’s) be agreed to.

The committee divided. [1.22 pm]

(The Chairman—Senator the Hon. AB Ferguson)

Ayes………… 7
Noes………… 28
Majority…….. 21

AYES
Brown, B.J. Hansson-Young, S.C. Milne, C. Xenophon, N.

NOES

* denotes teller

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; 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) (1.24 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2009

Second Reading

Debate resumed.

 Senator COONAN (New South Wales) (1.25 pm)—I rise to speak on behalf of the coalition in relation to the International Tax Agreements Amendment Bill (No. 1) 2009. This bill was introduced on 18 March 2009 and amends the International Tax Agreements Act 1953 to incorporate into Australian law the two separate tax agreements signed with the British Virgin Islands and the Isle of Man. The agreement with the British Virgin Islands was signed in London on 27 October 2008, and the agreement with the Isle of Man was signed in London on 29 January 2009. The provisions in these agreements are consistent with other bilateral tax treaties that Australia has signed with other countries. I would like to say at the outset that the coalition will be supporting the passage of this bill.

The agreement with the British Virgin Islands provides for a complete exchange of tax information between the two countries in both criminal and civil tax matters. This will remove ability for Australian taxpayers to use the British Virgin Islands as a tax haven.
This expands the existing relationship, where both countries only share tax information for criminal matters. In addition to the exchange of tax information provisions, this agreement also ensures that certain income is not subject to double taxation. Specifically, this applies to ensure that those employed by governments are not subject to double taxation. Under this agreement any income received from government service is only taxable by the country to which the services were provided. Currently, such income would be taxed in Australia and by the British Virgin Islands. This provision does not apply to those earning income from private business or commerce. This agreement also ensures that education related payments received by students are exempt from taxable income. It also ensures that students from Australia or the British Virgin Islands do not have to pay income tax on any payments made from their resident country for the purpose of education and maintenance.

The agreement with the Isle of Man provides for a complete exchange of tax information between the two countries in both criminal and civil tax matters. This will remove ability for Australian taxpayers to use the Isle of Man as a tax haven. Similarly, currently both countries only share tax information for criminal matters. This agreement also commits the revenue agencies in each country to assist taxpayers in resolving any disputes relating to transfer pricing. In addition to the exchange of tax information provisions, this agreement also ensures that certain income is not subject to double taxation. It ensures that income received from pensions and retirement annuities will only be taxed in the individual’s country of residence. Currently, income received from a pension or retirement annuity may be taxed in the country of residence and in the country where the income is sourced. As in the agreement with the British Virgin Islands, this agreement also ensures that those employed by governments are not subject to double taxation. Currently, such income would be taxed in Australia and by the Isle of Man. Again, as in the agreement with the British Virgin Islands, this provision does not apply to those earning income from private business or commerce. This agreement also contains the same exemption provisions relating to education purpose payments as the agreement with the British Virgin Islands. The coalition, as I said, considers that the provisions of this bill are sensible and have our support. I commend the bill to the Senate.

Senator SHERRY (Tasmania—Assistant Treasurer) (1.29 pm)—I thank Senator Coonan for her contribution and the opposition for their support. I also thank the chamber generally for facilitating the passage of the International Tax Agreements Amendment Bill (No. 1) 2009 during this period. The bill forms part of Australia’s continued contribution to a global crackdown on tax evasion to protect public finances and international standards. The G20 emphasised the importance of implementing international standards for information exchange at its summit in April 2009. At its finance ministers meeting in September 2009, it agreed to develop effective countermeasures for use against jurisdictions that fail to meet them.

Australia has a key role in this work as the recently elected chair of the OECD-sponsored global forum on transparency and exchange of information, the main international forum for the implementation of these standards by more than 80 countries. The forum was held in Mexico City between 1 and 2 September. Australia is actively pursuing the conclusion of tax information exchange agreements with low-tax jurisdictions, such as the two agreements with the British Virgin Islands and the Isle of Mann. The continued conclusion of bilateral agree-
ments of this type will help Australia meet its international commitment to improve the transparency and integrity of the global financial system.

The bill will give the force of law to the taxation agreements between Australia and the British Virgin Islands and Australia and the Isle of Mann, which were signed in London on 27 October 2008 and 29 January 2009 respectively. The bill will insert the text of both agreements into the International Tax Agreements Act 1953 and give the agreements the force of law in Australia. The amendments will provide for the allocation of taxing rights between Australia and the British Virgin Islands and Australia and the Isle of Mann over certain income of individuals who are residents of Australia, the British Virgin Islands or the Isle of Mann, thereby helping to prevent double taxation. The Isle of Mann agreement will also provide an administrative mechanism to help resolve transfer pricing disputes that may arise between taxpayers and the revenue authorities of Australia or the Isle of Mann.

These agreements, which were signed in conjunction with bilateral tax information exchange agreements between Australia and the British Virgin Islands and Australia and the Isle of Mann, support Australia’s efforts to combat tax avoidance and evasion through enhanced international cooperation. The agreements with the British Virgin Islands and the Isle of Mann form part of Australia’s ongoing commitment to the work of the Organisation for Economic Cooperation and Development, commonly known as the OECD, on implementing tax transparency and information exchange standards endorsed by the United Nations and the G20. The bill represents Australia’s commitment to strengthen the global financial system. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

**Third Reading**

Bill passed through its remaining stages without amendment or debate.

**CORPORATIONS AMENDMENT (IMPROVING ACCOUNTABILITY ON TERMINATION PAYMENTS) BILL 2009**

**Second Reading**

Debate resumed from 10 September, on motion by Senator Wong:

That this bill be now read a second time.

**Senator BUSHBY** (Tasmania) (1.33 pm)—Prior to my remarks being interrupted, I was talking about what has been referred to as the ‘squeezing the balloon’ effect. This is where executives who consider themselves to be worth a certain amount will seek to adjust their remuneration package by increasing some aspects of it if other aspects are made smaller. I mentioned that every business representative organisation that appeared before the committee indicated that this was likely to occur based on their own experiences.

When this was put to Treasury, their comment was that this would not occur because such increases in other aspects of executive package would show up on the remuneration reports that go to shareholders and would be subject to a non-binding shareholder vote. This may well be the case, but a non-binding vote as to whether to accept a report on the remuneration of the top five executives in a company is likely to be seen as a far easier path by many than selling to shareholders a specific termination package, a package that follows the cessation of employment of an executive after the usefulness of the executive to the company and hence its shareholders has passed, which would involve more than a year’s salary and potentially attract negative media interest.
To argue otherwise also requires one to accept that Australian companies are currently paying more than they need to to secure the services of their top executives—in other words, that it is possible to go out there and secure their services for a lower overall remuneration package than that which they are currently offering. Personally, I would be surprised if Australian boards do not already work very hard to ensure that they pay no more than necessary to land the executives that they wish to employ. If this is the case, it follows that they will still need to offer a package of equivalent value to attract any given employee.

What we are likely to see is an increase in the incidence of golden hello payments, front-loading and sign-on bonuses, in addition to the expected increases in base salary. What is more, the transparency in remuneration reporting referred to by Treasury will apply only to listed companies.

The net effect of all of this is the real possibility that companies may in fact face higher remuneration costs as a result of this legislation, an outcome that is totally contrary to that posited as the reason for its enactment. As it currently stands, most executive remuneration packages contain performance clauses under which part of the executive’s package is payable only upon meeting successful performance criteria. When the executive and the company part ways, the termination payment may or may not include a component based on such performance criteria. It will if he or she has met them and it will not if they have not. But if a higher base salary or front loading is negotiated, such a package will be handed over with certainty and may end up costing more than where a performance component would not have been paid. In this regard, then, the legislation threatens to disturb the alignment of the interests of shareholders and their directors. This is contrary to the aims of the shareholder groups that argue against any disconnect between executive stakeholders and shareholders, as both groups should share sharing in both any pain and any upside. This misalignment occurs because the current form of the bill may encourage executives to move away from incentive based remuneration.

The other specific aspect of this bill which will seriously distort the way executive remuneration packages are constructed is the adoption of base salary in place of total remuneration as the basis for the calculation of the threshold above which shareholder approval is required. This amendment to the legislation will have two very likely impacts which will directly shift senior executives away from short- and long-term pay incentives in favour of maximising base salary. The first is, as already discussed, the ‘squeezing of the balloon’ effect, which will lead to the tendency for negotiated packages to compensate for the risk that termination payments will be curtailed by shareholders. The second is the more direct impact of the threshold being based on base pay, which will lead to a tendency for higher base pay to increase the actual dollar value of the threshold in practice.

On the basis of the evidence presented, coalition senators feel there are a number of issues requiring clarification or further scrutiny. These include the application of the bill to all companies, not just listed ones; the meaning of ‘key management personnel’; the definition of ‘base salary’, which will not be known until the regulations have been released; the definition of ‘termination benefit’, which again will not be known until the regulations have been released; the role of institutional investors in shareholder voting on termination payments; the treatment of superannuation in threshold calculation and its impact on termination payments; the treatment of statutory entitlements; the calcu-
lation of the average base salary over three years; the pro rata limit for service of less than 12 months and the fairness in relation to its proposed application; and the treatment of voluntary, out-of-court settlements for unfair dismissal actions and other issues arising out of a forced termination.

Coalition senators also agree with the recommendation of the majority of the committee that the draft bill be altered to permit shareholders to vote on a specific amount over the threshold in cases where it has been triggered. The bill as drafted arguably permits a vote for an unspecified termination payment. This oversight in the framing of the bill is again cause for reflection on the government’s undue haste to intervene in this area and highlights once again that the government is legislating on the run. Referring matters to committees before consultations on the all-important regulations are complete results in witnesses being forced to speculate on the content of legislation, as we certainly observed during the committee stage. The common practice of this Labor government is to introduce legislation that is a bare skeleton, with the key questions on its application yet to be revealed in as yet unspecified regulations.

Coalition senators in their report also welcomed APRA’s focus on the issue of executive remuneration and support APRA in the development of its guidelines for the setting of remuneration for executives of ADIs. In common with coalition senators on the committee, I remain of the opinion that there are sound reasons to await the final report of the Productivity Commission in December 2009 before enacting legislation on termination payments. Similarly, there are good reasons to await the release of the APRA standards due shortly.

I accept the prevailing sentiment that the present threshold is high by international standards and in the view of the community. At the inquiry, I heard a divergence of views of what an optimal threshold would be. Seven years is clearly too much. The evidence suggested that probably two or three years would be ideal. The bigger issue was that of consideration of the salary upon which the remuneration package threshold would be based. In their comments, coalition senators considered that, for the reasons already outlined, there is this clear and strong case for adopting total remuneration, rather than base or fixed pay, as the threshold. I reaffirm this. This is why Senator Coonan has foreshadowed an amendment to try to deliver this outcome and I commend her amendment to the chamber.

It seems to me that interference in private companies’ rights to manage their own affairs should only occur to address extreme cases, the cases that rightly cause outrage in the community, and not the 50 to 60 per cent of termination payments the Treasury has in its sights. Similarly, the provisions in this bill should only apply to those executives whose remuneration is already disclosed in the remuneration report. I commend the bill and I also commend the amendments. I hope that the Senate views them favourably.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.41 pm)—There are few issues that rub people up the wrong way as much as the massive sums being paid to some company chief executives. While thousands of Australians this year have been sent to the dole queue, some of these company chief executives have enjoyed multi-million dollar payments at the workers’ expense.

Who can ignore the fact that Peter Moore, the former CEO of Pacific Brands, left the company last year with a golden handshake of $3.4 million while, only some months later, 1,850 workers were given the boot. I
think it is pretty hard for the company to make the argument that they needed to cut costs. Or what about the case of Owen Hegarty, who was paid $8.35 million on his departure from OZ Minerals despite the fact that the shareholders have seen hundreds of millions of dollars wiped off the value of the company in the last year.

The public outcry on the issue of executive pay has been enormous and it is well deserved. Australians are sick of seeing fat cat executives line their own pockets while ordinary Australians are told that there is not enough money in the company’s budget to allow them to keep their jobs or to pay them a raise of a few extra dollars a week. It is corporate greed at its worst and the government has finally woken up and realised it needs to act.

But the government’s Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009 has more holes than swiss cheese. This bill deals with the issue of termination payments, but it does not touch any of the other parts of executive pay. Executive salaries are not only made up of big termination payments; there are also the issues of ‘golden hellos’ or sign-on fees, excessive base salaries and over-the-top bonuses paid according to performance. Back in March, the government set up an inquiry with the Productivity Commission to look at the issue of executive pay. The Productivity Commission is due to release its draft issues paper in a couple of weeks and its full report by the end of the year. Surely the sensible thing to do would be to see the findings of the Productivity Commission report on executive pay before rushing ahead with this bill.

Executive pay is an issue which does need urgent attention, but I am also aware that it is a highly complex issue and, if you rush ahead with a change in just one area of executive pay, you may see the problem transfer to another area—for example, golden hellos. If golden handshakes just turn into golden hellos or golden bonuses, is that really going to fix the problem? On paper, what the government has put forward is a start. They have changed the current thresholds on termination payments so that shareholders need to approve termination payments if they are more than one year’s base salary, instead of what it is at the moment, which is seven times their entire salary.

But, when you look a bit more at the detail of the government’s bill, it is clear that this bill still leaves open the possibility of executives getting excessive salaries through other channels. As was referred to before, it is like a balloon; if you squeeze it on one side, all it may end up doing is pushing out on the other side. Focusing on the issue of excessive termination payments, this bill will simply encourage companies to structure the contracts of executives differently so that they give bigger base salaries, or golden hellos or some other ‘golden’ terminology. There is merit in waiting for the Productivity Commission report so that a more comprehensive solution to excessive salaries can be considered.

All Australians are concerned about the excessive salaries and termination payments being paid to many company executives, but the big question is: where do you draw the line? I think it is right that we reward people for working hard and for doing a good job. But I also think we need to have limits and put an end to over-the-top payments. That is why I think the best way forward is to give more power to shareholders to have a say in all executive termination payments that are over the $1 million level. Family First believes that setting a $1 million trigger for shareholder approval is fair and reasonable. Anything over $1 million in a termination payment would set the trigger for sharehold-
ers to have a vote. No company executive should be able to cry poor and say that a $1 million trigger is too low for shareholders to approve. Also, no company should be able to make the ridiculous claim that a trigger of $1 million is an amount that is too small to be competitive and attract talented executives from the global marketplace. If they need to go above that to be competitive, as I said before, they need shareholders’ prior approval.

Family First believe that setting up a $1 million trigger for shareholders’ approval is fair and reasonable. Reigning in executive salaries is an important issue that needs to be addressed, and the government’s bill really falls short of what needs to be done to solve this significant problem.

Senator XENOPHON (South Australia) (1.47 pm)—As a nation Australia has long prided itself on our egalitarian attitude. We believe in equality of opportunity and we believe in fairness right across the board. But most Australians would argue that we have not seen that fairness when it comes to the remuneration of executives in this country. Between 1971 and 2008 the growth in executive salaries was a staggering 470 per cent. Put simply, the rich have been getting richer. Compare that with the situation faced by average workers who prop up the businesses these executives so handsomely profit from. Between 1971 and 2008 the average worker has experienced an increase in real wages of 54 per cent. So executive salaries have gone up nine times more than the wages of workers in real terms.

Some would argue that the CEOs, as the senior executives of our top 100 companies, are worth the multimillion dollar contracts they have been paid. Others might argue that they are not. The Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009 is not really about how much a CEO should or should not be paid. It is about giving shareholders some say over how much a CEO is paid when they leave.

If the average Joe or Joanne retires from his or her full-time job as, say, an accountant in Adelaide, they are likely to leave with their annual leave paid out as a lump sum, some super and a farewell party. If Mr or Mrs Smith resigns to take up a position elsewhere, they will probably be paid out their one month’s notice and their annual leave as a lump sum, and the farewell party would be negotiable. But, if Mr or Mrs Smith is sacked due to poor performance, because he or she did not meet his or her key performance indicators or because their work resulted in the business losing money, they would probably be asked to stop work immediately and would be paid out their one month’s notice and annual leave—no reference, no party and no bonus.

Compare this with the extraordinarily generous treatment routinely given out to Australia’s CEOs. The average CEO of a top 100 company in Australia who resigns, retires or is sacked receives a termination payment of around $3.4 million, which is the equivalent of twice their annual salary. If that is not enough, under the current legislation executives are eligible to receive termination payments of up to seven years total remuneration without the need for shareholder approval. That means that a person with seven years service and an average annual salary over the last three years of $10 million would be entitled to receive a termination payment of up to $70 million without seeking shareholder approval. What is even more outrageous than that figure is that more often than not the reason for termination is poor performance. So it is a case of: ‘If you mess up and cost the shareholders a fortune, we will pay you out a fortune as we show you out the door.’ That seems to be the approach
in many cases. It is just extraordinary and it is not acceptable.

In 2002 five senior executives of AMP departed with close to $12 million between them, despite the fact that when they were in office, holding positions as senior executives, AMP lost more than $13 billion of its market value. In 2003 the CEO of Southcorp was farewelled with a golden handshake of $4.4 million even though while he was at the helm Southcorp shares lost 40 per cent of their value. In fact, a study by corporate governance analysts RiskMetrics found that one-third of the nation’s top 100 companies in the past three years paid their chief executives a combined $112 million to go away. It seems unfathomable that, while the average Australian may be sacked without so much as a farewell party, an executive is being farewelled not just with a bottle of Dom Perignon but with an unearned outrageous fortune.

I commend the government on introducing this bill, which will reduce the number and size of golden handshakes and will instil a bit more faith in the Australian public and Australian shareholders about our corporate CEOs. This bill will hold to account executives, who for too long have been handed multimillion dollar farewell cheques—cheques that many shareholders would agree they did not deserve. But I have some concerns that this bill will not match its intent. The Productivity Commission is due to release its findings into executive remuneration in December this year. It will address not only termination payments for executives but also pay arrangements and greater powers for shareholders. According to media reports it will call for the votes of shareholders with regard to remuneration to be binding. This is a measure that I fully support.

Given this, as well as a number of other concerns I have, I will move a number of amendments during the committee stage that will seek to ensure greater transparency and greater accountability when it comes to termination payments. These include an amendment that requires that shareholders be advised of the reason for the executive’s departure—whether it is resignation, retirement or termination—and an explanation. Too often shareholders are told that the executive is retiring only to be told in the board remuneration report that they were terminated with a multimillion dollar bonus. With all due respect it just shows you how smart some corporations can be when it comes to keeping embarrassing information from shareholders. I have real concerns that removing these golden handshakes will only result in a surge of golden hellos. As such, I will be moving an amendment that will require approval from shareholders for sign-on and performance benefits that exceed the one year’s base salary threshold. We cannot allow one rort but leave the way open for another.

This bill is a positive step to ensuring greater accountability, as the termination payment threshold is set to drop from seven times total remuneration to one year’s base salary. However, as many of these agreements will be finalised during the sign-on stage, well before the possibility of termination is discussed, I believe it is crucial that shareholders have a say in the sign-on and performance bonuses to ensure that they are not beyond expectations. Further to this, I will be calling for shareholders to be able to vote on the maximum money value an executive can receive as a termination payment where it exceeds one year’s salary. Shareholders invest their savings in a company in the hope that they can support and profit from the company. There are many hundreds of thousands of Australians who rely for a comfortable retirement on the dividends from these shares and on the capital value of
these shares. They do not want to watch their investment fall while the CEO, after three years of service, leaves with a multimillion dollar pay packet.

Finally, as the Productivity Commission is set to release its final report into executive remuneration, I call on the chamber to support the insertion of a creative sunset clause into this bill—it is not an ordinary sunset clause, but I would like to think that senators will see this as a positive way forward—whereby certain exceptions under this proposed legislation cease two years after the date of assent, which would enable parliament to revisit this legislation. In other words, if nothing is done it would give greater power to shareholders in terms of executive remuneration. It would act as a powerful incentive for the legislation to be revisited in a positive way to strengthen safeguards for shareholders, particularly after ASIC and the Productivity Commission hand down their findings.

This bill is a good step towards holding corporate executives more accountable and forcing them to justify a multimillion dollar payout when the average Australian is finding it difficult to make ends meet. I support the purpose of the bill and, when we look to move amendments during the committee stage on this long-overdue piece of legislation, I hope to have the support of this chamber to close loopholes in the legislation and to improve it for the benefit of shareholders and the Australian public alike.

Senator SHERRY (Tasmania—Assistant Treasurer) (1.55 pm)—I thank the senators who have taken part in the debate on the Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009. As everyone is aware, there is considerable community concern about excessive termination payments paid to company management at a time when many Australian families are being hit hard by the global recession. Such payments are given to outgoing company directors and executives at a time when they are no longer able to influence the company’s future performance. They provide little benefit to the company and are often regarded by shareholders and the wider community as a reward for failure.

The bill will amend the Corporations Act 2001 to strengthen the regulatory framework relating to the payment of termination benefits to company directors and executives. This is an important initiative of the Rudd Labor government. As highlighted by the global financial crisis, increasingly termination payments have borne no relationship whatsoever to the profitability of the company or to the performance of the recipient. The reforms empower shareholders to reject extreme termination payments that are not in the company’s interest.

The government is taking decisive action. The reforms in the bill reduce the threshold at which shareholder approval is required for a termination benefit from seven times total annual remuneration to one year’s average base salary. The bill expands the scope of the individuals covered by the regulatory regime to include the key management personnel of companies that are disclosing entities. It improves the integrity of the shareholder vote, facilitates recovery of unauthorised termination benefits and substantially increases the relevant penalty provisions.

The bill underwent a four-week public consultation. The government was responsive to stakeholders and decided not to change the shareholder voting arrangements. A number of shareholders identified practical difficulties with changing the timing of the shareholder vote until after the departure of the director or executive. As such, the government has decided to retain the status quo, which allows the shareholder vote to be held
at any time prior to the termination benefit being paid to the director or executive.

The regulations supporting the bill have also undergone extensive public consultation. The government has been responsive to stakeholder concerns. The final regulations were released on 3 September. The regulations provide a definition for base salary, clarify and expand the types of benefits which are and are not subject to shareholder approval and prescribe circumstances in which the benefit is given in connection with a person’s retirement. The regulations have been sent to the Ministerial Council for Corporations for its approval, in accordance with the requirements of the Corporations Agreement 2002.

As a whole, these reforms create a sense of justice in the alignment of the profitability of companies and the remuneration of company directors and executives. I note that the Senate Economics Legislation Committee has reviewed the provisions in this bill and recommends that the Senate pass it. In summary, this bill will implement important reforms to strengthen the accountability of company management, empower shareholders to reject excessive termination benefits and promote the provision of responsible levels of termination benefits to company directors and executives.

This is not just an issue in Australia; it is a worldwide issue of concern, particularly in the context of the global financial crisis and some of the grossly irresponsible behaviour we have seen around the globe, particularly in Europe and North America. I note that Australia is one of the first countries to respond with a range of positive initiatives to deal with an important issue that has been highlighted by the global financial crisis.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Building the Education Revolution Program

Senator MASON (2.00 pm)—My question is to the Minister Assisting the Prime Minister on Government Service Delivery, Senator Arbib. I refer the minister to the Australian Technical College - Spencer Gulf and Outback, which received a $75,000 grant under the Building the Education Revolution program to extend a shed, despite parents and students at the school being told that this Australian technical college will be closed. Will the minister explain how a grant of $75,000 to extend a shed that will soon be demolished is an appropriate use of taxpayers’ hard-earned money?

Senator ARBIB—I thank the good senator for the opportunity to talk about the Australian Technical College - Spencer Gulf and Outback and about Building the Education Revolution. As I put on the record yesterday, there are 24,000 projects across the country and 9½ thousand schools will receive major upgrades and new infrastructure, creating jobs for tradespeople and jobs for small business. That is what Building the Education Revolution is about.

With regard to the Australian Technical College - Spencer Gulf and Outback, I inform the Senate that the college received $75,000 under the NSP project for the expansion of a storage facility for tools and equipment at their Port Pirie campus. The South Australian Catholic Education Authority has advised that the future of the ATC is in doubt and that the BER funding has been frozen until a decision is made. The principal advises that no funds have been spent by the school to date.

Senator Carr—Was that in the Australian?

Senator ARBIB—If the school is taken over by someone else or if it closes, the edu-
cation authority has agreed to return the BER money to the Commonwealth.

Senator Carr—That wasn’t in the Australian, either.

The PRESIDENT—Order!

Senator ARBIB—It is extremely important when we are dealing with the Building the Education Revolution Program to always check the facts. Many times Senator Mason has come in here and made claims about schools and many times we have gone away and checked those claims and found that they were incorrect.

Honourable senators interjecting—

The PRESIDENT—Order! When there is order on both sides, we will proceed.

Senator ARBIB—Always check the facts when Senator Mason is quoting about schools; always check the facts when the Liberal Party is quoting about schools. We know they oppose 9½ thousand schools across the country, including in all their electorates, getting this funding. (Time expired)

Senator MASON—Mr President, I ask a supplementary question. I refer the minister to Annangrove Public School, which has received $850,000 under the Building the Education Revolution program. Why was this school’s request for a school hall ignored and their eighth ranked priority, a school library, which they already have, forced upon them? Is this another example of state and Commonwealth bureaucracies forcing schools to spend their grants on ill-suited building templates?

Senator ARBIB—Senator Mason has worked very hard on this question. He has done a great deal of research. He rolled out of bed this morning and picked up the newspaper and said, ‘Oh my goodness, I think I’ve got a story for question time!’ The Liberal Party has been up to a great deal of research. Well done, Senator Mason! I am happy to advise the Senate and the Liberal Party that the Annangrove Public School has been allocated $850,000 under the P21 program for a new library. I am also happy to advise the Senate that that was agreed to by the school’s principal. Information was reported in the press this morning that was incorrect. The New South Wales Department of Education and Training advises that the quote of $285,000 was for the construction of the building only and did not include other elements of the project such as design, site investigation, planning, surveying, engineering, administration, management, water connection or power connection. (Time expired)

Senator MASON—Mr President, I ask a further supplementary question. I refer the minister to Colbinabbin Primary School, which will receive $600,000 under the Building the Education Revolution program and is being forced to build a template hall and, in the process, to dismantle recent upgrades that were funded by the community through cake stalls, raffles and fetes. Can the minister guarantee that this school will be able to use its BER grant and keep the upgrades that the school community has worked so hard to secure?

Senator ARBIB—Again, Senator Mason opened up the newspaper and found a story. A great deal of research went into that one, Senator Mason. Unfortunately for Senator Mason, the information reported is, again, not accurate. What a surprise, Senator Mason! Colbinabbin Primary School received funding of $600,000, which was approved under P21, for the construction of new classrooms—not a multipurpose hall, as reported. That is advice from the Victorian Department of Education and Early Childhood Development. The school and local community requested a new classroom—

Honourable senators interjecting—
The PRESIDENT—Senator Arbib, Senator Mason is entitled to hear your answer. Those on your right, next to you, need to be quiet so that the answer can be heard.

Senator ARBIB—As I said, always check the facts when you are dealing with Senator Mason; always check the facts when you are dealing with the Liberal Party. What is the Liberal Party’s plan for schools? They want to roll back the stimulus package. And what will that mean? Tell us, Senator Mason. Tell us which schools will lose their funding. Tell us which schools in your electorate, in Queensland, you will take funding away from, because that is what you intend. (Time expired)

Economy

Senator HUTCHINS (2.07 pm)—Mr President, my question is to the Assistant Treasurer, Senator Sherry. Is the Assistant Treasurer aware that overnight the Organisation for Economic Co-operation and Development released the 2009 Employment outlook annual report? Can the Assistant Treasurer tell the Senate about this latest independent assessment of Australia’s economy? What does the OECD say about the role of the government’s stimulus package in Australia’s economic performance during this global recession, especially in comparison with other advanced economies? Does the OECD report indicate whether the government’s stimulus package has lifted employment and whether the number of jobless would now be higher without the stimulus strategy, and, if so, does it say how many jobs this swift and decisive government action has saved? Finally, does the OECD report forecast whether the government stimulus strategy will have—(Time expired)

Senator SHERRY—Firstly, the OECD is a world-leading, independent and well-respected economic organisation. It states that job losses across the OECD would have been far higher if national governments had not implemented fiscal stimulus packages. The fiscal stimulus strategy and actions of governments around the world have in fact avoided a depression.

Senator Ian Macdonald interjecting—

Senator SHERRY—it is a lot more reliable, Senator Macdonald, than the Australian. This is what the report says: Vigorous government actions to stabilise financial markets and raise aggregate demand appear to have prevented the financial crisis from developing into a depression, but have not been adequate to prevent a severe recession in most OECD countries.

‘Vigorous government actions’? Let’s see: they would be the fiscal stimulus and the bank guarantee. These are the very things that the Liberal and National parties have continued to criticise, attack and oppose.

The OECD singles out the Australian government stimulus as having been particularly effective in supporting employment. While the OECD states that most fiscal packages generally have not had a strong effect in cushioning the initial decline in employment, there is one exception—that is, Australia. Australia is a notable exception. The OECD estimates that Australia’s stimulus will lead to employment being 1.4 to 1.9 per cent higher in 2010 than would otherwise have been the case. That is 160,000 to 210,000 Australian workers whose jobs have been saved by decisive action, and in part the stimulus package has made a significant contribution. Those opposite have vigorously opposed and vigorously criticised the stimulus package that has saved more than 200,000 jobs. (Time expired)

Senator HUTCHINS—Mr President, I ask a supplementary question. Does the OECD 2009 Employment outlook annual report contain an assessment of the role of fiscal stimulus packages in other countries
and how well they have supported jobs in their economies? Does this assessment include an outlook on the general employment situation in other advanced economies? Is there any kind of warning in the report about the dangers of allowing unemployment to rise further? In particular, does the report raise concerns with difficulties faced in getting people back to work after they have been out of work for a lengthy period of time and after a recession? What do the unemployment forecasts for Australia and for the other OECD economies contained in the report tell us about the prospects of a recovery from this global recession?

Senator SHERRY—Unfortunately the report’s assessment of the outlook for workers in OECD countries, other than Australia, is particularly grim. They are forecasting some 57 million people will be without jobs across advanced economies by the end of next year. This will be an almost doubling of unemployment since the beginning of 2008—

Senator Ian Macdonald—What about underemployment in Australia?

Senator SHERRY—and, yes, Senator Macdonald, underemployment is an important issue in every country. The current forecast is for OECD-wide unemployment rates to reach 9.9 per cent by 2010. For Australia over the same period, the OECD forecast is 7.7 per cent. And as we know, it is currently 5.8 per cent. There remains a massive challenge as unemployment continues to rise here and around the world. As I have said on a number of occasions, even though Australia is the only advanced economy not to have gone into recession, with 0.6 per cent growth, that in itself is not sufficient to maintain jobs and prevent unemployment. (Time expired)

Senator HUTCHINS—Mr President, I ask a further supplementary question. Can the Assistant Treasurer advise the Senate of the government’s plans for the future of Australia’s stimulus package? In light of the dire circumstances around the world and how they will continue to affect the Australian economy, will the government maintain its original three-stage structure of our decisive stimulus package—that is, immediate, medium- and long-term elements in support of our economy?

Senator SHERRY—Thank you to Senator Hutchins for emphasising the points in his questions. Unfortunately, it has not penetrated the minds of those opposite just how important the stimulus package has been.

Senator Arbib—They didn’t even know there was a global recession.

Senator SHERRY—Exactly! They do not even know there is a global recession; they do not want to acknowledge there is a global recession. They do not want to acknowledge that their negative approach in opposing the fiscal stimulus package would have cost jobs. If we had followed the advice of the Liberal opposition, we would have more than 200,000 additional unemployed. It is very sad to see the very divided and split Liberal-National party stand for increasing joblessness. That is their prescription. The old neoliberal approach is to increase unemployment, and yet just a few months ago they were saying it was all about jobs, jobs, jobs. In fact, what they are arguing in their negative, sit-on-their-hands approach—(Time expired)

Nation Building and Jobs Plan

Senator BRANDIS (2.14 pm)—My question is to the Minister representing the Minister for Employment and Workplace Relations, Senator Arbib. Minister, why did the government remove the requirement for companies tendering for projects under the so-called Nation Building and Jobs Plan to
have occupational health and safety accreditation?

Senator ARBIB—That is a very important issue because OH&S is something that the government is working on across the board and cooperatively with the states. There are national requirements for occupational health and safety and there is accreditation that must be in place. As all senators know, the stimulus package was undertaken in the middle of a global recession. There was a need for urgency to ensure that infrastructure was put in place to support jobs and small business.

We received numerous representations from small business at the time saying that under the national OH&S regulations they would be excluded from undertaking work. The Labor Party and the Rudd government has always and will always support small business, and there were changes made to ensure that small businesses were not disadvantaged in the purchasing and tendering arrangements from the Nation Building and Jobs Plan. I am proud of the decision we made to undertake that.

Occupational health and safety is still in place under state legislation. It is still in place in each state and each project, but at the same time we have ensured that small businesses, the same small businesses that the coalition would deny work to, the same small businesses that the Liberal Party would be happy to close down by withdrawing the stimulus, are getting support through thousands and thousands of projects. I have told the Senate on numerous occasions that there are 35,000 projects getting under way over the next 14 months. That is what the Rudd government is about. Malcolm Turnbull and the Liberal Party have had one year in office and there is still no jobs plan.

The PRESIDENT—Order! Senator Arbib, you need to use the correct title of a person in the other place.

Senator ARBIB—Thank you, Mr President. Mr Turnbull still has no jobs plan.

Senator BRANDIS—Mr President, I ask a supplementary question. Did the minister consult the relevant unions about the abandonment of the OH&S safety net for these projects before the relevant statutory instrument, which I can show the minister, was signed?

Senator ARBIB—I am very surprised that the Liberal Party, who once thought they were the champions of small business and claim to be the champions of small business, would be happy for small businesses not to work on stimulus projects. Mr President, I can inform Senator Brandis and all senators that we consulted across industry, across the union movement and with all the states and the territories and there were discussions at COAG. In the end it was about jobs and it was about small business because we care about small business. Every job we can save in small business has a multiplier effect. Unemployment is such a terrible phenomenon. The Liberal Party do not care about it and they do not understand that unemployment does not just affect the person who loses their job; it affects their family, it affects their friends, it leads to crime and it leads to social dislocation. That is what unemployment is about. The Liberal Party could not care less. The shadow Treasurer has said, ‘It is not our top priority’— (Time expired)

Senator BRANDIS—Mr President, I ask a further supplementary question. Why does the government think that the safety of workers on Julia Gillard memorial school hall building sites is less important than on other Commonwealth funded building sites? Isn’t abandonment of the OH&S regulations proof that, in its rush to get the promotional
signs for these projects up, the government made a conscious decision to abandon its OH&S standards?

Senator ARBIB—I reaffirm, again, that this decision has not compromised safety standards in any way, and I again confirm to the Senate that this decision was taken to ensure that the thousands and thousands of small businesses that operate in this country had access to nation-building projects. I do hope that Liberal Party and National Party senators never come in here and blame us for local tradespeople not being able to get access to work while at the same time criticise us on this change in OH&S. This change allowed thousands of small businesses across the country to get access to nation-building projects. I am proud of the decision we took. It was the right decision and it means we are supporting jobs. As the OECD said, 200,000 jobs would be lost, and the Liberal Party's plan for jobs is to roll back the stimulus and go back to Work Choices. (Time expired)

Afghanistan

Senator BOB BROWN (2.20 pm)—My question is to the Minister for Defence and it is about Afghanistan. I quote from Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff in the United States, who told the Senate Armed Services Committee yesterday:

I consider the threat from lack of governance to be equal to the threat from the Taliban.

I ask the minister: is it true that one in three votes is under question and that variously the authorities in Afghanistan are checking 1.5 million votes? What is to be done with this highly fraudulent election process in Afghanistan, and what action is this government contemplating taking in view of the fact that it is hardly credible now that a result could go to President Karzai?

Senator FAULKNER—I thank Senator Brown for his question. I have said before in the chamber that the government is very concerned about the allegations of fraud in the conduct of the Afghan elections. It is important to remember that these were the first Afghan-run elections in 30 years. They took place in difficult circumstances. I suspect it is fair to say that they were never going to be a clean run or perfect, but I would suggest it is important that the constitutionally mandated processes for dealing with the electoral complaints are followed.

For its part, Australia has welcomed the decision by the Electoral Complaints Commission to order an audit and recounting of votes at a number of polling stations where fraud is suspected. The commission has indicated that the recount would cover more than 10 per cent of the polling stations. I can say, as I suspect Senator Brown is aware, the commission has already invalidated some of the results. I would stress, as I have before, that these processes need to run their course. A final outcome may not be known until later this month. I can say that Australia supports the call made by the United Nations for these processes to be respected, and people have been requested to be patient while awaiting the final results. It is proper that the Australian government and the international community do that, as well as the Afghans themselves. (Time expired)

Senator BOB BROWN—Mr President, I ask a supplementary question. I ask the minister: is it true that the Prime Minister of Canada has, in the last two days, reiterated Canada’s determination to withdraw all its troops from Afghanistan by 2011? Can the Australian government say what the exit timetable is for Australia’s defence forces?

Senator FAULKNER—I can say to Senator Brown that I have not seen a formal comment from the Prime Minister of Canada
in relation to the exit time of Canadian forces. I can certainly say to Senator Brown that I am aware of previous statements that have been made by the Canadian Prime Minister and the Canadian government in relation to the exit of Canadian forces which certainly conform with the date he has outlined in his supplementary question. In relation to Australia, I would say to Senator Brown that the fundamental interests of Australia, and I believe the international community, remain to prevent Afghanistan from being a training ground for terrorists and to support the international community and our alliance partner, the US. (Time expired)

Senator BOB BROWN—Mr President, I ask a further supplementary question. In view of the increasing pressure on President Obama to send more troops to Afghanistan, can the minister say whether there have been any approaches, direct or indirect, from the US or anywhere else, to increase Australia’s troop commitment to Afghanistan? Can the minister give the Senate an assurance that there will not be an increase in the deployment of troops to Afghanistan or that the government is considering increasing civil aid to Afghanistan rather than maintaining our troop presence in that country?

Senator FAULKNER—Senator Brown, it is very difficult to give you a substantive answer to all those very important questions that you have asked. I would ask you to examine some of the public statements I have made, including a very substantive statement on Afghanistan in relation to this matter. It is not true to suggest that the government of the United States of America has specifically requested that the Australian government increase its troop commitment to Afghanistan. I think I have made that very clear to the parliament in the past. I think it is important that I stress that Afghanistan has been a training ground for terrorists, including those who have perpetrated attacks on Australia. (Time expired)

Broadband

Senator MINCHIN (2.27 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I refer the minister to today’s statement by former ACCC Chairman Allan Fels that:

… the Government is playing with fire. By weakening Telstra, it may be killing the only foreseeable competitor to the NBN.

I ask the minister: is the real objective of the government’s attack on Telstra to create, via its NBN Co. and its $40,000-a-week CEO, a government owned monopoly of Australia’s fixed line network, rather than using its NBN to create another competitor for Telstra and choice for consumers?

Senator CONROY—I thank Senator Minchin for that question. The government is aware of claims that the NBN will be creating a new monopoly. These claims completely miss the point that the government is transforming the structure of the telecommunications market with the rollout of a wholesale-only open access network. Currently, Telstra owns the network, supplies wholesale services to its competitors and, crucially, provides retail services to consumers. It has the ability and incentive to discriminate against its competitors or access seekers in favour of its own very profitable retail business. In contrast, the NBN will be a wholesale-only open access network and all access seekers will be treated equally.

The government announced in April our intention to legislate a regulatory framework, administered by the ACCC, within which the NBN Co. will operate. This will ensure that all access seekers receive equivalent terms and conditions, in turn ensuring the best possible deal and range of choice for consumers. The current ACCC chairman, whose princi-
pal job it is to promote competition and protect consumer interests, has strongly welcomed both the NBN and the regulatory reforms announced this week, stating:

I call it a telco revolution. It is a quantum leap for competition and consumers, and the ACCC welcomes what is being proposed.

So let us be clear—(Time expired)

Senator MINCHIN—Mr President, I ask a supplementary question. Given that the minister has claimed that the break-up of Telstra is ‘not without cost’, has the government undertaken a thorough analysis of the costs to the company, shareholders, employees and the telecommunications sector of imposing structural separation on Telstra? If so, will it table such analysis? Further, is the Communications, Electrical and Plumbing Union right to be worried that the government’s plans will put thousands of jobs under intense pressure?

Senator CONROY—Fair dinkum, it’s entertaining! This is the ‘shareholder minister’ who presided over the Trujillo regime, whose almost-first announcement was the intention to sack 10,000 workers and then proceeded to do it. The shadow minister comes into this chamber and cries crocodile tears, trying to create a fear campaign. Well, Senator Minchin, you have 10,000 Telstra workers unemployed because of your regime, 10,000 workers who no longer work for Telstra because you stood there and encouraged and then thanked Mr Trujillo when he left the country. (Time expired)

Senator MINCHIN—Mr President, I ask a further supplementary question. Given that the government today is so supportive of the comments of the OECD, does the minister agree with the OECD Working Party on Telecommunications and Information Service Policies, which concludes in relation to structural separation:

Vertical separation is a significant intervention in the market place with substantial and—unlike behaviour regulation which can be reversed—irreversible costs—and also that there is little evidence that the benefits of structural separation are sufficiently in excess of costs?

Senator CONROY—Thank you again, Senator Minchin, and I understand we have now shot past 155 press releases without troubling—

The PRESIDENT—To the question, Minister!

Senator CONROY—Let us be clear. When those opposite decided to privatise Telstra, the most vertically integrated telco in the world, they made an ongoing policy mistake, a mistake that began under the former Labor government but was perpetuated and made much, much worse. If you are happy, Senator Minchin, to accept 90 per cent of profits, after 11 or 12 years of infrastructure competition, being with one company, then that is fine, but Australian consumers were worse off, Australian small businesses were worse off and Australian kids have got a lesser education because of the policy you pursued. And all those Collingwood fans who are going to be happy on the weekend missed out as well. (Time expired)

Broadband

Senator JACINTA COLLINS (2.33 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Can the minister inform the Senate of how the telecommunications regulatory reforms introduced this week and the government’s National Broadband Network initiative will benefit consumers and small businesses in rural and regional Australia? In particular, can the minister advise the Senate when people in rural and regional Australia are likely to see the benefits of these initiatives?
**Senator CONROY**—I thank Senator Collins for her question. Delivering high-quality telecommunications services to consumers, small businesses, hospitals and schools right across Australia, including those in rural and regional Australia, is a priority for the Rudd government. Ultimately the NBN will deliver high-speed broadband services to all Australians no matter where they live or work. It will provide world-class fibre-to-the-premise technology delivering speeds of 100 meg to 90 per cent of homes and businesses, including many in regional areas. The remaining 10 per cent will have access to state-of-the-art, next-generation wireless and satellite services that will be capable of delivering Labor’s election commitment of 12-meg speeds.

However, the government recognises that during the transition to the NBN rollout the delivery of telecommunications in many areas, especially regional Australia, needs to be dramatically improved. We recognise that Australians in rural and regional areas potentially have the most to gain from high-speed broadband. It will help overcome the array of issues associated with the tyranny of distance. That is why we have taken decisive steps to improve competition, choice, affordability and service quality in regional Australia as we move to the NBN. On 1 July this year we announced the first six priority locations that will receive investment under the $250 million Regional Backbone Blackspots Program. These are: Geraldton, in WA; Darwin, in the Northern Territory; Emerald and Longreach, in Queensland; Broken Hill, in New South Wales; Victor Harbor, in South Australia; and the South-West Gippsland region, in Victoria. *(Time expired)*

**Senator JACINTA COLLINS**—Mr President, I ask a further supplementary question. Can the minister explain to the Senate what alternative policy options have been put forward to improve telecommunications services in rural and regional Australia and their relative merits compared to the Rudd government’s initiatives?

**Senator CONROY**—I am sad to inform the chamber that I am not aware of any proposals that will provide an alternative to the NBN. There were some a while ago from some at that end of the chamber, but unfortunately, as always, the Liberals decided that they were not going to play ball. It is apparent that the shadow minister has no interest in developing policies. He would rather spend his time churning out press releases. The Liberal Party is oblivious to the need for
21st century infrastructure and is unable to move past its failures. They will continue to call for their failed wireless broadband proposal to be revived, despite the fact that OPEL failed to meet the terms of the contract that was signed under the watch of the now shadow minister. (Time expired)

Border Security

Senator FIERRAVANTI-WELLS (2.39 pm)—My question is to the Minister for Immigration and Citizenship, Senator Evans. When will the Labor government honour the Prime Minister’s election eve commitment in relation to unlawful boat arrivals, to ‘turn them back’, as stated in the Australian on 23 November 2007?

Senator CHRIS EVANS—I thank Senator Fierravanti-Wells for her question. The election commitments the Labor Party made prior to the last election were very clear. They were that we would maintain mandatory detention for unauthorised arrivals, be they by boat or airplane. That promise has been delivered. We made a commitment that we would retain the excision of offshore islands prior to the election. That commitment was honoured. We made a commitment that we would process unauthorised boat arrivals at Christmas Island. That commitment was honoured. All the election commitments the Labor Party made prior to the election have been delivered in government. We also made commitments to end the Pacific solution. That commitment has been honoured. We made a commitment to end temporary protection visas. That commitment has been honoured. We made a commitment to provide more humanity in the way we detain people and to respect their rights as individuals. That commitment has been delivered

On every aspect of Australian Labor Party policy in relation to border security and the treatment of those seeking asylum in this country, the election commitments we made have been delivered. Unlike those opposite, we have actually sought to be open with the Australian people about those policies and then deliver them, not offering core and non-core promises but offering properly coordinated public policy. We will continue to pursue our policy of attempting to disrupt people-smuggling operations to this country. Like the rest of the world, we are facing increased asylum-seeking activity, but we are absolutely committed to ensuring that we do everything we can to disrupt people-smuggling, and we committed $650 million more in this year’s budget to that end. That is being deployed now to try and disrupt people-smuggling— (Time expired)

Senator FIERRAVANTI-WELLS—Mr President, I ask a supplementary question. Given that the Prime Minister has broken his promise to ‘turn them back’, can the minister explain what the Prime Minister meant when he talked about his preparedness ‘to take appropriate action as the vessels approach Australian waters on the high seas’?

Senator CHRIS EVANS—As I indicated to the Senate in answering the first question, the premise of Senator Fierravanti-Wells’s supplementary question is just wrong. Our policy commitments have been honoured. What we are seeking to do is ensure there is strong border security. That is why we maintained mandatory detention; that is why we maintained excision; that is why we maintained processing at Christmas Island. And, when we abolished the Pacific solution, you supported it, but now it suits you to try and make allegations that do not reflect the policy stances you have taken in the past. There is no policy from the Liberal Party, apart from a call for an inquiry. This government has put extra resources into border protection and patrolling and is committed to coordinate efforts to try and prevent people-smuggling. We are absolutely focused on the task. (Time expired)
Honourable senators interjecting—

The PRESIDENT—Order! Debate across the chamber is disorderly. I am waiting to hear Senator Fierravanti-Wells. The time for debate is at the end of question time. I speak to both sides.

Senator FIERRAVANTI-WELLS—Mr President, I ask a further supplementary question. Minister, I can read what is on the public record, but doesn’t the fact that there have been 32 boats and more than 1,500 unlawful arrivals since August last year prove that, far from toughening border protection laws, as the Prime Minister promised, the government has softened the laws and reneged on the policy commitments that the Prime Minister repeatedly outlined?

Senator CHRIS EVANS—The answer to Senator Fierravanti-Wells’s question is no. The allegation is that if boats arrive you are weak on border security, even though you intervene. On that basis the Howard government was weak on border security, because 12,000 people arrived in three years, and Malcolm Fraser was weak on border security, because a couple of thousand arrived in two years. It is a nonsense.

Honourable senators interjecting—

The PRESIDENT—Order! I say to those on both sides: shouting across the chamber is completely disorderly.

Senator CHRIS EVANS—On that basis, the Italian government is hugely weak on border security because 30,000 people arrived unlawfully on their shores last year by boat. This is a complex international problem and it requires complex international responses. We are working closely with Indonesia, with Malaysia and with all like-minded governments in South-East Asia, through the Bali process, to do everything we can to disrupt—

Honourable senators interjecting—

The PRESIDENT—Order! There is not much time left to answer the question, but there still needs to be silence.

Senator CHRIS EVANS—We have a policy; the Liberal Party has a call for an inquiry. (Time expired)

Child Pornography

Senator FIELDING (2.45 pm)—My question is to the Minister representing the Attorney-General, Senator Ludwig. Can the minister explain how the government can really claim to be serious about stopping child pornography when it is happy to have laws in place which allowed Rodney Peter Smith of Maldon in Central Victoria to walk free and escape any jail time, despite the fact that he was convicted of downloading more than 40 hours of child pornography videos and 7,569 illegal images?

Senator LUDWIG—The Commonwealth does have strong laws in this area. There are a range of challenges that the government faces, particularly when dealing with combating child pornography and sexual abuses of children. There is no impediment to prosecuting people or undermining of efforts to protect children under the current laws. There are successful prosecutions that show that the current legislation is working. The government will introduce reforms to further strengthen Commonwealth child sex offences laws and bring them into line with domestic and international best practice.

It is important that we do maintain our vigilance in this area. The government has released a consultative paper detailing the proposed reforms and, of course, invites public comment on the proposals. This government is providing action in this area. It is recognised as a difficult area, because you do need cooperation across the field, with the states and territories on the one hand and the Commonwealth government on the other, and you need international assistance as well.
But, as I have indicated, this government is proposing reforms—comprehensive reforms that have been looked at. They are more comprehensive than those introduced by those opposite. Senator Bernardi, I understand, knows this area somewhat, but what this government is doing is looking at how we can include additional measures, such as new offences for sexual activity committed online, new aggravated offences where the offender is in a position of trust or the victim has a cognitive impairment and new aggravated offences targeting online child pornography networks. What we can say from this perspective is that this government has looked at how we can strengthen these laws, how we can ensure that we can deal with this area—(Time expired)

Senator FIELDING—Mr President, I ask a supplementary question. Given that among Rodney Peter Smith’s pornography collection were images of girls, mostly between five and 10 years old, involved in sexual acts with themselves, boys, adults, animals and babies, will the minister commit to review this case and report back to parliament on how it could toughen these laws so that no person convicted of having such horrendous child pornography will be able to simply walk free without spending any time in jail?

Senator LUDWIG—I think what is very important here is to deal with the broad issue. What this government has done firstly is to release a consultative paper dealing with the proposed reforms and has invited public comment in respect of that. If Senator Fielding wants to participate in the process, I would encourage him to provide public comment in relation to how we can best address some of these heinous crimes that are committed in our community, particularly those against children.

The proposed reforms that this government is looking at are, as I have indicated, those areas of new offences for sexual activity committed online, because there is an online environment and we understand the concerns that people have in relation to this environment. We are also looking at how you deal with new aggravated offences where the offender is in a position of trust or the victim has a cognitive impairment. It is also important to ensure that, where new aggregated offences exist, targeting online—(Time expired)

Senator FIELDING—Mr President, I ask a further supplementary question. Is the minister aware of comments made by Carol Ronken from Bravehearts on the Rodney Peter Smith pornography case? She said: … offenders are not being held accountable for their actions.

She also said:
The message that seems to be coming out is that these [offences] are not being treated seriously.

Will the Rudd government now admit that there is an urgent need not only to toughen the federal penalties but also to have minimum jail sentences for such horrendous cases of child pornography? Will the government set out a detailed time line of when it will implement minimum jail sentences for such horrendous cases of child pornography?

Senator LUDWIG—In relation to the comments made by Bravehearts, I cannot say that I have personally seen those. I do understand that the Attorney-General may have seen those. I can take that part of the question on notice and see what additional comment the Attorney-General may have in respect of those particular comments.

As I outlined earlier, this government is looking at reforms to further strengthen Commonwealth child sex offence laws. I think it is clear that there is great concern in the community, particularly around those issues of sexual activity committed online. It
is one of those areas where this government has committed to looking very seriously at how we can deal with additional measures. We want to do it in a comprehensive way to ensure that the community is protected from the perpetrators of these quite heinous crimes against children. The government has released a consultative paper dealing with those areas that we have talked about and looked at—

Aged Care

Senator WILLIAMS (2.52 pm)—My question is to Senator Ludwig, the Minister representing the Minister for Health and Ageing. Can the minister indicate to the Senate how many aged-care places were offered as residential in the last round of funding and how many were taken up as residential?

Senator LUDWIG—I thank Senator Williams for that question. I know that he has an interest in this area. On 30 June 2009 the Minister for Health and Ageing announced the results of the 2008-09 aged-care approvals round—

Honourable senators interjecting—

Senator LUDWIG—and there were 10,447 new aged-care places worth an estimated $347 million.

Senator Cormann—How many were taken up?

Senator LUDWIG—We keep getting interjections. I am trying to answer Senator Williams’s very important question in relation to aged-care facilities. I am sorry that the opposition do not want to hear the answer to the question that was asked. In annual recurrent funding that money was made available and the 10,447 new aged-care places were allocated. The places include 5,748 new residential aged-care places—two-thirds of them delivering high care—and 4,699 community care places. This government is working with the aged-care area to ensure that we have significant places available as well as recurrent funding.

The allocation is a mix of residential and community care places that reflect the changing demands of older Australians. It is not only a question of the number of new aged-care places but—as I am sure the opposition, particular Senator Williams, would understand—about ensuring we provide the right mix of aged-care facilities as Australians age and demographics change within the community. Older Australians tell us that they wish to remain independent in their homes and in their communities.

Senator Chris Evans interjecting—

Senator Cormann interjecting—

The PRESIDENT—Order! Debating across the chamber, I remind Senator Evans and Senator Cormann, is disorderly. I am trying to listen to the answer.

Senator LUDWIG—Part of providing the 10,447 new aged-care places is about ensuring that we listen to the older—

Senator WILLIAMS—Mr President, I ask a supplementary question. Can the minister indicate how many aged-care providers have handed their licences back and closed down in the past year, and their reasons for doing so?

Senator LUDWIG—I thank Senator Williams for the question. What I can provide is: in addition to those places, the Rudd government also allocated a record $51 million in capital grants—the largest single capital grant allocation by any Australian government. So what this government is working on is ensuring that we provide aged-care facilities, that we have 10,447 new aged-care places, worth an estimated $347 million in annual recurrent grants—

Senator Williams—I rise on a point of order relating to relevance. I asked how
many aged-care providers handed their licences back in the last year, not what the government is currently doing in relation to that. How many actually handed their licences back? I request that you bring the senator’s attention to relevance.

The PRESIDENT—Senator Ludwig, you have 29 seconds remaining to answer the question. I draw your attention to the question that has been asked.

Senator LUDWIG—I was going to say that over the period from 1 July 2007 to 31 March 2009 the industry has commenced work on aged-care facilities, with a total value of $2.2 billion. The Department of Health and Ageing also conducted an annual survey of aged-care homes. I was going to go on to say, in relation to the other part of the question, that I will be able to take that on notice and provide a further answer to Senator Williams’s question.

Senator WILLIAMS—I have a further supplementary question. Given the ageing population, can the minister explain to the Australian people how the growing list of Australians needing to access aged care will be accommodated in years to come when so many providers are going to the wall and the number of available beds is diminishing?

Senator LUDWIG—What I can add—in addition to the answer I provided in relation to the 10,447 new aged-care places worth an estimated $347 million in annual recurrent funding made available—is that the Rudd government also allocated a record $51 million in capital grants. That is the largest single capital grant allocation by an Australian government since the Aged Care Act came into effect in 1997. So, in comparison to what the opposition—the previous government—did, this government recognise and are putting work into this area. We are ensuring that there is also a further $4.8 million allocated as community and flexible-care grants. These grants are used to help establish new or extend existing communities and flexible aged-care services. Particular, Senator Williams would be interested to know—

(Time expired)

Citizenship

Senator CAMERON (2.58 pm)—Mr President, my question is to the Minister for Immigration and Citizenship, Senator Evans.

Opposition senators interjecting—

The PRESIDENT—Order! Senator Cameron, continue.

Senator CAMERON—I wish the rabble across the other side of the chamber would just be quiet for a minute. Can the minister please inform the Senate of the importance of Australian Citizenship Day and the value of Australian citizenship? As you, as a proud Australian citizen, are aware it is very important to update the Senate on the citizenship ceremony that was conducted in the Great Hall of Parliament House this morning to celebrate the 60th anniversary of Australian citizenship. Why should all Australians reflect on what Australian citizenship means, especially the rabble across there?

Senator CHRIS EVANS—I thank the senator for the question. It is a great day for Australian democracy and citizenship when a Scotsman can ask a Welshman a question while being interjected upon by people from Germany, Belgium and New Zealand. It says something about the country. Of course, all of them are now Australians; all are now citizens of this country. Not all of them use their hands as much as others, but nevertheless. We have been enriched by cultures and traditions from more than 200 countries. Since the introduction of the Citizenship Act 1949 over four million people have taken the pledge to become Australians. Australian citizenship is the bond that unites us all in one common endeavour. In a world increasingly devoid of boundaries and markers,
Australian citizenship binds us together across heritage, culture, politics, wealth, religion, colour and—in some cases—language.

The government believes that anyone who is of good character and has the will and commitment to learn about Australia should be able to become a citizen, to seize that opportunity. Today is an opportunity for all Australians, whether citizens by birth or by choice, to reflect on their rights and responsibilities and the role that Australian citizenship plays in building a strong, harmonious and united nation.

Today in Parliament House we made 15 or so people Australian citizens. They were from Zimbabwe, London and all round the world. They included a family with a South African father, a New Zealand mother and Australian born children. As the father said, they have the tri-nations covered. They are a great example of the diversity of the people who come to make their home here and contribute to Australia. That act of taking out citizenship is their commitment to their country and we are all richer for that.

Senator CAMERON—Mr President, I ask a supplementary question. What concepts do the government believe best represent what it means to be an Australian citizen? How has the government ensured that they are reflected in the newly announced citizenship test resource book?

Senator CHRIS EVANS—The government is committed to promoting an understanding of what it means to become an Australian citizen. We are committed to ensuring that all migrants to this country learn more about how the nation works, what their rights are and what their responsibilities are. We are keen to make sure that there are pathways, not false barriers, to people taking up the opportunity to become an Australian citizen.

Today I released the new citizenship test resource book. This is a result of the citizenship test review committee’s findings that the old book was inaccessible to many migrants, that the language used was often complex and overly sophisticated and that it hindered the ability of some people in gaining a good understanding of what becoming an Australian meant. The new book has been designed in plain English by educational civic experts and I think that it will ensure that people have a better understanding of their responsibilities and rights when they become Australian citizens. It is based on the pledge of commitment. It gives a structure to what we believe people need to understand. (Time expired)

Senator CAMERON—Mr President, I ask a further supplementary question. Minister, apart from being able to represent New South Wales in the Senate, what other advantages are there in taking out citizenship in Australia? Why is that important for Australia?

Senator CHRIS EVANS—One of the reasons citizenship is important is that it lets that individual contribute fully to Australian society. It also ensures that we get full benefit from their skills and abilities. It also helps build social inclusion. People who are included and who feel part of a community are more likely to contribute and more likely to be part of a cohesive society. That is something that this country has done very well over many years. We have seen migrants come to this country, become citizens and make a contribution—people like Sir Gustav Nossal, Dr Victor Chang, Professor Fiona Woods, Leo Sayer and Marcia Hines. There are four migrants in the cabinet. You may not regard that as a good contribution, but four of them are in the cabinet, including the Deputy Prime Minister. I am pleased to say that new migrants are represented right around this chamber and all are making a
contribution to our democracy. *(Time expired)*

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

Mr Gerard Martin

The President (3.05 pm)—I advise the Senate that this is the last sitting day for Mr Gerard Martin in his current position in the Office of the President of the Senate. Gerard has been the senior adviser to the President since 2007. He has worked for two Senate presidents in that time, Senator the Hon. Alan Ferguson and me. In addition to his work in the President’s office, he has also served the parliament in a number of other roles. Many of you would be aware of his work as a parliamentary liaison officer to the Senate between 2005 and 2007. He was also parliamentary liaison officer to the House of Representatives from 2003 to 2005. Having served the parliament well in all these roles, Gerard has now accepted a position in his home department, the Department of the Prime Minister and Cabinet.

It has been a hallmark of his time here, both as a parliamentary liaison officer and more recently in the President’s office, that he has been able to work with all sides of the chamber, and I know that he his held in high regard by all those who have dealt with him. I would particularly like to thank him for his work and support since I took the office as President last year. I am sure that all senators wish Gerard all the best in his future endeavours.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Economy

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (3.08 pm)—Yesterday, in response to a question from Senator Humphries, I committed to provide more information on the insulation in the energy efficiency package. I confirm to the Senate that, at this stage of the rollout of the package, approximately 50 per cent of claims for insulation are under $1,600. This is based on progress so far, with the package providing insulation for over 300,000 households. Yesterday I also stated that there were 6,000 businesses that had registered. I was incorrect. There are now 7,300 businesses that have registered to take part in the home insulation program, translating into thousands more individual installers and thousands of jobs for Australians.

The government is very mindful of the need to ensure the quality and value for
money of insulations done under the package. We take an extremely dim view of anyone seeking to exploit the program. That is why we have kept the program under active review, resulting in the new compliance measures which the Minister for the Environment, Heritage and the Arts, Mr Garrett, announced on 28 August, adding to what is already a robust and comprehensive framework for handling any issue that arises. These measures include the publication of a market based pricing guide with automatic scrutiny of installers charging above the upper limit.

The pricing table provides information for households to help them evaluate quotations and assists them in making an informed decision on what insulation products and options are best for their individual circumstances. The prices in the table are based on actual claims under the program. When installers quote above the maximum recommended price per metre they must provide additional information on the quote outlining why the work was more expensive than usual. Installers that charge above the maximum recommended price without reasonable grounds to do so may be struck off the installer provider register.

Centrelink

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.10 pm)—I seek leave to incorporate in Hansard an answer to a question from Senator Williams asked of the Minister representing the Minister for Human Services on 15 September 2009.

Leave granted.

The statement read as follows—

Question

Senator Williams asked the Minister Assisting the Minister for Human Services, in Parliament, on 15 September 2009:

(a) Will the minister inform the Senate how many people were detected breaching their obligation to look for work last financial year?

(b) Given that the Labor government has forecast a massive increase in the number of people seeking to claim unemployment benefits, will the minister explain why the government has not increased the resources to assess and audit these claims? Doesn’t this failure mean that the number of Justin Sheridans in our community is likely to increase?

(c) Will the minister reassure the Australian taxpayers that the subject of last night’s television program, Justin Sheridan, will be fully investigated by Centrelink for his wanton disregard of welfare payment rules?

Answer

SENIOR LUDWIG – The answer to the honourable senator’s question is as follows:

(a) In the 2008-09 financial year, 628,987 participation reports were investigated by Centrelink regarding potential breaches of job seeker obligations. This is made up of 562,777 participation failures and 66,210 serious failures.

(b) Under the Centrelink funding model the funding Centrelink receives varies in line with movements in customer numbers and is calculated using Government forecasts in the budget. This is later reconciled with actual customer numbers.

(c) Yes. Centrelink conducts investigations into any customers who come to their attention as potentially failing to meet the rules governing their entitlements.

Economy

Senator SHERRY (Tasmania—Assistant Treasurer) (3.10 pm)—Last week I took on notice to obtain some further details in response to a question from Senator Coonan relating to the stimulus package. I have to read some of this data into the record as I do not have it in a form that would enable me to incorporate it. The Nation Building and Jobs Plan, commonly known as the NBJP, was
announced on 3 February 2009. The package totalled some $42 billion. As of this morning, I can inform the Senate that of that some $20.5 billion has been distributed.

As for more detail, let me go to the tax bonus payments. As at 10 August 2009—these are the latest figures—there was some $7,364 million for the 2008-09 financial year. For 2009-10, as at the 10 August period, there was some $345 million in payments. There will be an additional 46,500 eligible tax returns with an expected cost of a further $41 million. This is expected from people affected by fire and flood natural disaster and they have been given a lodgement deferral. Consequently, it is estimated that there will be around $8,862 million in payments expected to be made once the deferred payments are made.

On the first home owner boost, which was part of the package, for 2008-09 this was estimated at $830.6 million. I do not have an updated figure as of this morning, but an updated figure will be provided as part of the final budget outcome process. However, I can inform the Senate that an estimated 137,000 households have taken up the first home owner boost. I can also inform the Senate that more than approximately $23 billion worth of shovel-ready infrastructure projects have already been approved, as distinct from moneys paid, and this represents some 35,000 projects.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS
Aged Care

Senator WILLIAMS (New South Wales) (3.13 pm)—I move:

That the Senate take note of the answer given by the Special Minister of State (Senator Ludwig) to a question without notice asked by Senator Williams today relating to residential aged care. I am very serious when I raise these issues about caring for our elderly. Surely, one of the greatest obligations we must have in this nation is to look after those who have worked so hard and have given us so much. I find it concerning that, no matter where I travel in the state of New South Wales, the message is clear from all those in aged care. In July I was out at St Annes at Broken Hill. It is a wonderful facility, but it is under pressure. It simply cannot make enough money to increase the size of the facility to meet the demand for aged care in that area.

I am fortunate to live in Northern New South Wales at a place called Inverell. Just south of Inverell is the small community of Bundarra, in which there is the Grace Munro aged-care facility. Unless the minister can come up with more money in the next few weeks, that facility will close. When it was full, with 10 or 11 beds, and being run by McLean Retirement Village, a provider from Inverell, McLean could not make a profit. Over recent months they have reduced their number of beds to seven. The provider has been losing an enormous amount of money each year so it has had to make the commercial decision to close that facility in this small community.

I want to raise this point: it is a sad day when we are shutting down our aged-care facilities, especially in small communities. To give a typical example, the male member of an elderly couple may get to the stage where he needs nursing care but find, when he needs to go into the local nursing home, there is none. So he might be shipped off to some other nursing home that is 50, 80 or 100 kilometres away and placed in higher care nursing there. His wife would then have to travel the 80 or 100 kilometres to visit him. It is very sad to see that this does happen when aged-care facilities close down. To me it is outrageous that, when one of a couple who have been together for decades—married for 40 or 50 years—has to go into an aged-care facility, the spouse staying at home.
may have to travel so far to visit their loved one.

It angers me to see that the Labor government proposes to spend some $60 billion on stimulus packages but there is not one cent for aged-care facilities. Whose obligation is it to look after the elderly? We have seen the money going into the pink batts and $14.7 billion or more being borrowed and put into state schools, which are a state responsibility, yet how much is going into aged-care facilities, which are a federal responsibility? The answer is: virtually nothing. Now we have got facilities closing.

Senator Sherry—Shouldn’t we be funding schools?

Senator WILLIAMS—Those opposite can protest as much as they like but the fact is this—and I will quote some figures from Catholic Health published under the heading ‘Outdated law keeps aged-care from growing with ageing population’:

New nursing home accommodation costs $40.32 per bed per day over 25 years to build and fit out, a new analysis has revealed, compared with a legislated cap on the per-bed payment of just $26.88 per day. The $13.44 shortfall between the cap and the true cost of accommodation is preventing the aged care industry from building desperately-needed new nursing home places.

That is happening in many areas, while in other areas the very facilities that I am talking about are threatened with closure because the providers cannot maintain those facilities because of the loss of money.

I would like to point out that the indexation of the Conditional Adjustment Payment subsidy has been cut. It remains at 8.75 per cent until 2011-12. Interestingly, aged-care providers are screaming that they are struggling to survive and 98 operators went out of business in 2007-08. They are closing down. And what are we going to do to look after the elderly? This is a situation that is serious as can be. We have facilities that are going broke and we have providers handing their licences in, and yet we have the government spending some $60 billion on stimulus packages and putting $14.7 billion into state schools. What is going into the aged-care facilities, which are a responsibility of the federal government? Not one cent. I find it outrageous. This is a problem that is not going to go away easily. We are going to have to address it. I urge the government to address the problem.

Senator POLLEY (Tasmania) (3.18 pm)—Here we go again—rewriting history. For 12 years those opposite had ample opportunity, how many reports and how much money was there? Let me recall: there was the Hogan report in 2004. What was that? It was a waste of $7.2 million when it was put in the bottom drawer. But, like Senator Barnett, those on the opposite side want to come into this chamber and rewrite history. The Rudd Labor government has been in government for less than two years. Surely those opposite cannot believe that the Australian people are that gullible that they are going to swallow the rewriting of history and lay the blame totally at the feet of the Rudd Labor government. Are there problems in aged care? Yes, there are. We have acknowledged that. I chaired a meeting which made 31 recommendations to make changes. But if those opposite seriously believe that things can be turned around after 12 years of neglect then they are deluding themselves.

Those opposite are very good at rewriting history. We have heard from Senator Barnett, who all of a sudden has found a passion and a heart for aged care. In terms of the criticism he is levelling at the government, from 2002 until they lost government, how many times did he speak about aged care? Three times. It was not under our watch when there were nursing homes in Victoria bathing their residents in kerosene. Did we hear any of
those opposite get up and speak about aged care at that time? No, we did not. In six years, how many ministers for ageing were there in the former government? Eight of them. One failed after the other.

There are some on the other side who, I believe, have a genuine interest in aged care, and those people have made contributions during our hearings. Privately, even those people are prepared to acknowledge that their own government failed. Senator Williams is only new to this chamber and it is obvious why he lead the charge today—because I cannot say anything about his performance in the former government. But I do know this: when history is rewritten time and time again by those opposite they will be seen by the Australian public for what they are.

A former Liberal state health minister, the Hon. Frank Madill, came before our hearing in Launceston. He has an interest in those who are residents in the nursing home of which he is a board member and he acknowledged that these issues are not the fault—I repeat, not the fault—of the Rudd Labor government. The issues that are confronting the industry and the aged-care sector are ones that have been building up over a long period of time. We are not about accepting all the blame for this, but we are going to work to fix the aged-care sector. Those opposite are now being very critical, but I want to acknowledge those in the sector for their tireless work with the very important people that they care for—that is, older Australians.

I am not going to stand here and allow those opposite to rewrite history. I will continue to speak up for aged care. I will continue to listen not only to the sector, which I have been doing, but to older Australians. I know about this firsthand because my mother is in high care and in the twilight time of her life. I know of the work that is being done by those in the aged-care industry and I know the difficulties that families face when trying to assess which home is going to look after the needs of their older family members. We acknowledge all of that, but to say that we have not injected any funds is disingenuous at the very least. Forty-four billion dollars has been committed by this government over the next four years. We have done countless things for older Australians in the very short time that we have been in government. To try to rewrite history is very unfair and unjust to the industry and does nothing for the credibility of those opposite.

Senator ADAMS (Western Australia) (3.23 pm)—Senator Polley, I am not going to rewrite history. This week in Perth, Aged and Community Services Australia held its national conference. Guess how many people were there? This is what aged care is all about, and these people really do care. This is about the present and the future. One thousand and thirty people attended the conference. Amongst those attending were CEOs, providers, board members, clinical managers, banks, industry support people, consultants, the Department of Health and Ageing and community members. Aged care is in crisis. At the end of this conference a rally of hundreds of aged-care industry leaders marched around the Perth CBD. Rallies like this are a firsthand reflection of an industry in crisis.

Senator Parry—Was Senator Polley there?

Senator ADAMS—No, she was here—and I was here, unfortunately. The message to the minister is that they are fed up with her and her office. The minister is not making any satisfactory progress. They are very disappointed that the minister did not accept the invitation to attend the national conference. Instead she sent a video, which unfor-
fortunately was very poorly received and almost booed. There is a crisis in the aged-care industry, and consumer groups have now agreed to work together and to be more vocal and aggressive. Industry are going to take the fight to the streets and right up to the government. They are completely disgusted that no stimulus money was spent on aged care. Stimulus money should have been spent on aged-care construction projects, not school halls.

As senators are aware, the Australian population is ageing. Within five years there will be more older people than children. Over the past two decades the number of elderly people in Australia increased by 158 per cent, compared with total population growth of about 29 per cent during the same period. When trying to answer the questions of Senator Williams, Minister Ludwig really did not know how many places had been sent back, but I can give the details from Western Australia. Of the 1,208 places made available in Western Australia this year, just 536 places, less than half, have been sought. Of those 536, only 519 places have been allocated. This is just 43 per cent of the bed places offered in Western Australia in the 2008 round. The Bethany group in Western Australia last October handed back licences for 110 beds. Each of these beds would have cost approximately $180,000 to create, plus $65,000 to run. However, the funding available was a one-off $109,000 and $41,000 per year to maintain.

This just cannot keep going on. You are blaming the previous government, but you have been in government nearly two years, so it is time the minister started to do something. We just cannot keep going the way we are going. A wide, dysfunctional gap is appearing between waiting lists and bed licences. Licences are being issued but many either are not being taken up or else are being handed back because the providers are unable to fund the construction capital needed to expand their facilities to house the new beds. The waiting lists are getting longer whilst bed licences are being turned down. Quite simply, as the demand for aged-care services is rapidly increasing, the number of facilities being built is rapidly decreasing. I am talking about the present and future, not what has passed, and I give it right back to you: take up the challenge and do something about it.

Senator CAROL BROWN (Tasmania) (3.28 pm)—I understand why Senator Adams wants to talk about the present and future. The government is all about the present and the future and taking action on these important issues. Senator Adams would be well aware of the Finance and Public Administration Committee hearing into the aged-care sector. As she has taken an interest in this area for a long time, she would be aware of the evidence that was given to the inquiry by a number of people. When we were talking about aged care a few days ago I mentioned one of those people, the Hon. Dr Frank Madill, former Liberal member of the House of Assembly and, I think, health minister, who gave evidence to the committee in Launceston.

Senator Sherry—A Liberal.

Senator CAROL BROWN—A Liberal, yes. Dr Madill said:

This is not the fault of the current administration. This has not happened because there has been a change of government in Canberra at all. This is something that has been built up ...

Dr Madill was not the only person to give that evidence to the inquiry to this effect. It really does amaze me that those opposite have the gall to come into this place and throw mud at the government over aged care. Those opposite—

Senator Barnett—After two years.
Senator Polley—You had 12 years to wreck it.

The DEPUTY PRESIDENT—Order! Senator Polley and Senator Barnett, Senator Carol Brown has the call and she should be heard in silence.

Senator CAROL BROWN—I understand that those opposite are a bit touchy about their record, and they should be. It is not good. It was pretty bad. I will give a little narrative of what it was like for the aged-care sector under the Howard government. In the 12 years of the Howard government, aged-care services were neglected. They did not address workforce and bed shortages. They presided over scandals involving bed licences and incidents of poor standards of care. Aged-care bed shortages worsened and waiting times for care lengthened under John Howard. We had fewer beds per capita than we had in 1996. In addition, they had a huge turnover of ministers for ageing, who mismanaged the portfolio. It was a revolving door.

Senator Polley—Eight in four years. It was a poison chalice!

Senator CAROL BROWN—Thank you, Senator Polley. I will now talk about the aged-care bed shortages. Under the Howard government, there was a national aged-care bed shortage. In 1996, there were 92 beds for every 1,000 aged 70 years and over. Under John Howard, in June 2007, there were only 86.6 beds for every 1,000 people aged 70 years and over. In June 2007, there was a shortfall of more than 2,000 beds in Australia.

The Labor Party has responded to the challenges in the aged-care sector. Here are some of the things that we have done. The Rudd government has committed $293.2 million to provide up to 2,000 transition-care beds and up to 2,500 aged-care beds. So far we have delivered 499 operational places. In addition, we have set up $300 million in zero real interest loans for aged-care providers to construct and extend residential aged-care beds in areas of need. Of this, $150 million has already been allocated and is expected to produce 1,455 additional places in areas of need.

I would like to touch on the shortage of high-care beds under the coalition. In the 12 long years of the Howard government, they continued to fail frail older Australians needing high-level aged care. An Australian Institute of Health and Welfare report showed that, in June 2006, 69 per cent of residents required high care. The Howard government’s bed allocation system did not reflect the needs of increasingly frail older Australians. Since the Rudd Labor government has—(Time expired)

Senator BARNETT (Tasmania) (3.33 pm)—I stand this afternoon to take note of the answers or lack of answers, non-answers, from Minister Joe Ludwig and specifically to talk about the aged-care crisis that we have in this country. I specifically reject the outrageous and salacious accusations from Senator Polley and Senator Carol Brown in their attempts to defame me and my efforts to support aged care since I came to parliament in 2002. Senator Polley made an adjournment speech in which she attacked me and attempted to denigrate my efforts and vigorous attempts to support aged care since I came to parliament in 2002. Senator Polley made an adjournment speech in which she attacked me and attempted to denigrate my efforts and vigorous attempts to support the aged-care industry. It was a disgrace. It was done in the middle of the night, in the quietness of the Senate and now I have an opportunity to respond. I will respond and I reject every one of those accusations outright. They are all to be condemned.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! Senator Barnett has the call and I ask that he be heard in silence.
Senator BARNETT—I appreciate that and hope that they will come to order and listen as I respond. I reject those outrageous allegations entirely. On the Howard government record, I say yes, perhaps it was not perfect, but, with respect to the efforts to support aged care, they were on the record. For the 11½ years from 1996, they improved. What has happened in the last two years? This is why I say to the Labor Party, particularly in Tasmania and Western Australia: they are doing it tough. There is an aged-care crisis and the Labor senators and members in Tasmania are not listening. The problem with Senator Polley is that she has been embarrassed by a letter to the editor in her own newspaper, the Examiner, from Mr Dick James, the president of the Australian Independent Retirees. He made certain comments about aged care being in crisis and called Senator Polley to account. She was no doubt embarrassed by that letter because she knows that she has to stand up for aged care. That letter is on the public record in the local Examiner newspaper.

She accuses me of being silent with respect to aged care. What rubbish! She accuses me of doing nothing about aged care since 2002. She knows full well that I was a board member of St Ann’s for over eight years, and I have a heart for aged care and for elderly Tasmanians and elderly Australians. I will not take those allegations; I reject them outright. I stand in this place saying I am a proud supporter of the aged-care sector, as are those coalition members on this side of the chamber and as are those in the former Howard government. Yes, we were not perfect—we did not get everything right—but at least we got it so much better than what is happening at the moment. We know for sure that there is a crisis in aged care at the moment.

How many licences have been taken up? Today the minister was unable to answer those questions. How many licences have been given back? That question was asked today. These are fundamental and very basic concerns for the aged care sector, and the minister could not answer them. The minister said, ‘No, I can’t answer it; I’ll take it on notice.’ He should know exactly. We will be watching carefully with respect to his response to that because the proof of the pudding is in the eating. That is the evidence, and the evidence says that the aged care industry is in crisis. That is what it is saying. Senator Judith Adams and Senator Williams have made this point very clear and I wanted to make it clear.

Those allegations by Senator Polley about me being silent or doing nothing on aged care are absolute rubbish. She is responding to this letter in the Examiner and is clearly very embarrassed. Of the 131 new residential aged-care places made available to Tasmania in the 2008-09 ACA round, only 89 were taken up—a shortfall of 42. There is the evidence for Tassie. We know Western Australia is equally hurting, as are other states and territories around the country. The Rudd government simply do not get it, and that is why I asked, ‘Are you listening?’ What they have had is a number of reviews. They have had review after review. They have the Productivity Commission review; they have the National Health and Hospitals Reform Commission review.

And then they talk about Dr Frank Madill, the chairman of the Presbyterian Homes for the Aged. He presented me with the petition to present in this parliament to say how concerned they are with the funding for aged care. Why would they ask me? Why wouldn’t they ask their local member, the Labor member for Bass? Why wouldn’t they ask her? Because they are too embarrassed. So they came to me, and I presented it. Those opposite should support that petition and support the aged-care sector, and they
know full well that they should support it.

(Time expired)

The DEPUTY PRESIDENT—Order! The time for the debate has expired.

Question agreed to.

NOTICES

Presentation

Senator Fielding—by leave—To move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to protect jobs in Australia by preventing the transfer of personal information to other countries without consent, and for related purposes. Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009.

MATTERS OF PUBLIC IMPORTANCE

Aged Care Services

The DEPUTY PRESIDENT—I inform the Senate that Senator Williams has withdrawn the matter of public importance which he had proposed for today.

Senator Carol Brown—What was that on?

Senator Parry—Aged care.

Senator Carol Brown interjecting—

The DEPUTY PRESIDENT—Order! Senator Carol Brown, if you are going to make interjections, you should do them from your seat. It is disorderly to make interjections, but it is even more disorderly to interject when you are not sitting in your own seat.

MINISTERIAL STATEMENTS

Australian Electoral Commission Public Information Campaigns

Senator SHERRY (Tasmania—Assistant Treasurer) (3.40 pm)—On behalf of the Special Minister of State, Senator Ludwig, I table a ministerial statement on the approval of exemption of AEC public information campaigns from Australian government advertising guidelines.

Senator RONALDSON (Victoria) (3.40 pm)—by leave—I move:

That the Senate take note of the statement.

I will not take up too much time, but I do want to indicate in relation to the interjection by Senator Brown before that the reason Senator Williams’s motion was withdrawn was to facilitate the government’s legislative program. So let us not hear any reflections at all on Senator Williams’s decision to withdraw his notice.

It would appear that bipartisanship has taken a rather nasty tumble today. The shadow Special Minister of State, being me, was not extended the courtesy of being provided with a copy of the ministerial statement today. I will let honourable senators make a decision about the appropriateness of that, but the longstanding convention in this place is that ministers will give shadow ministers copies of ministerial statements before they are tabled. If this is where bipartisanship is now in relation to this minister, at least I know what the rules are and I can respond appropriately to that destruction of bipartisanship.

I want to say a couple of words in relation to this matter. In the run-up to the last election, the then opposition, now the government, made a significant song and dance about government advertising guidelines and government advertising. They were going to clean up the system. They would come into government and they would clean the system up. They said the Auditor-General would be examining the material to ensure that the material was appropriate. So the question is: why exclude the AEC from these rules? What is it that the AEC has said to the government which would move the government to change the rules? Will the minister table correspondence between the AEC and himself that has led to the AEC being removed from these guidelines—the guidelines that
were going to clean up the system? If there is a legitimate reason, let us hear it. Table the correspondence; let the Senate make a value judgement about whether this removal is appropriate or not. So I have not had the courtesy of a copy of the ministerial statement. I have not seen the ministerial statement, but I assume that there is not a letter tabled. Perhaps the minister at the table, Minister Sherry, can indicate with a nod of his head or otherwise whether the ministerial statement has attached to it a letter from the AEC. If it has, let me know now. But I suspect it probably has not. Of course, I do not know whether it is there or not because I was not given the usual courtesies associated with these matters.

There is absolutely no justification, unless I am advised otherwise by the minister or by reading this statement, for pulling one particular agency out of these guidelines. No justification at all. They say they are going to clean the system up and then they take one agency out. I can understand, for example, that government business enterprises and agencies under the CAC Act would not be involved. But we have not been given to date a good reason why an agency the size of the AEC, an agency with a very substantial advertising budget, has been removed. If there is nothing in that ministerial statement which explains by way of letter or correspondence from the AEC as to why they should be excluded, then this is totally inappropriate. I cannot pursue it because I have not read it—because I was not given the courtesy of seeing it. Anyway, we will have a further discussion about that at estimates, no doubt.

I will finish by saying that the coalition does not support, in the absence of any reasonable information, the AEC being removed from the government guidelines. The guidelines have been shown for the last 12 months to be completely and utterly farcical anyway. If you start taking big-spending agencies like the AEC out, then the farce just becomes magnified.

Question agreed to.

COMMITTEES

Electoral Matters Committee

Report: Government Response

Senator SHERRY (Tasmania—Assistant Treasurer) (3.46 pm)—I present the government’s response to the report of the Joint Standing Committee on Electoral Matters inquiry into the conduct of the 2007 federal election and matters related thereto, together with a statement by the Special Minister of State, Senator Ludwig, relating to the matter.

I seek leave to have the government response incorporated in Hansard.

Leave granted.

The document read as follows—

Government Response to the Report of the Joint Standing Committee on Electoral Matters

Report on the 2007 federal election electronic voting trials

September 2009

Recommendation 1—Given the additional burden imposed by remote electronic voting with its paper-based backup systems on defence force personnel in operational areas and the relatively high average cost of voting at $1,159 per vote compared to an average cost per elector of $8.36 at the 2007 federal election, the committee recommends that remote electronic voting for defence force personnel serving overseas can cast a vote and have it included in the count, the committee recommends that remote electronic voting for defence force personnel should not be continued at future federal elections.

Response: Supported.

Recommendation 2—Given the support of the Department of Defence and the Australian Electoral Commission for the ‘Assistant Returning Officer’ (ARO) model that is likely to increase the probability that defence force personnel serving overseas can cast a vote and have it included in the count, the committee recommends that the Commonwealth Electoral Act 1918 be amended to facilitate the implementation of the ARO
model for voting by selected Australian Defence Force personnel serving overseas. The model should have the following features:

• AROs may be appointed to issue pre-poll votes from static locations and provide mobile pre-poll facilities to smaller out posted camps in areas of operations;

• AROs may be appointed to issue pre-poll or postal votes to electors who are serving on naval ships on overseas deployment where this service is suitable and appropriate;

• AROs may be appointed to receive postal vote applications and issue postal votes to electors within operational areas and may receive completed postal votes from electors in order to facilitate their prompt return to the relevant DRO;

• Registration as General Postal Voter to remain available to all Australian Defence Force personnel serving overseas, in case they are not in the service area of an ARO; and

• Streamlined postal voting procedures should be implemented for those areas of operation where the ARO model will not be utilised.

Response: Supported. Minor legislative changes to the Commonwealth Electoral Act 1918 will be required for the Australian Electoral Commission (AEC) and the Department of Defence (Defence) to develop an effective ARO model for implementation at the next federal election.

Recommendation 3—Given the importance of gaining full commitment by the Department of Defence to the implementation of the ‘Assistant Returning Officer’ model, the committee recommends that the Department of Defence ensure that an officer at a suitable level of rank be appointed to oversee electoral operations and to ensure those operations are conducted and resourced effectively.

Response: Supported. Defence will identify the relevant officer and advise the AEC expeditiously. It is also important to note that operational considerations and restraints at the time of a federal election may impact upon the employment of the ARO model in some locations. General Postal Voting will remain available to all ADF personnel serving overseas, including those who may have access to a Defence ARO, to maximise the opportunity to vote.

Recommendations 4—Given the high average cost per vote of $2,597 for electronically assisted voting compared to an average cost per elector of $8.36 at the 2007 federal election and a concern that participation will not increase to sustainable levels, the committee recommends that electronically assisted voting for electors who are blind or have low vision should not be continued at future federal elections.


Recommendations 5—Assisted voting provisions in the Commonwealth Electoral Act 1918 give people who are blind or have low vision the opportunity to seek assistance from a person appointed by them in casting a vote at federal elections and referenda. Electors who have low vision may benefit from the provision of electronic magnifiers. The committee recommends that the government provide sufficient resources to the Australian Electoral Commission for the deployment of electronic magnifiers at sites where there is likely to be demand from electors who have low vision.

Response: Supported in principle. The Government notes that the AEC has been consulting with peak bodies for persons who are blind and have low vision to consider cost-effective options to enable voters who are blind or have low vision to cast a secret and independent vote at the next federal election. The AEC is to report to Government on the outcome of these consultations, including costings, by December 2009.

Senator RONALDSON (Victoria) (3.46 pm)—by leave—I move:

That the Senate take note of the document.

I have not at this stage seen this response. It may well be in the Table Office by now, but, again, the normal courtesies were not extended in relation to this matter. Anyway, that is a matter for the minister. In relation to this matter and the final report the coalition actually agreed more often with the government than we disagreed. This committee has worked on that basis for some time. There
was a very substantial and compelling dis-
senting report and my colleague Senator
Birmingham, who I was not aware was sit-
ting behind me, is going to address that in
greater measure. Given that he is here, I will
confine my remarks to a couple of matters.

As a matter of principle probably the most
important piece of legislation that governs
the lives of Australian citizens is the Com-
monwealth Electoral Act. It is hard to think
of an act of this parliament that is more im-
portant than the electoral act. It is hard to
imagine an act of parliament that must be
treated with the same amount of caution than
the Australian electoral act. That fundamen-
tal right that each and everyone of us has to
vote—the single most important thing we do
in our lifetime, in my view—is that right to
maintain our democracy of which we should
be incredibly proud, and voting is an abso-
lutely pivotal part of that. What you have got
to establish and what you have got to be able
to say to the Australian people is that, when
you vote, the integrity of your own vote is
guaranteed and equally important and the
integrity of the vote of every other person
who votes is guaranteed. We have quite
clearly said over many, many years that we
will do whatever is required in relation to the
electoral act to ensure that it is not abused
and that fraudulent activities are not allowed.

That, of course, is not a matter that has
always been shared by the Australian Labor
Party. I can go through the list, which is as
long as your arm, but I will just give you a
couple of examples. We have: Andrew
Kehoe, Labor Party worker convicted and
fined; Karen Ehrmann, Labor Party worker
sent to jail; Mark Kaiser, former Labor Party
MP; Christian Zahra, former Labor Party
MP; Gino Nandarino, New South Wales
Young Labor convicted and fined; and so on.
If you really want to spend a bit of time
looking at the level of fraud perpetrated by
the Australian Labor Party, just go and pick
up the Shepherdson inquiry report and you
will need nothing else to establish the bona
fides of the Labor Party.

I know that my colleague will be talking
about participation, closure of the rolls, proof
of identity and mobile polling. On that basis
I will speak very briefly about participation,
because I was not getting the rapid head-
nodding that I was getting in relation to the
other matters. The minister and I will be
speaking at the 25-year celebration of the
AEC in Canberra next week, and I will be
making some comments about the participa-
tion question on that occasion. The simple
fact is that non-institutional barriers are the
chief problem with participation rates.

There are certain elements of the govern-
ment’s response that cannot be supported by
the opposition. The Commonwealth Elec-
toral Act mandates that Australians have
some basic rights and responsibilities—upon
reaching enrolment age to enrol to vote; to
actually maintain their enrolment to vote in
election; and to fully extend their preferences
to all candidates in their electorate who are
contesting elections. These are the basic
building blocks of our system of compulsory
preferential voting. Yet the government’s
response concludes that these requirements
impose an unwarranted inconvenience on
citizens. The Labor Party wants to shift to
the lowest common denominator approach.
That was wrong in our view and we oppose
it.

The greatest right we have is to vote. Our
very strong view is that participation is the
key to this. With the rights come responsi-
bilities and the responsibilities are clear that
Australian citizens are required to participate
in this process by enrolling. I will now hand
back to my colleague, Senator Birmingham,
who was a very active and important mem-
ber of this committee as he is in relation to
everything else he does, and he will continue with his remarks.

Senator BIRMINGHAM (South Australia) (3.53 pm)—I thank Senator Ronaldson for that very nice rap at the end. I do rise to take note of the government response tabled today. However, I note that the response is not entirely the response that I was expecting to see. As you would appreciate I have had only a few brief short minutes during Senator Ronaldson’s remarks to consider the response.

Today’s order of business stated the government was going to respond to the report of the Joint Standing Committee on Electoral Matters on the conduct of the 2007 federal election, and matters related thereto. It was reasonable, therefore, to assume the government was going to provide its response to this substantive report of the Joint Standing Committee on Electoral Matters into the 2007 federal election. Instead, I find the response relates purely to the federal election electronic voting trials and is therefore a much more limited response than the one that had been anticipated to be forthcoming from the government today when reviewing that order of business.

In the response that is provided I acknowledge that the Joint Standing Committee on Electoral Matters provided a unanimous report in relation to electronic voting trials. Electronic voting trials were conducted at the last election for people who suffer vision impairment, as well as for Defence Force personnel serving overseas. However, those trials were found to be inordinately expensive on a per-vote basis and, regrettably, were not deemed to be able to be continued in the future. The committee provided that recommendation and I note that the government supported those recommendations in its response.

In relation to this matter, I and other members of the committee have met with representatives of the vision-impaired community since the JSCEM report was handed down. We hear their plea for the government to continue to find ways and to work hard through the Australian Electoral Commission to find means by which vision-impaired Australians can achieve the right to privacy when casting their vote. It is vitally important that we use every means possible to achieve that within reasonable allocation of resources. The committee found, and the government has accepted, that at the last election the allocation of those resources were not reasonable and the government needs to go back to basics. I urge the Australian Electoral Commission to heed the concerns of the blind and vision-impaired community and come up with new ways to support and assist them in progressing to a means by which they can enjoy the same rights as all other Australians in providing a secret ballot, without the aid of others, at election time.

However, the fact that this is a very limited response by the government does mean that its response to the substantive report of the Joint Standing Committee on Electoral Matters remains outstanding. The coalition awaits that report and that response with great interest. We expect the government will look closely at the minority report that the coalition senators provided to that inquiry. We hope the government will recognise that there are a number of very important issues—some of which Senator Ronaldson raised before—that the government should heed, issues that go to the integrity of the electoral roll and ensuring that that integrity is not undermined through partisan changes to the Australian Electoral Act. We need to ensure that we have reasonable proof of identity provisions that guarantee that it is not easier to get onto the electoral roll than it is to take out a video from the video store.
It is important to ensure that we do not undermine the responsibility side of the equation. Voting is a right. It is a passionate right. It is a right that all Australians should enjoy. But there is a responsibility of Australians to ensure their enrolment is up to date, that they undertake the enrolment that is required. The opposition will watch closely for when the full government response to this report is handed down. We hope the government will heed our warnings on a number of the recommendations that the majority of government members’ opinion made during the JSCEM report. We urge the government over the ensuing weeks or months, until they provide a response, to be very mindful of the concerns we raised, which have the potential to go very much to the absolute heart of our democracy and the effectiveness and trust we have in our electoral system.

Senator FIFIELD (Victoria) (3.58 pm)—As the coalition’s disability spokesman, I want to offer some brief remarks in relation to the government’s response to the report of the Joint Standing Committee on Electoral Matters into the last election, particularly the issue of electronically assisted voting for people who are blind or vision impaired. I recall the comments of Mr Graeme Innes, the Disability Discrimination Commissioner, at the time of the last federal election. He said that he had tears in his eyes as he voted, as it was the first time that he had been able to cast a genuinely secret ballot. That was the experience of many blind and vision-impaired Australians. The right to a secret ballot is something which most Australians take for granted, but for many Australians it was an experience they had not previously had.

I certainly appreciate the finding of the JSCEM report that by using the electronically assisted technology that was available the cost per vote was extremely high. It stands to reason that the cost per vote would be high under a trial, because that facility was available at a very small number of places. Obviously, if that facility were available throughout Australia at every polling place the cost per vote would be much lower. I must say that at the time the joint standing committee’s report came out I was disappointed because for members of the community who are blind or vision-impaired that report looked like a full stop. It looked like a dead end. It held out no hope for people who are vision-impaired to be able to cast a secret ballot in the future.

I think it is regrettable that at that time the government did not indicate an intention or even a disposition to work towards finding a way by which blind and vision-impaired Australians could cast a secret ballot in the future. That is something that the government should have done at the time. I recall seeing a statement by Mr Melham, who was the Chair of the Joint Standing Committee on Electoral Matters at the time, in which he said he did not feel good about the recommendations of the committee. I can understand why he did not feel good, because I am sure that he appreciated that it was a suboptimal outcome for blind and vision-impaired Australians simply to be told that the trial was not going to continue and not to be given any indication that there would be any work undertaken to try to ensure that that option or an alternative was available.

It is my hope that the government does work towards finding a solution. I think that the Australian Electoral Commission should work together with the Disability Discrimination Commissioner to see if there are indeed ways of providing the option of a genuinely secret ballot for blind and vision-impaired Australians. Who knows: it might be by way of those individuals preregistering so that there can be that facility at the place at which they will choose to vote. That is an option. It may well be that there are lower
cost options to provide that facility for these Australians. I cannot help but put to myself that if we can put a man on the Moon surely we can find a way, in this day and age of using modern technology, to facilitate, in a cost-effective way, a secret ballot for blind and vision-impaired Australians. I would certainly urge the government to take steps to ensure that happens so that the experience at the last election, which was so significant and so profound for those Australians, will prove not to be a one-off but something that can be repeated and in fact be seen as a right at future federal elections.

Question agreed to.

AUDITOR-GENERAL’S REPORTS

Report No. 5 of 2009-10

The ACTING DEPUTY PRESIDENT (Senator Bernardi)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Audit report No. 5 of 2009-10: Performance audit: Protection of residential aged care accommodation bonds: Department of Health and Ageing

DOCUMENTS

North Korea

Senator Sherry—I table the following document:

Foreign Affairs—North Korea—Labour concentration camps—Statement in response to the resolution of the Senate of 13 August 2009.

COMMITTEES

Selection of Bills Committee

Report

Senator O’BRIEN (Tasmania) (4.04 pm)—I present the 14th report of 2009 of the Selection of Bills Committee.

Ordered that the report be adopted.

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

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 14 OF 2009

1. The committee met in private session on Wednesday, 16 September 2009 at 7.15 pm.

2. The committee resolved to recommend—

That—

(a) the provisions of the Crimes Legislation Amendment (Serious and Organised Crime) Bill (No. 2) 2009 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 26 October 2009 (see appendix 1 for a statement of reasons for referral);

(b) the provisions of the Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009 be referred immediately to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 26 October 2009 (see appendices 2 and 3 for statements of reasons for referral);

(c) the provisions of the Telecommunications (Interception and Access) Amendment Bill 2009 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 26 October 2009 (see appendix 4 for a statement of reasons for referral); and

(d) the provisions of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009 be referred immediately to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 26 October 2009 (see appendices 5, 6 and 7 for statements of reasons for referral).

3. The committee resolved to recommend—

That the following bills not be referred to committees:

• Australian National Preventive Health Agency Bill 2009
• Australian Sports Anti-Doping Authority Amendment Bill 2009
• Customs Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Bill 2009
• Customs Tariff Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Bill 2009
• Family Assistance Legislation Amendment (Participation Requirement) Bill 2009
• Geothermal and Other Renewable Energy (Emerging Technologies) Amendment Bill 2009 (No. 2)
• Long Service Leave Legislation Amendment (Telstra) Bill 2009
• Special Broadcasting Service Amendment (Prohibition of Disruptive Advertising) Bill 2009
• Tax Laws Amendment (2009 Measures No. 5) Bill 2009
• Tax Laws Amendment (Resale Royalty Right for Visual Artists) Bill 2009.

The committee recommends accordingly.

4. The committee deferred consideration of the Plain Tobacco Packaging (Removing Branding from Cigarette Packs) Bill 2009 to its next meeting.

(Kerry O’Brien)
Chair
17 September 2009

APPENDIX 1

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Crimes Legislation Amendment (Serious and Organised Crime) Bill (No 2) 2009
Reasons for referral/principal issues for consideration:
Possible submissions or evidence from:
State and territory police
Anti-crime groups
Criminologists/Law Reform Institute
Committee to which bill is to be referred:
Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
Through October
Possible reporting date:
26th October 2009
(signed)
Stephen Parry
Whip / Selection of Bills Committee member

APPENDIX 2

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009
Reasons for referral/principal issues for consideration:
The impact of the changes to prospective students.
Possible submissions or evidence from:
Isolated Children’s Parents’ Association
NUS
CAPA
Bendigo Youth Allowance Action Group DEEWR
Deakin University
Committee to which bill is to be referred:
Employment, Education and Workplace Relations
Possible hearing date(s):
01/10/09
Possible reporting date:
23/10/09
(signed)
Rachel Siewert
Whip / Selection of Bills Committee member

APPENDIX 3

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Social Security and Other Legislations Amendment (Income Support for Students) Bill 2009

Reasons for referral/principal issues for consideration:
Possible submissions or evidence from:
All parties and individuals that submitted evidence to the Rural and Regional Affairs inquiry into Rural and Regional Access to Secondary and Tertiary Education Opportunities.
Committee to which bill is to be referred:
Education, Employment and Workplace Relations Legislation Committee
Possible hearing date(s):
Throughout October
Possible reporting date:
26th October 2009
(signed)
Stephen Parry
Whip / Selection of Bills Committee member

APPENDIX 4

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009
Reasons for referral/principal issues for consideration:
This Bill represents the biggest regulatory change to the telecom market. An Inquiry is necessary to ensure that both options offered to Telstra for separation - structural and functional - will fulfil the commitment to open access and increased competition.
Possible submissions or evidence from:
Telecommunication users groups, industry groups, service providers, communications experts, state governments, communications NGOs such as those appearing before the Select Committee on Broadband.
Committee to which bill is to be referred:
Environment Communication and the Arts Legislation Committee
Possible hearing date(s):
October
Possible reporting date:
26 October
(signed)
Senator Rachel Siewert Australian Greens Whip
Whip / Selection of Bills Committee member

APPENDIX 5

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
The Telecommunications Legislation Amendment (Competition And Consumer Safeguards) Bill 2009
Reasons for referral/principal issues for consideration:
To ensure passage of important reforms to the existing telecommunications regulatory regime to
provide certainty for the industry and to ensure adequate consumer safeguards are in place.

Possible submissions or evidence from:
- Australian Competition and Consumer Commission
- Australian Communications and Media Authority
- Competitive Carriers Coalition
- Australian Telecommunications Users Group
- Australian Communications Consumers Action Network
- Macquarie Telecom
- Optus
- Telstra

Committee to which bill is to be referred:
- Environment, Communications and the Arts

Possible hearing date(s):
- Weeks beginning 28th Sept, 5th Oct or 12th Oct

Possible reporting date:
- October 19, 2009

Whip/Selection of Bills Committee member
- Kerry O’Brien

Committee to which bill is to be referred:
- Environment, Communications and the Arts

Possible hearing date(s):
- 12 October, amongst other dates in October

Possible reporting date:
- 26th October 2009

Whip/Selection of Bills Committee member
- Stephen Parry
SELECTED BILLS COMMITTEE
APPENDIX I
Proposal to refer a bill to a committee

Name of bill:
Safe Climate (Energy Efficient Non Residential Buildings Scheme) Bill 2009

Reasons for referral/principal issues for consideration:
This Bill introduces a building energy efficiency trading scheme, intended to address some of the limitations of the broader emissions trading scheme, for the first time. It is highly technical and has significant implications (both negative and positive) for the owners of non-residential buildings including offices, shopping centres, hospitals, schools, hotels etc.

Possible submissions or evidence from:
Lend Lease, Lincolne Scott and Advanced Environmental (the designers of the scheme)
Energy Efficiency Council
Australian Sustain Built Environment Council
Green Building Council
The Property Council
etc

Committee to which bill is to be referred:
Economics

Possible hearing date(s):
The week of Feb 16 2010 (assuming this is a non-sitting week)

Possible reporting date:
March 10 2010 (or the next sitting day).

(signed)
Rachel Siewert
Whip / Selection of Bills Committee member

Treaties Committee
Report

Senator McGAURAN (Victoria) (4.05 pm)—On behalf of the Joint Standing Committee on Treaties, I present report No. 106 of the committee, Nuclear non-proliferation and disarmament.

Ordered that the report be printed.

Senator McGAURAN—by leave—I move:
That the Senate take note of the report.

I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The report read as follows—

Nuclear Non-proliferation and Disarmament - Statement
Mr President, I present Report 106 of the Joint Standing Committee on Treaties, which relates to the Committee’s inquiry into the nuclear non-proliferation and disarmament treaties involving Australia.

This has been an important and timely inquiry that has taken place at a time of renewed commitment by world leaders to progressing disarmament and strengthening the nuclear non-proliferation regime. In this inquiry, the Committee has focussed upon a number of treaties that are central to achieving a world without nuclear weapons.

The Committee wants to see the Comprehensive Nuclear-Test-Ban Treaty in place. By banning parties from carrying out any nuclear weapon test or other nuclear explosion, this Treaty is incredibly important in halting the momentum for nuclear proliferation. The Committee has concluded that Australia should promote efforts to achieve ratification by the nine nations required to bring this Treaty into force.

The Committee also wants to see a verifiable Fissile Material Cut-Off Treaty in place. This Treaty would stop countries building up fissile materials and therefore reduce the risks of proliferation and limit the risk of nuclear arms races.
The Committee also concludes that all uranium exporting countries should require that the countries to whom they export uranium have an Additional Protocol to guarantee International Atomic Energy Agency inspector access. The Committee believes that the International Atomic Energy Agency’s budget needs to be increased so it can do its work properly and thoroughly.

The Committee examined proposals for a Nuclear Weapons Convention, and fuel cycle multilateralisation. In each case, the Committee has recommended further investigation by the Government.

It is important to understand that the friction between nuclear ‘haves’ and the nuclear ‘have-nots’ is alive and well. Throughout the history of the Non-Proliferation Treaty the nuclear haves have stressed non-proliferation — that is, making sure no other country gets nuclear weapons, and the nuclear have-nots have stressed disarmament — that is, obliging the nuclear Armed countries to get rid of their bombs. The countries of the Non Aligned Movement — essentially have-nots — are frustrated by the lack of progress on disarmament. Too often this difference of approach has led to international stalemate. Clearly we need to have action on both fronts — disarmament and non-proliferation.

The Committee strongly supports the work of the International Commission on Nuclear Non-proliferation and Disarmament, the Conference on Disarmament and the forthcoming 2010 Non-Proliferation Treaty Review Conference. We have made recommendations which reflect this support. We have also made recommendations designed to encourage Parliamentarians all around the world to engage with and talk up, a world without nuclear weapons.

It became clear throughout the inquiry that it is time for concrete, demonstrative action to be taken. I urge my colleagues here in Australia and in other Parliaments, and ordinary Australians and citizens of other countries, to read the report, think about it, and make a world free of nuclear weapons a reality.

Senator McGauran—I will address certain aspects of the Joint Standing Committee on Treaties report. The committee, in its comprehensive report, has focused on a number of treaties that are central to achieving a world without nuclear weapons. It ought to be noted that after an exhaustive 12-month inquiry, which also included international travel—which, I should add, I was not part of—that was very necessary to the report, the committee produced a unanimous report. It is a fine achievement indeed. Firstly, it indicates the weight and gravity that all members have placed on the recommendations of the report. Anyone who knows this joint house treaties committee—and some might think it is just another committee in the parliament among so many—knows it is unique, and my committee colleague who is present would endorse that comment. It seems in many respects that the Prime Minister has caballed all the left-wing thoughts and ideas into this committee and found a home for them. As the deputy chair of the committee, I know it is often a difficult task and an exhausting task to attend meetings. But on this occasion, what do you know: we have come up with a unanimous report. That ought to be noted. It is a fine achievement indeed. As I said, it shows the gravity we all place on the recommendations.

The committee addressed the greatest threats facing the world as to nuclear armament: the nuclear programs of Iran and North Korea and their pursuit of warheads and their pursuit of the bomb. The committee had this to say:

The situations of Iran and North Korea are clearly destabilising and counter the positive moves that have been identified elsewhere in the Committee’s report. The Committee considers that resolution of these issues must be priorities for the international community. There are likely to be serious implications for the NPT and the non-proliferation regime more broadly if strong international action is not taken.

I venture to say it was recognised that the greatest threat to world peace and stability in
the Middle East comes from Iran, their nuclear program and their ambition to obtain nuclear weapons. The committee report highlights this claim. It says:

In its report, *World at risk*, the US Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism considered that Iran constitutes a threat to international peace and security. The Commission argued that:

Failure to resolve these crises could lead some countries to revisit their earlier decisions to renounce nuclear weapons, potentially leading to a cascade of new nuclear-weapon states.

Australia’s Gareth Evans, in submitting to the committee, had this to say:

In short, it would be very, very dangerous indeed were Iran to acquire actual nuclear weapons. It would be extremely destabilising in the region. It would almost certainly generate a military response from Israel, maybe with other support, and that in turn, I think, would itself have quite catastrophically destabilising implications not only for the region but on a broader front.

That broader front would be the world.

As the chamber would be aware, Iran is a volatile country itself these days. It has what is best described as an illegitimate government that completely rigged its election and put down any protests against that rigged election. We know Iran is a sponsor, a master, a driver and a supporter of terrorism around the world—namely, Hezbollah. The problem is that if Iran gets nuclear weapons and is able to channel them to terrorist organisations like Hezbollah, no-one should doubt that Hezbollah would use them, and we know they would use them against Israel.

Against this backdrop and the report in hand, I urge the government to double its efforts in taking on Iran over this issue and its obvious plans to create nuclear weaponry—with the international community and other international governments, namely, the United Nations Security Council, through sanctions and incentives—and pressure Iran to abandon its plans. Moreover, Australia ought to signal its support of its chief ally, the United States. Should all options come to an end, we ought to signal that we support the existing policy of the United States that upholds that they will leave all military options on the table.

**Senator LUDLAM** (Western Australia) (4.11 pm)—I rise to speak for a couple of minutes on the same report. While I do not often find myself in strong agreement with Senator McGauran, it is nice to be able to stand here today and acknowledge that I agree on this. Largely due to the work of the Chair of the Joint Standing Committee on Treaties, who has a very collaborative style and is open to a lot of different points of view, we have handed down a unanimous report on this issue, which is often very polarising. It is a tribute to the work of the people who applied themselves over the last 12 months or so that the report is not only unanimous but also contains some very strong recommendations for Australia regarding nuclear weapons policy.

It got off to a good start in that it was a direct referral to the joint standing committee from the Prime Minister’s office. It is somewhat rare for the committee to look at treaties before they are signed or while negotiations are in play. Often we see things at the end of the pipe. In this case, we were very pleased with the wisdom of the idea of putting it to the committee while the treaty was under negotiation so that these issues could be looked at side by side with the work that Gareth Evans is doing on the International Commission on Nuclear Non-Proliferation and Disarmament, which has been playing a role largely behind the scenes in assessing the degree to which the world’s nuclear weapons states, or states that are seeking nuclear weapons capabilities, may be able to
come to some form of consensus on the issue of disarmament and nonproliferation.

It is really important to note that there are two sides to the agenda. Senator McGauran dwelt mostly on the nonproliferation side. Obviously, there are extreme concerns about the state of Iran developing nuclear weapons capacity. Very late in the process of drafting the report there were revelations from ANU Professor Des Ball about the development of nuclear weapons capabilities in Burma, allegedly being very actively facilitated by North Korea and potentially Russia as well.

Two of the things that the committee did not really go near—and this is really the elephant in the room in this debate—are the facts that we have about 40 per cent of the world’s uranium and that we are the second largest uranium exporter in the world. What the report does do quite effectively is take a pretty hard look at the pros and cons of the so-called multilateralisation of the nuclear fuel chain. So, while it is very disappointing that we had to agree to disagree on the issue of Australia’s uranium exports, the point is very well made that we are exporting bomb fuel to nuclear weapons states around the world. That is something that we cannot hide from. We cannot pretend that the safeguards regime under which we export uranium to nuclear weapons states around the world. That is something that we cannot hide from. We cannot pretend that the safeguards regime under which we export uranium to nuclear weapons states in any way prevents that material from being used in nuclear weapons programs—most obviously that it diverts domestic or other supplies away from the civil nuclear power industry so that they can be used in weapons programs.

One of the greatest and most valuable contributions made by the committee in its 12 months of work is the very strong recommendation that Australia support the introduction of a nuclear weapons convention. Anybody who is familiar with international law will know that literally decades of work on chemical weapons, on biological weapons and, more recently, on cluster munitions and landmines has led to legally binding treaties that nations around the world are signing up to in order to eliminate these weapons from their arsenals. Nuclear weapons are the world’s worst weapons, and that is why the proliferation argument is so strong—we do not want them spreading any further. But the other half of that debate and the other half of the deal that was signed under the Nuclear Non-Proliferation Treaty is that the world’s nuclear weapon states should disarm, that they should put these weapons down once and for all.

The committee’s recommendation that Australia adopt a nuclear weapons convention is very good news and is advice that the government would be very well advised to follow. If we do that and take that position to the 2010 Nuclear Non-Proliferation Treaty conference in New York early next year, we can play a key role in those negotiations by taking a very strong stand in favour of the negotiation of a nuclear weapons convention. This does not invalidate all the other work across all the other domains that needs to be done on things like the comprehensive test ban treaty, but it does bring all those disparate threads together under one banner which says that the world is going to work towards a goal of zero—zero nuclear weapons.

It is quite significant to note that Australia has not had this policy. In 2008, 137 countries at the United Nations called for the immediate negotiation of a nuclear weapons convention, and Australia was not on that list. It is essential that Australia put itself on that list early next year. I suspect that it is going to be a longer list of countries next year, and it is essential that Australia be there, not just putting our name to it but also actively working openly and behind the scenes to make that a reality.
For the last 64 years, we have really been part of a global nuclear suicide pact, in which we have held weapons of armageddon up against each other’s heads: first it occurred bilaterally between the United States and the Soviet Union and now there are multiple nuclear arms races around the world that are effectively out of control. It is time that these weapons were taken off alert and pulled to pieces for all time. It is time that we got very firmly in our sights the goal of zero nuclear weapons, which means taking nuclear weapons out of Australia’s security policy. This will have consequences for the visits of nuclear powered and armed warships and it will have consequences for places like Pine Gap, where we assist the United States government in intelligence gathering, the tracking of satellites and other things, which very much include the targeting of nuclear weapons capabilities.

Before I take my seat again, I pay tribute to the very special community that works on international non-proliferation and disarmament issues. These people are the third generation since the bombing of Japan at the end of World War II. They are a very tight knit community of people who exist in their own world of acronyms—United Nations departments, treaties and all the other arcane parts of that world. It is wonderful to see that after such a long period of paralysis on this issue we may be moving forward at long last. So I would like to pay tribute to them, to all the groups around the country who gave evidence and who came to the committee hearings. We had quite an extensive program of hearings. Among these were groups like ICAN, who have really led from the front in the campaign to abolish nuclear weapons and who gave great evidence, and groups like the Medical Association for the Prevention of War.

I thank the committee staff who worked very, very hard over the last 12 months under quite difficult circumstances to bring this report together. I thank my staff, who have done an enormous amount of work in preparing for the tabling of this report today; and, lastly, I thank the chair, the member for Wills, whose collaborative style played quite a major role in having this report brought down unanimously. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Economics References Committee Report

Senator EGGLESTON (Western Australia) (4.19 pm)—I present the report of the Economics References Committee on foreign investment by state-owned entities together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator EGGLESTON—by leave—I move:

That the Senate take note of the report.

This issue of foreign investment in Australian entities by state owned enterprises is a very topical one and one that has been of great concern in the community. But, as the committee found, Australia has a long history of foreign investment, particularly in the mining industry, going back into the 1800s, when the gold industry was financed by foreign money; the Pilbara iron ore industry during the 1970s was financed by foreign money; the Pilbara iron ore industry during the 1970s was financed by British, United States, Japanese, Dutch, Swiss and, more recently, Chinese investment; and the oil and gas industry, again in the Pilbara, as well as around Australia, is being financed by international investors. This is largely because the Australian pool of capital is fairly shallow and, for some of these great investments, vast amounts of money are required. As was demonstrated recently by the announcement of these new gas projects off
the West Australian coast, Australia does not have sufficient domestic capital to finance these great projects, so we need to bring in foreign investment. The difference in recent times has been that, rather than private foreign investment, we have had investment from sovereign wealth funds and from state owned enterprises.

There has been concern, particularly in the case of state owned enterprises from China, that this is a different kind of investment which has different implications for the autonomy of Australian companies. But, as Professor Peter Drysdale from the ANU informed the committee, the fact that a foreign investment is made in a mineral or natural resources deposit does not detract from the fact that Australia owns the land from which the natural resources are extracted. Federal and state governments grant these companies licences and leases which allow them to operate. Australia also retains control over the business activities taking place within its own borders.

It was very important, we thought, that people bear that in mind, because there is not any loss of sovereignty involved in having investment from these state-owned enterprises in Australia. It is all a matter of how they are managed. And one of the most interesting pieces of the evidence given to the committee was the evidence given by FMG, the Western Australian iron ore company, who pointed out that they managed investments from the Chinese in their company very carefully and imposed conditions on Chinese investors which were entirely consistent with their own code of conduct and entirely consistent with the Corporations Act. They required that a specific director be named to be on the board of the company and that if there was a conflict of interest the director had to declare this. The director also had to take responsibility for any decisions made.

In the brief amount of time I have left I would like to say that the committee felt that the existing foreign investment review process did provide good protection to Australia and that the key factor which is used in determining whether or not such investment should go ahead—namely, the vague term ‘the national interest’—was sufficiently broad to cover any eventualities and to ensure that Australia’s national interests were protected. The committee felt that in some situations incremental foreign investments might occur in which there were investments of small quantities in the shareholding of a company which individually did not reach the threshold of 15 per cent, which requires the attention of the Foreign Investment Review Board. The committee felt that the government should tighten the foreign investment legislation to deal with such complex acquisitions so that, if they occurred and there were other associations by these investors, they would be declared and the overall ownership of any investment would be known.

But, generally speaking, it was pointed out, since there was such concern about China, that China represents 0.5 per cent of the total foreign investment in Australia at the present time. The United States of America has 24.3 per cent and the United Kingdom has 24.8 per cent. In fact, China is the smallest foreign investor in this country. While that investment is bound to grow over the years, the committee felt that the existing legislative and legal framework provided adequate protection for Australian interests. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Economics References Committee
Report

Senator BUSHBY (Tasmania) (4.26 pm)—On behalf of Senator Eggleston, the Chair of the Senate Economics References
Committee, I present the report of the Economics References Committee on Foreign investment by state-owned entities, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BUSHBY—by leave—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Economics References Committee Report

Senator BUSHBY (Tasmania) (4.26 pm)—On behalf of Senator Eggleston, the Chair of the Senate Economics References Committee, I present the report of the Economics References Committee on Government measures to address confidence concerns in the financial sector—The Financial Claims Scheme and the Guarantee Scheme for large deposits and wholesale Funding, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BUSHBY—by leave—I move:

That the Senate take note of the report.

A little over 12 months ago the collapse of Lehman Brothers brought to a head the effects of the subprime crisis—a crisis which started over 12 months prior to that. That led, ultimately, to the start of what can only be described as a full financial meltdown. This had serious consequences for public confidence worldwide, particularly in financial institutions. But, thanks almost entirely to the sound banking and prudential framework that was put in place by the coalition government in the late 1990s, Australia’s banks and financial system were generally very sound at this point and we were at no endemic threat as a direct consequence of the then occurring financial meltdown. Nonetheless, there were confidence concerns, particularly in other nations. That led to a need to protect depositors’ interests in those countries. The fact that guarantees were being put in place elsewhere, which would act to attract deposits away from Australian institutions, combined with the real threat that a complete evaporation of depositor confidence here could have occurred, led to the need for action on this front in Australia. This was first publicly pointed out by the Leader of the Opposition on 10 October. He called for bringing forward the $20,000 proposed cap and putting it in place as a $100,000 cap. Subsequently, the government announced that it was proceeding to put in place an unlimited guarantee. This raised a number of confidence issues for those institutions that were not being covered by that guarantee and led to a run on redemptions in those institutions that were not the beneficiary of the guarantee.

Evidence to the committee noted that this run on redemptions was already being seen as a trend. However, what was quite clear also from the evidence was that upon the announcement of the guarantee that trend crystallised, with the result that those institutions that were not the beneficiary of that had a massive increase in redemption requests, leading to the overall inability of those institutions to meet those requests and ultimately a freezing of many of those institutions. That had a long-term effect such that 11 months later investors in those institutions cannot receive their funds. We made some comments on that. I only have seven seconds left. There were a number of recommendations made, particularly to do with wholesale funding and also securitisation.

Debate interrupted.
Rearrangement

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery) (4.30 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 2 (Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 and a related bill.)

Question agreed to.

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE LEGISLATION AMENDMENT BILL 2009

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (SAFETY LEVIES) AMENDMENT BILL 2009

Second Reading

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

That these bills be now read a second time.

Senator JOHNSTON (Western Australia) (4.30 pm)—On behalf of the opposition, I want to confirm that we welcome the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 and the Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009 and welcome the commitment by the government to the policy underpinning this legislation, implementing and refining on a proper basis a framework for the development and use of carbon capture and storage technology.

The Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 includes technical amendments, corrections to the 2008 legislation and minor policy changes that have stemmed from reviews in the area. Having had a small role in assisting the government with the construction of this bill, I can say that it is an ongoing work in progress because it is at the cutting edge of a totally new area of public policy: the long-term—and by ‘long-term’ I mean several tens, and possibly hundreds, of years—storage of greenhouse gas in appropriate repositories well below the surface of the earth. The bill provides further clarity for the injection and geological storage of greenhouse gas substances, as I have said, in Australian offshore areas. Bear in mind that the Commonwealth is responsible for offshore areas. The states will have to come up with comparable and mirrored legislation with respect to onshore areas.

Specifically, the bill: provides for an expedited consultation process for the granting of an access authority to titles in adjoining offshore areas where the title holders have consented to the access; changes who makes the decision to declare a location from the designated authority to the joint authority, which is a very good change; changes who makes the decision to grant scientific investigation consents from the designated authority to the joint authority; and amends the act to require notification of discovery of petroleum in a production licence area, and this particular amendment is a very important one. The amendment, as I read it, says that, if a greenhouse gas producer strikes oil while seeking to inject and exploring for an appropriate repository, they have to notify of that discovery, as is required for other titles. It extends the period of notification of discovery of petroleum from immediately to within 30 days from the completion of the well that led to the discovery. That is a very important consideration, given that we have now potentially three different types of subsea rights users with respect to these offshore regions. Predominantly, we are thinking of both the North West Shelf off Western Australia and
the Bass Strait region adjacent to the Gippsland coalfields.

There were two additional sets of amendments introduced by the government in the House in relation to this bill after its introduction. These amendments relate to the new part 15 for the approval and registration of transfers of, and dealings in, petroleum titles. This amendment corrects an oversight in the 2008 legislation and a concern raised by the coalition at the time. I am pleased to report. The other amendment introduced by the government added a new part 13A into the legislation and new part 9.10A to enable the minister to appoint a commissioner to undertake a commission of inquiry into factors specific or incidental to a significant offshore petroleum or greenhouse gas storage incident. As such, passage of this bill will enable the Commonwealth to appoint a commissioner to conduct a commission of inquiry into the incident at the Montara offshore oilfield in the Timor Sea. We are all aware of that recent incident.

In relation to the other bill in this package, the Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009 amends the references to the Pipeline Safety Management Plan Levy in the act. This is effectively a name change for the existing levy and will facilitate pipelines being covered under safety regulations in future rather than pipeline regulations. The Inpex pipeline is one that springs to mind that it is important the legislation covers. The explanatory memorandum states that there are no additional costs to industry as a result of this change. The same annual cost applies to the payment of levies in Commonwealth waters by the pipeline licensee. Safety levies are calculated annually, commencing each calendar year. The safety case levy is in place to recover NOPSA’s costs associated with monitoring safety compliance.

The legislation has been in development since 2005. As I have indicated, it was commenced by the Howard government. It is an ongoing process. I confirm that there is an enormous degree of bipartisanship with respect to this very important framework. The rest of the world is watching the way we are going about the business of establishing a legal framework for the long-term storage of greenhouse gas in offshore repositories.

The coalition in government was committed to implementing a regime to provide greenhouse gas injection and storage rights in offshore waters and it was during our time in government that the drafting of legislation commenced to make amendments to the Offshore Petroleum Act 2006. I congratulate the current minister for continuing that evolutionary process. He has done a very good job in progressing this. There will be future changes as different bits of technology come forward and as we consider different aspects of the management of our offshore petroleum rights and other access licences. There will need to be future changes. No-one should be in any doubt about the fact that this is an evolutionary process.

The legislation was considered by the parliament in 2008 and these bills now slightly refine that. We recognised that this legislation needed to carefully balance the interests of existing users of offshore acreage and their lenders, bearing in mind, in line with Senator Eggleston was just saying, that the enormous amount of capital required to develop offshore gas and oil deposits need to be protected. We cannot undermine those with a third type of tenement, so there is a balance to be struck. I think that the legislation strikes the appropriate balance and provides a useful framework, one that provides confidence and security to the existing titleholders such that they can rest easy that there is no undermining of their tenure and the value that they hold in those licences.
The coalition was keen to support the development of CCS technologies—indeed, we commenced the Otway Project down on the south-west coast of Victoria, which I am given to understand is a very successful injection of 65,000 tonnes, as it now stands—with successful monitoring and an ongoing learning process as to how we detect the carbon dioxide so that it is sequestered. The coalition invested $3.4 billion in its climate change strategy, including $1.1 billion for low emissions technologies including carbon capture and storage.

I commend the legislation without going on any further because I think a lot of the things that I have said do speak for themselves and echo what I said in 2008 when further amendments to this legislation came forward. I commend the bills to the Senate.

Senator SIEWERT (Western Australia) (4.38 pm)—I rise to make a fairly short statement on the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 and the Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009 because I particularly want to address the added amendments to this bill. These are in section 9.10A and deal with inquiries into significant offshore incidents. The Greens have circulated an amendment to this provision, although we welcome this additional amendment to this act. We do think it is important to provide the government with the ability to carry out an inquiry under this act and we understand some of the specific requirements, such as the inquiry having particular powers and being able to require documents from companies, et cetera. But we are concerned about the limited nature of the inquiry provisions in the bill.

The issue that has forced this addition has been a previous occurrence in my home state of Western Australia, where there were not sufficient powers, as I understand it, to carry out a full investigation of a previous incident in Western Australia. Of course, the Montara oil spill has produced a sense of urgency to include this investigative power into the act. I appreciate that there is a very strong need to look at the regulatory processes. Are they significant? Were they carried out? What caused the problem? I absolutely understand and agree with that range of issues. There is a very strong requirement to look at the incident and any or all of the operations in the offshore area, including offshore exploration operations, and recovery operations in the processing and storage of petroleum. However, oil spills of this nature are related not just to regulatory failures or whether regulations were actually complied with. By their very nature, they also have potential environmental consequences. For example, in this particular spill and others, you also have to invoke the national oil spill response plan.

The problem with Montara, for example, has become startlingly obvious to me and it is the fact that there are so many agencies involved. You have to keep going to each agency to find out information. For example, with the oil spill you go to AMSA because they are responsible for the cleanup. If you want to know about environmental monitoring or the impact on the environment, you have to talk to the Department of the Environment, Water, Heritage and the Arts at a federal level. If you want to know about the impact on fisheries, you have to talk to the Australian Fisheries Management Authority. If you want to know about the resource implications or some of the issues around the regulatory process, you have to talk to the Department of Resources, Energy and Tourism and Minister Ferguson’s office. You then have to talk to the NT regulators because they were the people that were responsible, under the delegated processes in the act, for making some of the approvals in the first
place. Then you have to talk to the Western Australian authorities. You have to talk to the Department of Environment and Conservation in Western Australia. And then you have to talk to the Department of Fisheries in Western Australia. Are people getting the picture?

It is quite a complicated exercise to find out this information. Each one of those agencies has some form of responsibility. I understand and I take on board what I have been told by the government, that these agencies are meeting and talking daily. But it does not make it any easier for the community and stakeholders to find out what is going on. Each one of these agencies has responsibility. Each one of these agencies may or may not be carrying out their regulatory responsibilities effectively or adequately—in any circumstances, I am not just talking about Montara here—and also their regulatory legislation may not be sufficient.

The Greens very strongly believe that we need a wrap-around inquiry here. We also need to be reviewing what the environmental impacts are and whether the responses have been adequate. At the moment I do not consider that they have been. From the evidence I have been given there is still no monitoring plan in place. There is still no short-, medium- or long-term monitoring in place. People are still not adequately sampling the water. I understand that we have got some mechanisms in place to look after Ashmore Reef and Cartier Island. I also noticed on the AMSA website on 15 September that they mentioned that the sheen is getting closer to Cartier than had been previously indicated. But the overall monitoring program is not in place.

In fact, I have had two different answers on the monitoring program from AMSA, who I am told is not responsible for monitoring because they are responsible for the cleanup program and implementing the response plan. And I have had a different answer from the environmental authorities saying that they thought AMSA was doing some monitoring. Well, I was clearly told that AMSA are not doing some of that monitoring. The overall point here is that there is no overall monitoring plan in place yet. It is also a little bit unclear to me whether the company has accepted that they need to pay for long-term ongoing monitoring and what the extent of that long term ongoing monitoring will be.

The upshot here is that, while the Greens support the legislation and we support the inquiry mechanism, we are concerned that if this is the only investigation we are going to have into the Montara incident it is not comprehensive enough. It does not deal with the response plan, it does not deal with the environment side of things and it does not deal with the impact on fisheries, for a start. So we have circulated an amendment that will put specific requirements into this bill to allow a full investigation. If the government does not support putting those additional terms of reference into this legislation I ask the government what other mechanism they are going to put in place to review the overall response to and impact of this oil spill. We need to look at the current activities to see if they will be adequate into the future and if they need reviewing. I do not want to pre-empt any outcome but I do believe that they should be reviewed. Certainly, I believe that the way the environmental response has been handled needs to be reviewed. What is the government going to do about those elements of the response to this spill if they are not going to support the amendments that we have circulated? Their plans under this investigation are certainly not adequate.

I also add that I think the powers given here to the commissioner to enable the commissioner to investigate the areas that they
have the power to under this amendment should also be provided to any other inquiry if the government envisages taking another course of inquiry to look at the other elements I have mentioned. Those powers are certainly the type of powers that need to be provided to any other inquiry, if the government sees that there should be a second or third inquiry, for example. The powers should be available to any other investigation the government undertakes. I ask that, when the minister representing the minister responds, he give an indication as to whether the government sees this as being the only form of inquiry that will be undertaken into this particular spill. The measures that we are asking to be included should also be included for any other offshore incident, but should be included particularly in the case of the Montara oil spill if the government is planning to have any other form of inquiry to address the other issues that urgently need addressing.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (4.47 pm)—I thank the Senate for its contribution to the debate on the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 and the Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009 and for facilitating the speedy passage of the legislation. The legislation makes minor policy and technical amendments and reduces regulatory burdens on the offshore petroleum industry as well as streamlining and clarifying administrative processes. It also removes ambiguities and makes some minor technical corrections.

These amendments bring improvements to the legislative framework for the offshore petroleum and greenhouse gas storage industries without increasing the regulatory burden and, in some specific provisions, reducing that burden. Most importantly, particularly in light of recent events, this legislation creates a standing power enabling the responsible minister to appoint a commissioner to undertake a commission of inquiry into the operational, human and regulatory matters specific to or incidental to a significant offshore petroleum or greenhouse gas storage incident. The power is limited to where a significant offshore petroleum or greenhouse gas incident has occurred and where it would be appropriate to consider operational, human and regulatory issues related to that incident. The purpose of the amendments is to correct an administrative gap in the provisions of the act for the investigation of these matters.

Recent incidents involving uncontrolled release of hydrocarbons jeopardising human and environmental health and essential infrastructure have demonstrated that the existing investigatory powers are insufficient. An inquiry for the purposes of determining operational, human and regulatory factors would inform regulators and operators of causal factors contributing to significant incidents relating to offshore oil and gas exploration, development, production, greenhouse gas storage and/or their commissioning. This power will enable the government and industry to learn from incidents and to be better prepared to prevent similar incidents occurring in the future. I thank senators for their support of the legislation and commend it to the Senate.

Question agreed to.

Bills read a second time.

In Committee

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

Senator SIEWERT (Western Australia) (4.49 pm)—I move Greens amendment (1) on sheet 5934:
Schedule 1, item 62D, page 28 (after line 9), after subsection 780A(1), insert:

(1A) The terms of reference for a Commission of inquiry appointed under subsection (1) are taken to include the following:

(a) the resource management implications of the incident; and
(b) the environmental impact and potential impact of the incident; and
(c) an assessment of the management and effectiveness of responses to the incident, including the coordination of responses across the Commonwealth Government and across jurisdictions; and
(d) the provision and accessibility of relevant information to affected stakeholders and the public.

This amendment relates to the issues that I mentioned in my speech on the second reading. It seeks to amend schedule 1, item 62D, by inserting further terms of reference for a commission of inquiry. In moving this amendment I will not go over the issues that I just went over a few seconds ago in my speech on the second reading but I would like to ask a couple of questions of the government, as I previously indicated. Firstly—and I am going on comments Minister Ferguson has made about intending to refer the Montara incident to be investigated under these provisions—does the government see that as its sole response in terms of an inquiry? I will ask that question first and go on from there later.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery) (4.52 pm)—I inform the committee that the government opposes the Greens amendment moved by Senator Siewert. The government’s purpose in giving the responsible minister the power to appoint a commissioner is to enable an independent inquiry into the operational, human and regulatory factors relating to a significant offshore petroleum or greenhouse gas incident, a power the minister does not presently have. Undoubtedly a minister establishing a commission of inquiry would take a broad view of the issues to be considered in any proper consideration of the operational, human and regulatory factors relating to the incident, the subject of the inquiry. The minister would want to ensure that all the lessons that could be learnt were in fact learnt.

There will be circumstances where the issues referred to in the Greens amendment are relevant to the incident to be investigated, but there will be other occasions where some or all of those issues are peripheral or not relevant at all. It is inappropriate to mandate in the legislation some of the terms of reference of a commission of inquiry, particularly terms of reference relating to matters in relation to which there already exist adequate Commonwealth powers and processes to investigate and consider. The committee can be confident that the responsible minister would look to any commission of inquiry established by him or her to provide a comprehensive report on the causes and consequences of the incident being investigated. In the government’s view the amendment is therefore unnecessary. Under the national response plan there would also be an automatic review. I hope that assists.

Senator SIEWERT (Western Australia) (4.53 pm)—It does partially, but I will seek some clarification. I appreciate the comments around the review of the response plan. However, as I understand it, that would be a review of that particular response rather than of whether the response plan was suited to the nature of the particular incident. We have not had an incident in recent history like the current one in terms of its remoteness and ongoing nature. We have not had a
blow-out of that particular nature since 1984, as I understand it. With all due respect to the minister, he did not address the issue of whether this is seen by the government as the only investigation that will take place into this incident. I am not reassured that the potential environmental impacts of the incident, the coordination, management and effectiveness of the response across government and jurisdictions, and the resource management implications of the incident will be reviewed in relation to all the issues that we are concerned about. Can and will those issues be considered under the provisions currently before us, or is the government planning to do some other form of review? To date I am not confident that these issues can and will be considered under the provisions as they stand in the amendments proposed in the bill.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery) (4.55 pm)—Senator Siewert, what I can assure you of is this: under the national plan the parties would conduct a review of the incident. If they found systemic failures then those failures would be addressed.

Senator SIEWERT (Western Australia) (4.56 pm)—I am going to try and keep this short. I am not trying to drag it out. As we know, the plan deals with the incident, the clean-up of the incident and a number of other things. It does not deal with the environmental impacts. It does not deal with the environmental response. That is under separate agencies. As I have articulated already, there are a series of agencies involved here. There is some coordination but there are also some gaps. It does not deal with those issues. It does not deal with the various government jurisdictions and the various government agencies. That has been made pretty plain from the responses and the way we are getting briefed. I appreciate the briefings that we are getting, but we are getting them from separate agencies and there is no one person that you can go to and find out what is going on across the whole of the government response. How is that going to be assessed? Can I be guaranteed that these provisions will enable that and that that is what the government will refer for investigation?

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery) (4.57 pm)—Senator Siewert, what I can assure you of is that, in assessing the response, naturally we will have to examine the effectiveness of the response in dealing with the environmental impacts.

Senator SIEWERT (Western Australia) (4.57 pm)—Will that review and assessment of the response have the same powers, ability to call evidence et cetera as are going to be available under the provisions of this particular bill?

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery) (4.58 pm)—What I can say in response to that—and, again, I am only acting for the minister at present—is that it is a review of the impact of the response. Therefore, that inquiry does not need those sorts of coercive powers. That would be the view of the government.

Senator SIEWERT (Western Australia) (4.59 pm)—I am not going to drag this out. With all due respect and without intending to be rude, I do not think that the government’s approach is adequate. I will not call it a ‘response’, because the minister is trying to give me an understanding of the government’s approach, but I do not think the government’s approach is adequate.

I think that it would be much better to have an inquiry which had the power to re-
view all of these issues rather than the not quite so strong powers the commission will have under this act to look at only some issues relating to oil spills. I find it quite difficult, to tell you the truth, to think of an oil spill that would not have some potential impact on the environment. I am all for covering resource management implications across government jurisdictions and for looking at the effectiveness of the response of those jurisdictions. I find it hard to think of any offshore incident that would not need to look at those issues.

I am not satisfied with the government’s response. The government are obviously taking a very strong view on the seriousness of some of the implications of an oil spill, and I congratulate them for that, but I am particularly concerned that they are not taking that same seriousness of approach to looking at the impacts—the environmental implications, the resource management implications and the other things that we have included in our amendment. There seem to be two different emphases here and I find that unsatisfactory. You are going to have a mishmash of investigations and inquiries into these incidents, which I do not think is satisfactory. If the government is not going to refer a complete investigation to the commissioner, I have very strong concerns about the way we will be investigating future spills because we will have a disjointed approach.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (5.01 pm)—The government also believes these are very serious matters and that was noted during the debate. We take on board your concerns and note your submissions.

Senator SIEWERT (Western Australia) (5.01 pm)—I can assure the government that we will be pursuing a full investigation. If it turns out that complete terms of reference are not referred to this inquiry, we will continue to pursue a proper investigation into all aspects of this incident.

I think the government are missing a critical opportunity to put in place provisions for a thorough investigation rather than a half-way house, which is what we are going to get. As I said, I fully appreciate and congratulate the government for acknowledging that they need to look at the regulatory powers and also for acknowledging that they may need to change the regulatory powers. Minister Ferguson has done that and I congratulate them for that, but they have only gone half-way. They need to be looking at the other areas. I will not hold up the Senate any longer, but we will continue to pursue this issue.

Senator JOHNSTON (Western Australia) (5.02 pm)—The opposition does not support, indeed may I say that we oppose, these amendments. The powers in the bill for a commission of inquiry are more than adequate. This amendment, incorporating a resource management implication aspect, requires the commission, or the inquirers, to undertake a quite considerable investigation—indeed, may I say, a study. This is utterly inappropriate when we are looking at reporting factually on what has occurred.

I underline the inclusion of environmental impact and then potential impact as being completely an ambit claim and requiring the commission to undertake a vast study of matters that are tenuously connected to an incident. The assessment of management and effectiveness and the provision of accessibility of relevant information to affected stakeholders and the public is in a similar vein. This is an ambit claim.

I see no real understanding, in this amendment, of what the bill seeks to do and achieve in terms of a post facto inquiry into
incidents, NOPSA has a very proud and successful history of managing, for many, many years, offshore safety in the petroleum industry and I see no benefit in this amendment at all.

Question negatived.

Bills agreed to.


Third Reading

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (5.05 pm)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

BUSINESS

Rearrangement

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (5.05 pm)—I move:

That intervening business be postponed till after consideration of the government business order of the day no. 5 (Road Transport Reform (Dangerous Goods) Repeal Bill 2009).

Question agreed to.

ROAD TRANSPORT REFORM (DANGEROUS GOODS) REPEAL BILL 2009

Second Reading

Debate resumed from 17 August, on motion by Senator Sherry:

Senator IAN MACDONALD (Queensland) (5.06 pm)—The Road Transport Reform (Dangerous Goods) Repeal Bill 2009 repeals the Road Transport Reform (Dangerous Goods) Act 1995. It is being implemented to allow the Australian Capital Territory to implement the seventh edition of the Australian Dangerous Goods Code and enact model legislation in accordance with an intergovernmental agreement. This bill continues the previous government’s work and commitment to transport regulatory reform in the area of transport of dangerous goods by road and rail. The ACT cannot implement the model legislation until the Commonwealth repeals the 1995 act. The repeal being enacted by this bill will come into effect on a day to be fixed by proclamation to coincide with the passage of legislation by the ACT government.

The coalition is satisfied that the bill is a necessary piece of housekeeping as it applies the approach to regulatory reform agreed to by the former government. Unfortunately, the effort the Labor Party is making in its own right to address these fundamental matters of economic reform is far more disappointing. The Productivity Commission has estimated that the cost to Australia’s GDP of conflicting transport regulations is something like $2.4 billion. The National Transport Commission in 2006 found that, after one decade of effort to pursue regulatory reform, only one-third of oversize and overmass provisions that apply to heavy vehicles have been implemented in a nationally consistent way.

We mentioned in the parliament before, in relation to other legislation, some baffling examples of regulatory transport inconsistencies. One such example is that a truck operator carrying hay bales and loaded to its maximum allowable three-metre width in Victoria will be overweight in New South Wales where the maximum width is 2.83
metres. So a Victorian farmer who loads his truck with hay as wide as is legally possible in Victoria would not be able to drive across the border into New South Wales. That stupidity cannot continue in our federation. The coalition has previously mentioned the failure by the states to take up in a uniform way the heavy-vehicle driver fatigue reforms agreed to by the Australian Transport Council in early 2007 and rolled out from September 2008. It is disappointing that Labor governments in Tasmania and the Northern Territory have not yet applied the fatigue reforms that were agreed by the Australian Transport Council. It is also astounding that New South Wales and Victoria, which have applied the reforms from 29 September last year, have introduced variations. These include differences between Victoria and New South Wales in logbook requirements and in defence provisions should a breach of fatigue regulations occur.

The coalition is also concerned about variation between the states in opening up their roads to the highly efficient B-triple vehicle combinations. In spite of agreements to do so, New South Wales refuses to make a serious effort to open up its road system to these vehicles. Victoria is also lagging, only allowing B-triple use between Broadmeadows and Geelong. Unfortunately, the failure of the New South Wales government to implement the higher mass limit reforms agreed to by the Australian Transport Council in 2000 has made it difficult for truck operators to realise this investment and has added to the costs of fleets operating across the South Australian and Victorian borders and into New South Wales. These are just a couple of examples in what is a very serious problem in economic inefficiency in Australia.

Regrettably, the Labor government does a lot of talking about it at a lot of meetings, but precious little is done. We know that the Labor Party is good at running up debts, creating something like a $315 billion deficit in our country—a liability of about $15,000 for every man, woman and child in this country. We also know that the Labor Party is pretty good at trashing programs aimed at regional Australia and turning them into election slush funds aimed at urban seats.

Senator Sterle—You are an embarrassment and a disgrace! You absolutely sicken me!

Senator IAN MACDONALD—Thank you, Senator Sterle. The programs for rural and regional Australia that were a highlight and a high mark of the previous government were ignored by the Labor government, were cancelled by the Labor government, and the moneys channelled into inner-city seats where most Labor members represent. And any time Senator Sterle wants to have a debate on that, he should let me know, because he knows he will be beaten in that debate as he is in most other debates.

Senator Sterle—You are a goose!

The ACTING DEPUTY PRESIDENT (Senator Hurley)—Order!

Senator IAN MACDONALD—Labor is simply not interested in rural and regional Australia and the facts and figures show it. As often as I can, I will be highlighting that.

Senator Hutchins—Madam Acting Deputy President, I rise on a point of order.

The ACTING DEPUTY PRESIDENT—Order, Senator Macdonald!

Senator Hutchins—Madam Acting Deputy President, I understand he is supposed to sit down, isn’t he?

The ACTING DEPUTY PRESIDENT—Indeed, Senator Macdonald, there is a point of order.

Senator Hutchins—I would just like to point out to Senator Macdonald that we actu-
ally hold the majority of regional seats in this country at the moment.

**The ACTING DEPUTY PRESIDENT**—Senator Hutchins, there is no point of order.

**Senator IAN MACDONALD**—Madam Acting Deputy President, why you required me to sit down for that piece of political futility and stupidity I cannot imagine. I only respond to interjections made by Labor Party senators to highlight the fact that rural and regional Australia has done considerably worse since this government was introduced, and it is because there are very few members of the Labor Party from rural and regional Australia. I look around the other side of this chamber and I cannot see one senator who comes from rural and regional Australia. At the same time, I look around this side of the chamber and I see that 100 per cent of the senators are from rural and regional Australia. And while they are only small numbers, it really demonstrates that senators on this side understand, empathise with and live in rural and regional Australia, and we understand those problems.

Because this bill continues the work started by the Howard government, we as a coalition will be supporting it. I want to note that we are talking about a reform bill but referring to dangerous goods. I also want to highlight a transport matter that is of particular concern to the part of rural and regional Australia that I come from, and that is the main arterial road which connects Northern Queensland with the rest of Australia and crosses the Burdekin River between Ayr and Home Hill—as senators may know, I live in Ayr. There is a bridge there that was the state-of-the-art engineering construction in 1957 when that marvellous Queenslander, Vince Gair, a great Premier and a very significant senator in this chamber, opened it—

**Senator Hutchins**—And ambassador.

**Senator IAN MACDONALD**—And ambassador, he was indeed. He curiously took the ambassadorship at a significant time in history and perhaps by doing that altered the whole course of political history in Australia. When Vince Gair opened that bridge, it was the latest in engineering and it was a high-level bridge over what had for almost a century been a road and a rail line that actually ran through the bed of the Burdekin River, which in times of flood put it anywhere from three to four metres under water. It was a great event. Of course, in the intervening 52 years that bridge has become entirely incapable of carrying the traffic that now passes along the highway. It is very narrow and it is dangerous. If there are dangerous goods on trucks and there is an incident, the whole highway between the rest of Australia and the productive parts of our country in the north will be blocked.

For some years now I have been calling for a duplication of that bridge. Regrettably, nothing seems to have been done to date. It will be a long-term process, but someone has to make a start on the engineering work necessary. I remember during the last budget the honourable member for Dawson, in whose electorate the bridge is situated, came out with a great announcement that he had got money for the Burdekin Bridge. I thought that was tremendous and really good that someone had heeded my calls and had started work on it. I thought it would take a long time, but I was pleased that they were to start work on a duplication of the Burdekin Bridge. When I read the fine print, of course, there was no such good news. What the honourable member for Dawson was talking about was that he had got $5 million, I think it was, for maintenance of the bridge. Well, hello! The bridge has to be maintained every year, and lauding the fact that a government is doing what it is required to do hardly seemed to me to be a great announcement.
However, urging work is being done. I know the Burdekin Shire Council have been petitioning for work to be started. I am pleased that after a lot of pushing the state Department of Main Roads is starting to look at road allocations which might join up with a new bridge in the not too distant future. I can only urge both the Queensland and the Commonwealth governments to continue the work on that and to properly fund that work so that sooner rather than later we can get a duplicate bridge across the Burdekin River to ensure continuous access between the north and south of Queensland.

Whilst talking about transport of dangerous and other goods in this bill, I want to again draw to senators’ attention the Outback Way, which runs from Winton in Queensland to Laverton in Western Australia. I have to pay tribute to Senator Crossin for her initiative in forming a cross-party Friends of the Outback Way group in Parliament House, which she and I co-chair and which comprises members and senators with an interest in bridging the gap between north-east Queensland and south-west Western Australia and all places in between.

As I have mentioned in the Senate on a number of occasions, back when the Outback Highway Development Council first brought its proposals to Canberra 10 years ago—at the time I was a minister in a relevant area—it was a proposal that I thought had a lot of merit. I did take off six or seven days back then to actually drive from Townsville to Perth across the centre of Australia via the Outback Way. The Outback Highway Development Council has continued its works since then. In a parliamentary recess last month members of the parliamentary Friends of the Outback Way group joined with councillors from the Outback Highway Development Council and councillors from all of the shires along the way at the official opening in Alice Springs of the first permanent office of the Outback Highway Development Council.

The council is shortly to appoint its first permanent employee in the form of a CEO or a business manager who will be based in Alice Springs. The opening took place on Monday, 31 August at Alice Springs and those that were gathered there then drove the road from Alice Springs to Winton, where the annual general meeting of the Outback Highway Development Council was held. The convoy of vehicles travelled from Alice Springs to Boulia, which is just across the Northern Territory-Queensland border, on the first day and then on the second day from Boulia through to Winton.

The Outback Highway Development Council estimated that they only need a tiny $800 million to seal the road, but they are realistic enough to know that it might be difficult for any government to fund that in one lump sum. By the year 2014, they are seeking to have the Outback Way from Laverton to Winton trafficable for family sedans—trafficable in the sense that it will be safe, convenient and not too damaging for a family sedan to drive that road. Those of us who travelled it earlier this month were all in four-wheel drive vehicles. Some of the road is sealed. The road from Alice Springs up the Sturt Highway almost to Harts Range is sealed, but from Harts Range through Tobermory to Boulia is a very difficult road that is not well constructed, although the Northern Territory are spending some $8 million of road works within the Territory.

When you come across the border from the Northern Territory into Queensland, the road from the border to Boulia should be a state road, a Queensland road, and you would hope that the Queensland government would put some money into it. Regrettably, the Queensland government have refused to classify that road as a state highway, so it
remains a shire council road that is being funded by the very limited resources of the Boulia Shire Council. They are doing a fantastic job with their own funds, but it is disappointing that the state government could not be more involved there.

The road from Boulia to Winton is sealed all the way. It is an interesting trip and I would encourage senators who want to see the real rural and regional Australia to drive that road some day. It is fascinating country. The road is narrow but it is bitumen sealed. Places like Winton and Boulia are well worth visiting. There is a must-stop destination about halfway between those two towns. After about 2½ hours travelling from either end you come to a place called Middleton, which consists solely of a hotel set in the middle of vast savannah lands. It is quite an interesting spot with a long history as well.

This road across Central Australia cuts about 1,600 kilometres off the trip from Townsville to Perth around the coast. It has very significant tourism influences. Surprisingly, German adventure tourists are already driving the road from Perth to Townsville or Cairns. A lot of work is happening in Germany and around the world to publicise it. It would be a great tourist experience. It will also shorten the freight distances between the north-west mineral province of Queensland and the powerhouse mining areas of Western Australia, thereby making freight much better. It has very significant defence implications as Australia’s largest Army base is in Townsville and our SAS troops are over in Western Australia. There is a lot of military activity in Darwin and our training grounds for Afghanistan are down south near Adelaide. So, if the Army could use the Outback Way as well, it would have very significant defence implications. For that reason, I was delighted that the member for Herbert, who is the shadow parliamentary secretary for defence, was able to come on this trip with me and understand how important this road could be to Australia’s defence in the future. The Outback Way is a great project. I commend it to other senators and I reassert that the coalition will support this bill.

Senator STERLE (Western Australia) (5.26 pm)—I am enlightened that Senator Macdonald can take a drive through this beautiful outback country of ours and all of a sudden become an expert on the cartage of dangerous goods in the ACT, but I must add some commentary. One thing Senator Hutchins and I do know about is transport, so we always welcome the opportunity to comment on these bills. Before I talk about the Road Transport Reform (Dangerous Goods) Repeal Bill 2009, I think it would be remiss of me not to challenge some of Senator Macdonald’s wild assertions from the other side of the chamber. We know it is Thursday afternoon and it is a bit boring for the opposition—they send speakers in to waste a bit of time—but that was a shameful contribution from Senator Macdonald. The first part was quite intelligent, and I do not say that lightly because not much from Senator Macdonald is. I am sure he will challenge me on that. However, the middle bit was nothing but a vitriolic anti-Labor rant, which has become typical of Senator Macdonald when he has got nothing else to talk about.

No-one can tell me about the importance of Australia’s highways. Let us talk about defence and Australia’s highways. I remember sitting on Highway 1 year in, year out, sometime between January and March, being bogged or stuck at river crossings and flood plains that go for two or three kilometres. I do not think that one trip through the back of Queensland to Laverton in Western Australia would make Senator Macdonald an expert in anything to do with road transport. I have a few words to describe Senator Macdonald and expert is definitely not one of them.
It is most important, too, to challenge Senator Macdonald’s ridiculous assertions—and I will come to the bill shortly—about how the Rudd Labor government has attacked rural Australia and left rural Australia wanting. I just happen to have a copy of the 2009 budget papers in my desk, so I am happy that Senator Macdonald started talking about spending for rural and regional Australia. Let us not forget for one minute what the Howard government delivered over 12 years in the form of transport corridors. I remember that in about 2000 the railway line from Adelaide to Darwin, which was going to be the greatest thing since sliced bread, was about to be started. In my last conversation with the Australian Rail Track Corporation about the Darwin railway, I discovered that, unfortunately, it is now wallowing in debt. It is not being used, and I will tell you why. It is because—and I am proud to say this—that, when it comes to certain freight requirements in this great country of ours, road transport excels. Road transport leaves every other form of transport in its wake. I will acknowledge that, when it comes to certain bulk commodities, rail has its niche in the market, whether it be grain, ore or whatever. It is certainly competitive with road across the Nullarbor as long as your freight is not time sensitive, which road transport certainly can deliver. One thing about road transport is that it will pick up from your premises today and it can guarantee—all things being equal and without any floods or anything like that—that it will be at its destination by the time it is required.

Shipping also has its role to play in this great nation of ours. Let us have a look at what the Rudd government is delivering to rural and regional Australia. It makes me happy that I get this opportunity to keep reminding those opposite how it is—and how they hate to hear it. They cannot stand to hear what a wonderful job the Rudd Labor government has done and is continuing to do, and they are doing it without any help from that side. Without our stimulus packages where would we be today as a nation? If those opposite were in government—and thank goodness that they were not—when the global financial crisis hit us late last year, things would have been different. I will turn to the words of the great Western Australian shadow Treasurer, the member for Curtin. I use the word ‘great’ tongue in cheek, it is an oxymoron, and I will apologise to the Senate; it is not great. The member for Curtin, the shadow Treasurer, responded, ‘We should just sit back and wait.’ Fortunately, there is a magical word in that line, ‘shadow’. They were not in control, and thank goodness for that. The stimulus package has saved Australia. I do not know how many times those opposite have to be told—come on, Senator Ronaldson, bite! I do not know how many times they have to be told in this chamber and in the other chamber about the 200,000-odd jobs, and let us not forget that—two MCGs full of Australian jobs. It is a very conservative figure from Treasury. More than 200,000 jobs have been saved because of the Rudd stimulus package.

In terms of our nation building plan for the future, let us talk about the additional $8.5 billion for the nationally significant—are you ready for it?—transport infrastructure investment. And I will say it one more time: transport infrastructure investment, which was sadly lacking in the 12 years of incompetence on that side of the chamber during the Howard regime. $8.5 billion will provide the building blocks for Australia’s long-term economic, environmental and social prosperity. Regional areas will benefit from improved freight supply chains. Simply, freight supply chains are road, road infrastructure, rail and ports—every single thing that that lot over there turned a blind eye to in those terrible 11 wasted years.
These improved freight supply chains will better connect major towns and cities and also improve travel and communications.

Where I travel in this great country of ours it is fantastic to see the commodities that we export—our mineral commodities, for example. There is no doubt about that. Coming from Western Australia, I am very proud to think that our future is looking very good, and the same can be said for Queensland. Whether it be iron ore or bauxite or alumina, whatever it may be, it is looking healthy. We can have the best mines in the world and we can have the best mining practices. We can have the best trained and equipped staff. We can have the most attractive markets around the world. But if we do not have that infrastructure transport supply chain, it all comes to diddly-squat, because if we cannot get the commodities from the mines to our ports, someone else will. Thankfully, after 11½ years of inaction something is being done about it in a $8.5 billion nation building plan for the future that will link the cities. It will link these mines and our ports.

A particular highlight of the plan is the government’s investment in Australia’s key freight route, Network 1, which we call N1, which stretches from Melbourne to Cairns. Have I driven that road? Yes, I have. Did I drive it during the Howard years? No, I did not. I had driven it during the early 1980s, during Fraser’s years—Fraser, the fellow who used to vote Liberal—and I have got to tell you, by all accounts, the boys were still telling me that it was not much better through the Howard years. The Rudd Labor government will do up that section of highway. It will do that major freight route up. It will spend the money wisely and it will create not only stimulus for jobs, small businesses and employees, but it will link our major cities. Senator Ronaldson, as I keep reminding you, this is very, very important. I get it, Senator Ronaldson, but unlike me, you are not listening; it is not sinking in.

Senator Ronaldson—I can assure you it is!

Senator STERLE—It is Thursday, thank you. Sorry, Madam Acting Deputy President.

The ACTING DEPUTY PRESIDENT (Senator Hurley)—Yes, Senator Sterle, address your remarks through the chair, not across the chamber.

Senator STERLE—I will. He might not but I certainly will. Another important part of the Rudd infrastructure spending is the community infrastructure program—$800 million. The majority of it will go through in 2008-09 to regional and rural Australia. Senator McDonald’s absurd, ridiculous statements, turning everything into a vitriolic attack on the Labor Party, show that he just cannot handle it. It is in his DNA. He has to get up. It is like Dracula coming out of the coffin. The only thing missing are the teeth. As soon as he rises to his feet it is to attack the government. They cannot help it. Senator Macdonald cannot help it. I do not know whether it is something to do with their being forced to merge and become the LNP in Queensland. If I were a member of the Liberal Party in Queensland, I would be bitter and twisted all the time too if I had to join up with The Nationals.

Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT—Senator Sterle, it is unparliamentary to make interjections and please do not respond to them.

Senator STERLE—I am quite proud to say that I understand his frustration and the frustration of the rest of the Queensland Liberals. Having to be in the same room as the Nats is challenging enough—but to attack Labor, to attack us on what we have done in infrastructure spending to create jobs, to save
at least 200,000! I know it is a four-letter word that they cannot handle—jobs—but unfortunately that is what we are all about. If I remember rightly, when we were initiating the stimulus package, I think they were all about jobs too because that is all they kept saying. Since the stimulus package has been in, since we have been the only developed country not to go into recession, do we hear about jobs from that side of the chamber? Not at all. I know it does upset them. We do not hear a thing about jobs. They do not care about workers; they do not care about small businesses.

We have seen what they are about. We have seen that they could not dent the support for the Rudd Labor government’s stimulus packages for Australia. So what do they do next? They go into their magic box of evilness, they push aside the Howard carcass and what do they drag out? Work Choices! We heard it from their leader, Mr Turnbull, the other day in Sydney on Monday and Tuesday. ‘Deflect all the good stuff that the Rudd Labor government’s doing. Let’s talk about Work Choices. I’m not going to rule it in, I’m not going to rule it out; I’ve got no idea; I don’t even know if I’m going to be the leader come Monday.’ That did not work. They could not condemn our stimulus packages. They could not condemn us for saving Australian workers. They could not condemn us for supporting Australia’s small and medium enterprises.

So what did they pull out next? On Wednesday, ‘Yank, yank, let’s pull the race chain. Let’s plead for another Tampa, something to save us.’ Into the box of evil they go again and they push everything aside—the carcasses and all the leftovers from those bad, wasted years—and they pull out ‘Let’s pick on asylum seekers.’ It is absolutely unbelievable to see the amount of time wasted in this chamber on MPIs from those opposite who are reliving the dark Howard years. I have to tell you, Madam Acting Deputy President, for those opposite: he lost! He is no longer the leader of your party. He is no longer in Bennelong. He has gone. Forget it. Cut him loose. Get with the play.

To go to the Road Transport Reform (Dangerous Goods) Repeal Bill 2009, let us make no mistake about this. The coalition, in their 11½ years—it felt like 12½—did absolutely nothing to improve Australia’s road transport laws from 1996 to 2005, before I came in here. How do I know? Because I shared the frustration with Western Australia’s truck drivers. I shared the frustration that Western Australian truck drivers in Kewdale could hook up two 48-foot freezer pans, chiller pans, dry pans or flat tops. They could chuck the dolly underneath and they could choof off out of the trucking areas of Kewdale and Welshpool and they could head north. They could get to Wubin, after traversing that disgraceful piece of bitumen that we call Highway 1, the Great Northern Highway, where road trains pass each other. For those opposite, road trains are two trailers with a dolly in between before they get to Wubin and then they get a third one on.

Senator Adams—Oh, come on!

Senator STERLE—Sorry, Senator Adams. You would know, but not many of your colleagues would know. Maybe you should help them out. The speed of the road trains is 100 kilometres an hour, which, for a fully-laden road train at 48 tonne, is not a huge speed because these drivers are professionals. They are experts in what they do. The equipment normally is absolutely schmick, it is up to speed, it is top notch. I would encourage anyone to travel Highway 1 on a Friday night when the road trains are heading out, when mirrors are passing each other at 100 kilometres an hour, with no more than 12 inches between those mirrors. If anyone thinks that is an exaggeration, get off your
backsides, get out there, pull up any truckie and ask if you can jump in his rig and go for a ride on a Friday night. In 11½ long years, did they do anything about Highway 1? Did they do anything to improve the width of the road, the camber of the road, the potholes or put in extra truck bays? Did they, Madam Acting Deputy President? I will make it easier for you. They did nothing.

To listen to Senator Macdonald in this chamber lecture Senator Hutchins and me—two ex-transport workers, truckies, the whole lot—about how all of a sudden he has become an expert in road transport because he went on a lovely trip from Queensland to Laverton—and I have been to Laverton more times than I care to remember—on the Outback Highway, and all of a sudden he is an expert, is rather embarrassing.

In just 18 months, Labor has got COAG agreement to a single national jurisdiction for heavy vehicles. Hallelujah! In 1988, when I was a subcontractor for Ansett Ridgways, which was a division of TNT—a truly fantastic transport icon in our history which, sadly, is no longer around, and we know the reasons why Ansett is no longer around—so that this building could be opened on time for the Queen’s visit, the company I worked for went to the then powers that be to seek dispensation so that we could drag a road train across the Nullarbor, so that all these seats and tables here could be fitted for the opening of parliament, so that the Senate and the House of Representatives could work. That was in 1987. That was probably about 1997 or 1998, some 11 or 12 years later, before road trains were able to operate on the Nullarbor. That was the biggest step that ever happened. So for the 11½ years of the Howard regime diddly-squat! And listen to the rubbish coming from that side of the chamber. It is nothing short of sickening.

It is good to see that, under the new dangerous goods reform package, which has been endorsed by the minister and the Australian Transport Council, the act has no further purpose, which we know. This is probably the only thing on which I agree with Senator Macdonald. It is a barrier to the ACT being able to implement the new model dangerous goods transport legislation. Further, the Road Transport Reform (Dangerous Goods) Repeal Bill 2009 meets the Australian government’s obligation under the Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport to repeal any road transport legislation enacted by the Commonwealth on behalf of the ACT once that legislation is no longer necessary.

Repealing the Road Transport Reform (Dangerous Goods) Act 1995 will allow the Australian Capital Territory government to implement the new model legislation within its own legislative framework in the same manner as the other states and territories. This is another very good example of ending the blame game and of working together. The repeal will be effective with the implementation by the ACT government of the new dangerous goods provisions. Once again, this is a very good example of governments, state and federal, working together for the benefit of not only the states but also the country. It is governments working together for the benefit of the employers and the employees and the productivity of this great nation. It ends the blame game so that we can work together to deliver what is needed to take this great country forward.

This legislation is an integral part of the process of implementing the new dangerous goods reform package and, as I said quite proudly, it was agreed to by the Australian Transport Council. It is very pleasing to see this sort of agreement going through the Australian Transport Council. When we were
trying to negotiate in Western Australia for fatigue management, it was an absolute dog’s breakfast. Every state had a different regime. You could leave Western Australia thinking you were legal in driving X-number of hours per day to get to the South Australian border, only to find out that not only were you over the number of hours for the day but that, within a day or two, you would be over your week’s quota. This is one step, but there is a lot more work to be done.

We have talked about safe sustainable rates. That is another bogie for those on that side of the chamber; they do not like it. When it was introduced by the Western Australian transport minister, Alannah MacTiernan back in 2001 or 20002, our biggest hiccup, the bogie, the fly in the ointment, was none other than the federal minister for transport, Mr John Anderson. I will say no more. The coalition could not talk about safe rates for truck drivers or owner-drivers back then. They will not be able to talk about them now. I am happy for them to sit there and talk about how wonderful they are and how they want to see small businesses grow. You lot over there—through you, Madam Acting Deputy President—truck drivers are small businesses. This comes as a bit of shock to you, but unfortunately they are. That is why we on the Labor side represent them. We have their best interests at heart; you do not. *(Time expired)*

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) *(5.47 pm)*—I thank senators for participating in the debate and for supporting the bill. I remind the Senate that the Road Transport Reform (Dangerous Goods) Repeal Bill 2009 will repeal the Road Transport Reforms (Dangerous Goods) Act 1995. It is an important part of our cooperative and collaborative federalism. It will allow the ACT government to implement the updated Australian Dangerous Goods Code and the associated model legislation into its own legislative arrangements in the same manner as other states and territories. Currently, the ACT cannot implement the updated code and associated model legislation, which has been endorsed by the ministers of the Australian Transport Council, until the Australian government takes this step of repealing the existing dangerous goods transport legislation.

The repeal completes a longstanding commitment by the Australian government and the states and territories to repeal any road transport legislation that has been enacted by the Commonwealth on behalf of the ACT once that legislation is no longer necessary. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

*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) *(5.48 pm)*—I move:

*That this bill be now read a third time.*

Question agreed to.

Bill read a third time.

*BUSINESS Rearrangement*

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) *(5.48 pm)*—I move:

*That intervening business be postponed till after consideration of the government business order of the day no. 7 (Fuel Quality Standards Amendment Bill 2009).*
FUEL QUALITY STANDARDS 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 JOHNSTON (Western Australia) (5.49 pm)—The Fuel Quality Standards Amendment Bill 2009 addresses four issues. The first of those issues is fuel security and independence. This is a carry-on of legislative work undertaken by the coalition whilst it was in government. It lay down the original legislation on fuel quality standards in its act of 2000. The second important thing that this bill does is reference local air quality. Local air quality is about the quality of fuel, the particular emissions and their impact on people who have heavy transport or a lot of transport near where they live. The third issue is about energy efficiency and the quality of our fuels in delivering more efficient vehicles. Finally, it is about broader emissions and the contribution of that to Australia’s overall emissions profile.

The Fuel Quality Standards Act, as I have said, was an act of the Howard government. In 2005, we completed an independent inquiry that raised a number of recommendations. This legislation seeks to enact many of those. Essentially, the background to this bill is that it standardises the quality improvements of fuels being distributed in Australia in order to regulate fuel quality for environmental improvement and the adoption of better engine emissions control, technologies and more effective engine operation. In particular, the bill puts in place a furtherance of those measures established in 2000 which allow for energy fuel supplies to be expedited where there is a blockage or a flow or a breakdown in Australia’s fuel and energy security. This is a good thing. We support the bill. We propose it, we endorse it and we commend it to the Senate.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (5.50 pm)—I thank Senator Johnston and the opposition for their support. 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 STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (5.52 pm)—I table a supplementary explanatory memorandum relating to the government amendment to be moved to this bill. The memorandum was circulated in the chamber on 16 September 2009. I move government amendment (1) on sheet BD209:

(1) Schedule 1, page 10 (after line 6), after item 15, insert:

15A After paragraph 70(1)(d)

Insert:

(da) a decision to refuse to vary an approval, other than a decision to refuse to vary an approval under section 17F;

Senator JOHNSTON (Western Australia) (5.52 pm)—Could the parliamentary secretary explain what this amendment seeks to do.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (5.52 pm)—It
is in the explanatory memorandum, which I have in front of me. It says:

1. Currently, section 70 of the Fuel Quality Standards Act 2000 (the Act) provides that an application may be made to the Administrative Appeals Tribunal (AAT) for review of specified decisions including a decision to refuse to grant an approval and a decision to vary or revoke an approval, but not a decision to refuse to vary an approval. The amendment enables an application to be made to the AAT for a review of a decision of the Minister to refuse to vary an approval, other than a decision of the Minister to refuse to vary an emergency approval under section 17F.

2. The amendment excludes a decision of the Minister to refuse to vary an emergency approval to extend the period of its effect under section 17F. An emergency approval remains in effect for the period specified in the approval or 14 days, whichever is the shorter period. An emergency approval may be varied under section 17F to extend the period of its effect for a further period as specified in the approval or 14 days, whichever is the shorter period. The short period within which an emergency approval remains in effect provides flexibility for the Minister to grant an approval to avoid a potential threat of a fuel supply shortage. An emergency approval is an interim and short term measure following which an approval under section 13 of the Act may be granted. Given the short term nature of an emergency approval, it is therefore considered appropriate that a decision to refuse to vary an emergency approval to extend the period of its effect under section 17F is not subject to merits review in the AAT.

Senator JOHNSTON (Western Australia) (5.54 pm)—I thank the parliamentary secretary for that assistance.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with an 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) (5.55 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop)—Order! The President has received a letter from a party leader requesting changes in the membership of a committee.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (5.56 pm) by leave—I move:

That senators be discharged from and appointed to the Rural and Regional Affairs and Transport References Committee as follows:

Appointed—

Substitute member: Senator Hanson-Young to replace Senator Milne for the committee’s inquiry into the provisions of the Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009

Participating member: Senator Milne.

Question agreed to.

AUSTRALIAN CITIZENSHIP AMENDMENT (CITIZENSHIP TEST REVIEW AND OTHER MEASURES) BILL 2009

Returned from the House of Representatives

Message received from the House of Representatives returning the bill without amendment.
HEALTH INSURANCE AMENDMENT (EXTENDED MEDICARE SAFETY NET) BILL 2009

Returned from the House of Representatives

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

COMMITTEES

Legal and Constitutional Affairs Legislation Committee

Extension of Time

Senator O’BRIEN (Tasmania) (5.58 pm)—by leave—On behalf of the Chair of the Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I move:

That the time for the presentation of the reports of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Crimes Legislation Amendment (Serious and Organised Crime) Bill (No. 2) 2009 and the Telecommunications (Interception and Access) Amendment Bill 2009 be extended to 16 November 2009.

Question agreed to.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop)—Order! It being almost 6 pm, the Senate will proceed to the consideration of government documents.

Great Barrier Reef Marine Park Authority

Debate resumed from 10 September, on motion by Senator Adams:

That the Senate take note of the document.

Senator IAN MACDONALD (Queensland) (5.59 pm)—I wish to make some comments on the Great Barrier Reef outlook report 2009, which has been prepared in accordance with section 54 of the Great Barrier Reef Marine Park Act 1975. In doing this, can I congratulate the board and staff of the Great Barrier Reef Marine Park Authority, based in Townsville. I particularly congratulate Dr Russell Reichelt, Chairman and Chief Executive Officer of the authority. I also pay tribute to Fay Barker, until recently a member of the board for over a decade. Fay, a Townsville person, was a councillor on the Townsville City Council and made a very significant contribution to the work of the authority. I know all of those associated with the reef join with me in thanking Fay for the work she did as a member of the board.

I also want to take this opportunity to congratulate Mr Daniel Gschwind on his appointment to the Great Barrier Reef Marine Park Authority. Daniel is well known to those involved in the tourism industry, particularly in Queensland. Mr Gschwind’s appointment was as a result of his very great experience with the Great Barrier Reef tourism industry. He is certainly very well respected by the industry. He is a member of many organisations involving tourism generally and the Great Barrier Reef in particular. He is also a member of the Reef and Rainforest Research Centre. He is a very distinguished Queenslander and a very good appointment. I congratulate him on his appointment. I note in passing that he was appointed to the authority on the basis of an amendment moved by the coalition in this chamber. We moved to amend the Great Barrier Reef Marine Park Act to include a requirement that one member of the authority be someone with practical tourism experience related to the Great Barrier Reef. That was opposed by the Labor Party, but, fortuitously, the Senate, in its wisdom, adopted the amendment. When the bill went back to the other chamber, the government, again fortuitously, rolled over and that appointment was created. I am delighted to see that Mr Gschwind has now been appointed by the government to that position.

The outlook report is a very interesting document. Time this evening is not going to
allow me to do more than briefly touch on it. The report notes:

The Great Barrier Reef is one of the most diverse and remarkable ecosystems in the world and remains one of the most healthy coral reef ecosystems.

I think this is a credit to the work of the Great Barrier Reef Marine Park Authority since Malcolm Fraser first established the authority decades ago. The report goes on to provide some very interesting information and statistics. It clearly shows the dangers confronting the reef. Water quality problems from catchment run-off; the loss of habitats from coastal development; the remaining impacts of fishing, illegal fishing and poaching; and climate change are all things that affect the reef. I note that the executive summary of the report finishes with these words:

Given the strong management of the Great Barrier Reef, it is likely that the ecosystem will survive better under the pressure of accumulating risks than most reef ecosystems around the world.

The final paragraph says:

Further building the resilience of the Great Barrier Reef by improving water quality, reducing the loss of coastal habitats and increasing knowledge about fishing and its effects, will give it the best chance of adapting to and recovering from the serious threats ahead, especially from climate change.

Whilst climate change is a threat, I think this report demonstrates when you look through it in detail that, despite the hysteria that goes on amongst some groups about the impact of climate change on the reef, it is being dealt with very responsibly and seriously. I look forward to an opportunity to speak further about this.

Senator McLUCAS (Queensland) (6.04 pm)—I also wish to take note of the tabling of the Great Barrier Reef outlook report 2009. In doing so, I commend the Great Barrier Reef Marine Park Authority not only for the work that they do in the production of important documents like this but for their ongoing management and the research work that they deliver. As it is a World Heritage listed site, I commend them on behalf of all of us—Australians and the world. The outlook report tells us that the Great Barrier Reef continues to be one of the world’s healthiest coral reef ecosystems. This is testament to strong management over many years. But it also is very clear in the report that there are significant challenges that need to be met. At risk is the reef as we know it. Effective action on climate change is absolutely critical to the ongoing health of the reef. So too is action to enable the reef to withstand the impacts of the already changing climate. I have a difference of opinion with Senator Macdonald on this. We know that the impacts of climate change are already affecting our reef. We know that there has been an expansion of coral bleaching and we know that coral bleaching happens as a direct result of increased water temperature over a prolonged period of time. The effects of climate change are very real when it comes to our Great Barrier Reef, and we have to do all we can in every area to adapt and to mitigate those effects.

The Australian government are responding to that challenge. We have a comprehensive strategy to move Australia towards a low-carbon future. We have committed to the Carbon Pollution Reduction Scheme and an expanded renewable energy target. I invite those sitting opposite, who have not supported our Carbon Pollution Reduction Scheme, to consider what you are putting at risk. Taking no action on climate change will result—not ‘may’ result but ‘will’ result—in the loss of this fantastic natural and economic asset that we have.

Our government have invested at record levels in energy efficiency research and development of new clean energy technologies.
We are investing $200 million through our reef rescue plan to promote better land management practices that will deliver on real targets for reducing harmful run-off onto the reef. Already, we have assisted around 900 farmers. Through the latest $50 million funding instalment, we expect to see an additional 2,000 farmers and graziers sign up. We recently committed to a new Reef Water Quality Protection Plan to coordinate the Australian and Queensland action to improve reef water quality. Together, the governments will halve harmful run-off into the reef within five years.

We have put in place strong new legislative protection for the reef, overhauling the 30-year-old Great Barrier Reef Marine Park Act to strengthen and modernise legal protection for the reef. We have put in place with the Queensland government a new intergovernmental agreement for the reef and convened a Great Barrier Reef Ministerial Council to drive a new era of cooperation to protect the reef from the challenges of today. Together with the Queensland government, we have released a response to the outlook report, outlining the actions the governments are taking to ensure the reef remains one of the world’s most significant natural assets. Both governments are undeniably committed to protecting the reef. It is one of our most incredible natural assets and supports industries worth billions of dollars to the Australian economy each year. The outlook report provides the baseline against which the effectiveness of our actions will be measured. I encourage everyone to have a good look at it and to especially focus on the issues to do with climate change. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

National Preventative Health Task Force
Sydney Airport Demand Management
Airservices Australia
New South Wales Regional Forest Agreements

Debate resumed from 10 September, on motion by Senator Parry:

That the Senate take note of the documents.

Senator PARRY (Tasmania) (6.09 pm)—
I seek leave to continue my remarks in relation to documents Nos 2 to 8 on today’s Notice Paper.

Leave granted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop)—Order! I propose the question:

That the Senate do now adjourn.

Toowoomba Carnival of Flowers

Senator MOORE (Queensland) (6.10 pm)—This weekend in Toowoomba, my home town, we will celebrate the 60th anniversary of the Carnival of Flowers. The Carnival of Flowers has a very special meaning for people who come from my part of the world. Whilst I cannot say I have attended all 60 of the floral parades, I can say—and guarantee—that a member, or members, of my family has been at every single one. That is a tradition that we intend to continue into the future. The Carnival of Flowers was rated as one of the iconic events of the Queensland 150th celebrations this year, and that indeed is a worthy title. The carnival was pulled together in the dark days after World War II. Toowoomba, like so many regions of our country, had suffered greatly through the war years. All you have to do is look at some of the war memorials that are sprinkled around the region to see how many people and families were affected by loss caused by that war. In the years immediately following the war,
the Toowoomba Chamber of Commerce were thinking of ways that they could pull together the community and promote the beauties of this special part of the world.

Mr Essex Tait came up with the idea of having a festival of flowers and achieved it through the chamber of commerce. As most people know, this particular part of the Darling Downs is renowned for the richness of its soil and the beauty of its floral displays and gardens. The first parade was held in 1949, and now we are celebrating 60 years. We have built upon it. It is now not just the parade for which people gather. It is a festival. We not only celebrate the beauty of Toowoomba; we actually welcome people to come and have a look at our businesses, to see what is going on at the Darling Downs and to feel part of the very special part of the world to which we are lucky enough to belong.

That first procession went for three miles. Think about that. That is an extraordinarily long parade. The streets of the city were crowded with people who wanted to be part of it. I wonder, when they gathered on that day, whether they thought that now, 60 years later, people would be travelling to the city for the festival. It is really a month of celebrations in the city, and tourists from all over the world come to see the beauty of our gardens, to mix with the people and to celebrate the various other activities that have been built up. One thing we as a community do is share our experiences. For many people, being part of the Carnival of Flowers, taking part in the festivals, the speedway, the various street carnivals and children’s activities, is part of a rite of passage for people who live in that part of the world. Very many memories have been formed by people who have been involved.

The Carnival of Flowers this year, for the 60th anniversary, has invited back many of the people who have worked over the years to build up the experiences locally. A very special lady, the very first carnival queen, then Fay Ryan, has returned as Mrs Fay Clayden and will share in the celebrations on Saturday with the current ambassador to once again lead the parade. I am very pleased to talk about this, because Mrs Clayden was a friend of my mother’s. Whilst I say again that I was not there, my mum was a very strong fundraiser. She worked tirelessly for the community.

When the Carnival of Flowers Queen contest was introduced, part of the attraction was that the contestants would be raising money for charity to help Toowoomba. Ms Ryan raised a considerable amount of money in those days when she was crowned the first queen of the Carnival of Flowers and I can bet that somewhere in that fundraising my mum had a role. Over all those years later the Carnival of Flowers was linked every time to helping the local community and hundreds of thousands of dollars were raised by the various contestants. On Saturday I will be there with my family, including my nieces and nephews, keeping the tradition going, watching that float and thinking, as many young women in the city have been thinking, that maybe I could be on that float, but sadly I do not think that opportunity will come my way now.

In terms of the future, I think the carnival reflects how strongly the region feels about the wonders of our part of the world and also the good that can be done. The Mayor of Toowoomba, Peter Taylor, has followed a tradition that was set up by the previous mayor, my friend Di Thorley, by starting the carnival process with a fundraising breakfast, bringing people together in the beauty of Queen’s Park in the centre of our city to celebrate with a focus on effective fundraising and community awareness. This year the charity chosen by Mayor Taylor was Guide
Dogs for the Blind. I was very much encouraged by the guest speaker at the function last Sunday morning in linking in the aspects that we are celebrating the 60th anniversary of the Carnival of Flowers, which was started in 1949, and Guide Dogs for the Blind in Queensland is celebrating their 49th anniversary, having begun in 1960. I told her that I would mention that in my speech.

Once again I think it is important to look back on the value of community festivals in building community. That is what is so important to so many people about our Carnival of Flowers. When people are gathering together there is the very important memorabilia that pulls together people’s memories of a whole lifetime around the history of Carnival of Flowers. One of the things that did catch my eye, and this would be familiar to very many people who know the Toowoomba region, was a very old photograph of the Toowoomba Thistle Pipe Band, which used to lead the Carnival of Flowers processions. But, most particularly in Toowoomba memory, the pipe band was led down the main street by a very cute little dog that wore a tartan coat. That dog became an icon in our city and when Puppy died—and every child from Toowoomba knows that story—a special monument was created. It can still be seen at the top of the range in Toowoomba and little children come and see this memento of the history of our city.

The Toowoomba region is a very dynamic part of the world. It has changed immensely over the years. We still maintain our sense of welcome and the importance of our local community. People would be aware that last year there were major amalgamations of city councils and regional councils across Queensland. The new Toowoomba Regional Council is now one of the largest geographic and populous councils in Queensland, pulling together eight councils. Last week I was lucky enough to attend a planning session that was organised by the Toowoomba Regional Council to look at the values of people in the region and where we were moving into the future. People gave up their day voluntarily to come and talk together about what the future of their region should be. There were consistent messages as we looked at what people valued about the region and how people hoped to maintain those values into the future. One of the key aspects of that process was how much people valued their clean community. Also people valued its greenness and the fact that it was a warm and welcoming dynamic community. Those values must be maintained, and I feel confident that they will be into the future.

Into the future, I believe qualities like the way the community gathers around the Carnival of Flowers makes known to our local area as well as to the wider region that the Toowoomba Regional Council—not just the city of Toowoomba but the wider area—does have a progressive and strong future. Part of that will be maintaining the warmth of the celebration which we have had in our past and, as we celebrate 60 years of our carnival, I think we are looking forward to many more years where the families and the people of our region can celebrate. We know that the gardens have gone through many changes because Toowoomba has been very badly damaged by drought, as you would know, Mr President. Carnivals in the last couple of years have been pretty tight and we have seen the passion of people pulling together so we could still have floral enjoyment. Toowoomba is looking at different ways of horticulture using much less water. That is part of the struggle of our region. It is something that we have survived and that will make us stronger. So I join with so many other people who have had many years of celebrating the Carnival of Flowers and I will do so this weekend and will continue doing that into the future. Our region is a
wonderful part of the world and we welcome others to come and share it with us into the future so that we can grow into a better, stronger area.

Hon. Dr Brendan Nelson

Senator ABETZ (Tasmania) (6.20 pm)—Today marks the last day on which the member for Bradfield, the Hon. Brendan Nelson, sits in this parliament. His distinguished 13 years of service will come to an end as he officially resigns his seat in the next few days. I thought it appropriate, therefore, to pay a tribute this evening to Dr Nelson on behalf of not only myself but, as I know, all my Senate colleagues, especially those on this side. I thank Senator Ian Macdonald for yielding his position on the speakers list to allow this tribute. Dr Nelson’s entry to the conservative side of politics was by any measure unorthodox but nevertheless indicative of the journey travelled by many. Dr Nelson highlighted this in his speech earlier this week:

I came to my Liberal belief through life, absorbing it through reflection upon and familiarity with the hard work, self sacrifice and idealism of just everyday people.

It seemed that, as he went along life’s journey, he got mugged by reality. Some of us get mugged a little bit earlier in life than others. But Dr Nelson’s presence in the party is indicative of the very rich and diverse threads that make up the wonderful and colourful tapestry that is the Liberal Party of Australia. His modest background included local general practice, where you get to see every side of life, to becoming a trade union official—oops, perhaps I should be saying the President of the Australian Medical Association. His passionate commitment to see justice for our Indigenous community, his experience, his talent and his genuine commitment—all of those things will be sorely missed. But whilst he was with us in the parliamentary party, he enriched us greatly over that decade or so, with all those qualities.

A parliamentarian’s first speech often provides a window into the person’s commitments and passions. Going through Dr Nelson’s first speech you saw youth unemployment, health care, debt, tax reform, the need for self-help and the plight of our Indigenous brothers and sisters—note the wisdom of Noel Pearson. All those things were highlighted by Dr Nelson in his first speech.

Australia’s public life and policy development has been immensely enriched by Dr Nelson’s contribution. As a colleague, I always had the sense that he valued service above self, principle above pragmatism, and substance and detail above glib spin. He had insight into the plight of our fellow Australians, be it the need for pensions to be increased, whilst he was Leader of the Opposition, or exposing the fraud of Fuelwatch—both positions adopted, nevertheless reluctantly, by Labor. In the multitude of endearing features of Dr Nelson, one can point to his love of Tasmania. He told us in his last speech that on his demise, which he hoped would still be half a century or more away, his ashes would be scattered in Tasmania, on Bruny Island—for Senator Conroy’s benefit—at Adventure Bay.

I recall Dr Nelson as a general practitioner in Tasmania in 1991. Without going into all the details, he and I had a patient and client in common. In brief, the story is that somebody had been underpaid—and, guess what, people were underpaid even under a Labor Party regime; these things happened then and they will unfortunately continue to happen. The person complained about his underpayment, went to the appropriate authorities and, for his trouble, the employer went to the fellow’s home and assaulted him. He consulted me for legal advice and Dr Nelson for medi-
cal advice, and Dr Nelson wrote the medical report. I do not know why, but somewhere along the way I did not pay the account for the medical advice. Suffice to say, I got a very rude letter from the general practitioner, to which I responded by saying, ‘Look, next time round, just send an account rendered and it’ll be paid,’ and gave my apologies.

Shortly thereafter—I was state president of the Liberal Party at the time—I thought, ‘Dr Nelson might be a very good candidate.’ So I rang him a few days later, after the exchange of letters. I must say, there was a very hesitant Dr Nelson at the other end of the phone when I asked to speak to him, because he thought I would want to talk to him about our exchange of letters about the non-payment of the account. I said, ‘No, that’s in the past. Would you consider running as a candidate for us in the Liberal Party in Tasmania?’ Unfortunately he declined, but he did say that if he ever did run he would run with the Liberal Party. I am told that, shortly thereafter, he resigned from the Labor Party. That is something that I recall with some interest and, indeed, fondness.

I encouraged Dr Nelson—I can reveal this for the first time—after his decision to leave the federal parliament, and said, ‘You like Tasmania. Why don’t you come down and join the Tasmanian state parliamentary team?’ For reasons unknown to me, he decided to reject that offer and, for some foolish reason, has accepted an offer to be an ambassador to the EU and NATO instead! I cannot understand that, but I wish him well. More seriously, his humanity and humility took the parliamentary party through the vital months after an election loss. He did that with great patience and great perseverance, listening to everybody’s complaints, and that is why he is held in such high esteem by all his colleagues.

He has a wonderful list of achievements: voluntary student unionism, flying the flag at schools and teaching values. One of the important things that he said in his speech yesterday was, ‘A values-free education risks producing values-free adults.’ Amongst all his other achievements, putting values back into the education agenda was a very important achievement.

Time unfortunately always counts against you on occasions such as this because there is so much to say. Let me say that people who met Dr Nelson in the community or at forums were always impressed. He could recount facts, figures and details of local communities and throw them into his speeches, which he gave simply off the cuff. He had no prepared notes. He memorised the detail of a local school, a local road or something else that happened within that community. He oozed sincerity and a desire to communicate and link in with the audience to which he spoke. Unfortunately, for whatever reason, that persona and the interaction that he was able to get at community groups did not seem to come over on the TV screen. Those who met Dr Nelson were always impressed. I also was impressed that, as far as leaders go—and they always come from the House of Representatives—he had some understanding of matters Senate. I conclude by saying that, as Dr Nelson leaves public life, he can do so knowing that he has achieved and served with distinction. I wish him and his wife every best wish for the future, and I wish him God bless.

Honourable senators—Hear, hear!

Hon. Dr Brendan Nelson
Traveston Crossing Dam

Senator IAN MACDONALD (Queensland) (6.30 pm)—I support and endorse the remarks of my colleague Senator Abetz in relation to a very, very fine man, one of the most honourable and genuine persons you
would meet in this political job we are all in. I join with Senator Abetz, and I know all of my colleagues, in wishing Dr Nelson every best wish for the future.

Regrettably, for the last night of sitting for another four or five weeks, I want to talk about something not quite so uplifting or quite so honourable and genuine. In fact, I want to talk about a disastrous environmental event that is on the cusp of happening in my home state of Queensland, and I want to talk about a political party that is neither honourable nor genuine when it comes to this and many other environmental issues.

Those Queenslanders in the chamber or who might happen to be listening might know that the Mary River in South-East Queensland is a very, very special river and the home of the very rare and endangered lungfish, and the mary river cod and turtle. Damming it would be an environmental disaster in itself, made more so by the fact that as a provider of water to Brisbane it will be a complete failure. It is far too shallow, it will require enormous energy in pumping the water, and it has fissures in the ground. It really will not deal with the long-term needs of Brisbane’s water supply, but it can destroy some very unique Queensland species.

The Queensland Labor Premier, Anna Bligh, before she called an early election, assured the people of Queensland that consideration of the construction of the dam would be delayed some four years—that is, until after not only the election that was held earlier this year but the following election as well. People relaxed, although Ms Bligh did say that she still favoured the dam. The Liberal National Party in Queensland has been totally opposed to this dam on the Mary River for all the right reasons for a number of years. In fact, it was the coalition in this chamber that set up a Senate inquiry to have a look at the dam and what it meant, and the majority report of that inquiry clearly indicated that the dam should not go ahead—that it was an environmental disaster in the waiting.

The Greens political party, as is their wont, will always get on the environmental bandwagon. I must say that in the speeches made in this chamber I very much support what Senator Brown has said about the Traveston Crossing dam. I am delighted to see that he joins the Liberal and National parties in our firm opposition to this environmental disaster in waiting. But what particularly concerns me about the Greens political party is that, whilst telling the electors of Queensland they were totally opposed to the Traveston Crossing dam, they actually gave their preferences yet again to the Labor Party in the Queensland state election, thus ensuring the return of the government which was pledged to construct the dam. How do you like that for hypocrisy? On one hand they will come in here, and they will go to the rallies, and oppose the dam; on the exact opposite hand they will then support with their preferences in the Queensland election a political party which is determined to continue with the construction of this environmental disaster in waiting.

The Greens political party, being a political party of the extreme left of the Australian political spectrum, will always support the Labor Party in its preference allocations. We know that. At times in various parts of the country they initiate discussions with my party, hinting that they might be prepared to give preferences, but when the crunch comes to it in every case they always roll over and give their preferences to their fellow travellers on the left of the political spectrum, the Labor Party. They are very extreme left, even more extreme than most in the Labor Party would countenance. That is the nature of democracy. That is their choice, of course.
But what concerns me is that this dam will be a disaster.

Had the Greens in Queensland had the honour, strength and truth of their convictions, they would have taken the opportunity of the last Queensland state election to say to the Labor Premier of Queensland: ‘Enough is enough. We are not going to continue to support you when you continue to make these silly decisions that will destroy the unique environment of the Mary River.’ They had that opportunity. They could have done that. Had they done that, the election in Queensland would have had a different result. There were a number of seats that were won by the Labor Party on Green preferences. Had the Greens joined with the Liberal National Party in Queensland in opposing that dam at a political level, the dam would be certain of its defeat; the construction of the dam would not have happened. Yet the Greens gave preferences to the Labor Party, thereby ensuring the return of the Labor government and by that ensuring the construction of the dam.

Mr Garrett has a decision to make in relation to the Traveston Crossing Dam. It is relevant under the EPBC Act so a decision by the federal minister is required. But the Queensland Premier, Ms Bligh, has been telling the media all week that she has been lobbying Mr Rudd about this. She has been lobbying the Prime Minister to get support for the Traveston Crossing Dam construction. Why would she be doing that if the decision was to be made by Mr Garrett alone? Quite clearly, the reason Ms Bligh is speaking to the Prime Minister is to ensure that the Prime Minister, as leader of this government, will indicate what the decision will be on the Traveston Crossing Dam application when it comes before the environment minister. I know that that is contrary to law, but, if Mr Garrett is to make his decision unfettered by any pressure by the Prime Minister or the Queensland Premier, why is the Queensland Premier publicly telling everyone she is lobbying Mr Rudd for his support for the construction of that dam?

The Labor Party approach to this does not stand the test of scrutiny for honesty. I think Mr Rudd has to make it very clear that in no way will he support the construction of that dam. He has to make it clear that he will not provide money for it, because we all know that even now the required relocation of the Bruce Highway for this dam has been funded by the federal Labor Party government. And indirectly they have been assisting the construction by funding the subsidiary works.

It is a disaster in the making. Just this week Mr Greg Hunt and Mr Warren Truss lodged in the House of Representatives a petition with 5,393 signatures on it, all opposing the construction of that dam. The feeling throughout that area—and, I might say, right throughout Queensland—is total opposition to that dam. Yet Ms Bligh continues in her pig-headed way, determined to construct that dam. She is seeking the support of Mr Rudd in that environmental vandalism. I just hope that Mr Rudd will hold his ground and reject the approach— (Time expired)

Hon. Dr Brendan Nelson

Senator FIELDING (Victoria—Leader of the Family First Party) (6.40 pm)—I rise to speak only very briefly at this time of night on Dr Brendan Nelson’s departure from federal parliament. I do not do this very often. I just want to say to Brendan that I thoroughly enjoyed working with him. I got to know him through discussions on the pensioner issue. He is a very sincere and passionate man.

I know that Dr Nelson spent a lot of time with a lady in Victoria called Shirley from Glenroy. I have just spoken to her and she also wanted to pass on her thanks and grati-
tude to Dr Nelson for sitting down and really listening to her case and for supporting her. She still speaks very highly of him and has very fond memories. She wanted to give her thanks, as I give my thanks, to Brendan. I wish him all the best in his new role. One of the nicest guys in parliament is Brendan and I wish Dr Nelson, his wife and family all the very best in their new role.

Senate adjourned at 6.42 pm

DOCUMENTS

Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2009—Statements of compliance—Department of Education, Employment and Workplace Relations.
Office of the Official Secretary to the Governor-General.

Tabling

The following government documents were tabled:


Health—National Preventative Health Taskforce—Australia: The healthiest country by 2020—National preventative health strategy the roadmap for action, dated 30 June 2009—Order for production of document. Motion of Senator Adams to take note of document called on. On the motion of Senator Parry debate was adjourned till Thursday at general business.

Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 April to 30 June 2009. Motion of Senator Parry to take note of document called on. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Airservices Australia—Corporate plan 1 July 2009 to 30 June 2014. Motion of Senator Parry to take note of document called on. Debate adjourned till Thursday at general business, Senator Parry in continuation.


Order of the day no. 1 relating to reports of the Auditor-General was called on but no motion was moved.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Superannuation
(Question No. 1597)

Senator Cormann asked the Minister representing the Minister for Financial Services, Superannuation and Corporate Law, upon notice, on 22 May 2009:

(1) With reference to the Minister’s repeatedly stated concern about superannuation fees and charges, does the Minister, the Minister’s office or the department actively monitor fee increases in the industry. (2) Is the Minister aware that one of the major funds nominated as a default fund in many awards announced a 50 per cent increase in fees with effect from 1 January 2009. (3) Is the Minister concerned about this fee increase. (4) Is the Minister concerned that Australian workers will be automatically enrolled without their express consent. (5) Will the Minister communicate to the Australian Industrial Relations Commission and/or Fair Work Australia: (a) his concern about this cost increase; and (b) that at least four or five funds should be nominated in each modern award to ensure employers have a choice and can avoid funds that inappropriately raise fees. (6) Has the Minister sought and received any advice from the department about default fund fee increases; if not; why not. (7) Did the Minister receive advice about default fund fee increases; if so, can a copy of that advice be provided; if not why not.

Senator Sherry—The Minister for Financial Services, Superannuation and Corporate Law has provided the following answer to the honourable senator’s question:

(1) The Government has asked the Australian Prudential Regulation Authority (APRA) to enhance its superannuation statistical collections and publications, including data on superannuation fees and charges at the fund level. On 25 May 2009, APRA released a discussion paper which invited comments on a range of options for developing improved collections and reports.

I note that Australian Securities and Investments Commission (ASIC) automatically collects some superannuation fee data in product disclosure statements when product issuers update or roll over these and advise ASIC.

The Government has also asked APRA to investigate the extent to which superannuation funds are charging increased fees on employees’ superannuation when they are retrenched or change employers.

As a result of the investigation, APRA found that overall, the results did not indicate that higher costs are consistently being incurred by those members who are automatically transferred.

(2) Yes, I am aware that Australian Super announced an increase of its weekly fees from $1 to $1.50 as of 1 January 2009. However, I note that a SuperRatings media release dated 2 April 2009 reports that over the last five years Australian Super’s balanced option returned, on average, 6.1 per cent per annum compared to an industry average of 3.7 per cent.

I also note that if an employee is concerned about the fee increase they can choose another fund to which their superannuation contributions is paid.

(3) The Government is concerned about the level of fees and charges within the superannuation sector which is why it has established the Review into the governance, efficiency and structure and operation of Australia’s superannuation system. The Review will examine ways to boost the retirement savings of all Australians by increasing efficiencies, reducing costs and fees and in turn lifting long-term rates of return.

QUESTIONS ON NOTICE
(4) Default superannuation funds are a key aspect of the superannuation system which ensures employees can receive their compulsory superannuation guarantee contributions where they do not exercise their right to choose a fund.

(5) No. I note that the former Minister for Superannuation and Corporate Law made a submission to the Australian Industrial Relations Commission’s (AIRC’s) award modernisation process on 18 July 2008 in which he urged the AIRC to ask the parties to awards to consider the performance of the superannuation fund specified in their award when they conducted consultations for the award modernisation process.

(6) The enhanced statistical collections outlined in the response to question 1 will include data from default funds.

(7) No.

**Defence: Hospitality**  
*(Question Nos 1790 and 1819)*

Senator Abetz asked the Minister for Defence, upon notice, on 16 June 2009:

(1) (a) Can an itemised list be provided of how much the department has spent on hospitality since 24 November 2007; and (b) of this, how much was spent on alcohol.

(2) For each Minister and any associated parliamentary secretary: (a) can an itemised list be provided of how much each office has spent on hospitality since 24 November 2007; and (b) of this, how much was spent on alcohol.

Senator Faulkner—The answer to the honourable senator’s question is as follows:

(1) (a) Defence: $3.860 million, inclusive of GST.

   This amount comprised:
   
   Representation allowances paid to members stationed overseas  $2.334 million
   
   This expense related to Defence members required to represent the
   
   Defence organisation at official events while on duty overseas.
   
   Other official entertainment costs incurred by Defence  $1.526 million
   
   This expense includes dinners for official visitors from overseas and
   
   refreshment costs for events that marked significant achievements and involved attendance by
   
   people external to Defence
   
   Defence Housing Australia: $41,151, inclusive of GST.

   (b) Defence’s financial systems do not include the detailed breakdown requested on alcohol ex-

   penditure. However, Defence’s Chief Executive Instruction on official hospitality requires

   written records of attendees, venue, delegate’s approval and final costs to be kept. These re-

   cords are maintained on individual files across Defence Groups and the Services. To collate

   information manually solely for the purpose of answering this question would be a major task

   and I am not prepared to authorise the expenditure and effort that would be required.

(2) (a) Due to the intensive effort required to manually collate information on hospitality for the period 24 November 2007 to 30 March 2008, I am not prepared to authorise the diversion of re-

   sources solely for the purpose of answering this part of the question.

   For details on hospitality expenditure for the period 1 April to 30 September 2008, Defence

   has provided details in response to Senate Question on Notice No. 808 and 809 and for the pe-

   riod 1 October to 31 December 2008, Defence has provided details in response to Senate

   Question on Notice No. 1317 and 1318. For the period 1 January to 16 June 2009 the follow-

   ing amounts were expended:
Minister for Defence: $1,103.00, inclusive of GST.
13 February 2009.
Parliament House, Canberra.
Working lunch to discuss issues relating to conditions of service.
$185.00.
26 February 2009.
Robert's at Peppertree, Pokolbin.
Lunch for NZ Minister for Defence, NZ CDF and 14 other guests.
$918.00.
Minister for Defence Science and Personnel: $1,022.20, inclusive of GST.
2 February 2009.
Parliament House, Canberra.
Working lunch with the CDF Reference Group on Women.
$122.20.
7 April 2009.
The Queenscliff Hotel, Queenscliff.
Official Dinner with key staff from the Soldiers Career Management Agency.
$900.00.
(b) Expenditure on alcohol can only be calculated when an itemised receipt is provided which includes the cost of alcohol. Since 24 November 2007 to 16 June 2009 there are records that show $2,655.36 was expended on alcohol. The details of these events are:
Minister for Defence: $2,048.43, inclusive of GST.
Aubergine Restaurant, Canberra.
Dinner for UK Secretary of State for Defence, the UK Chief of the Defence Staff and 13 other guests.
Total Cost $2,057.00.
Alcohol Cost $671.00.
2 July 2008.
Daniels Steakhouse, Sydney.
To meet with newly appointed Service Chiefs.
Total Cost $449.50.
Alcohol Cost $96.50.
21 July 2008.
Sofitel Wentworth.
White Paper team to provide Minister with an update on progress.
Total Cost $554.00.
Alcohol Cost $221.00.
1 December 2008.
Parliament House, Canberra.
34 Squadron ‘thank you’ function.
Total Cost $2,767.73.
Alcohol Cost $857.93.
26 February 2009.
Robert’s at Peppertree, Pokolbin.
Lunch for NZ Minister for Defence, NZ CDF and 14 other guests.
Total Cost $918.00.
Alcohol Cost $202.00.
Minister for Defence Science and Personnel: $606.93, inclusive of GST.
24 June 2008.
Parliament House, Canberra.
Passage of the DHOAS Legislation with 40 departmental officials.
Total Cost $1,210.29.
Alcohol Cost $606.93.

**Immigration and Citizenship: Consultancies**
*(Question No. 1878)*

**Senator Barnett** asked the Minister for Immigration and Citizenship, upon notice, on 2 July 2009:

1. (a) Since November 2007, what is the total number of: (i) completed, and (ii) ongoing, consultancies in the portfolio/agency; and (b) for each consultancy: (i) who is the consultant, (ii) what is the subject matter, (iii) what are the terms of reference, (iv) what is its duration, (v) what will it cost, and (vi) what is the method of procurement (i.e. open tender, direct source, etc.).

2. Can copies be provided of all the completed consultancies.

3. (a) How many consultancies are planned or budgeted for: (i) 2009, and (ii) 2010; (b) have these been published in the Annual Procurement Plan on the AusTender website; if not, why not; and (c) in each case, what is the: (i) subject matter, (ii) duration, (iii) cost, (iv) method of procurement, and (v) name of the consultant if known.

**Senator Chris Evans**—The answer to the honourable senator’s question is as follows:

1. All agencies subject to the Financial Management and Accountability Act 1997 are required to report procurement contracts awarded where the contract value is $10,000 or more on AusTender, the government’s tender and procurement reporting system. From 3 September 2007 departments and agencies have been required to include on AusTender details of those contracts which are consultancies and the reason for the consultancy. The information sought by the honourable member in relation to consultancies valued at $10,000 or more will therefore be available on the AusTender website (www.tenders.gov.au), noting that departments have six weeks to report procurement contracts on AusTender.

2. Details of consultancies over the value of $10,000 can be obtained from the AusTender website.

3. All planned procurements, including consultancies, are published in the Annual Procurement Plans for Department of Immigration and Citizenship and Migration Review Tribunal – Refugee Review Tribunal which are available on the AusTender website (www.tenders.gov.au).
Innovation, Industry, Science and Research: Consultancies  
(Question No. 1887)

Senator Barnett asked the Minister for Innovation, Industry, Science and Research, upon notice, on 2 July 2009:

(1) (a) Since November 2007, what is the total number of: (i) completed, and (ii) ongoing, consultancies in the portfolio/agency; and (b) for each consultancy: (i) who is the consultant, (ii) what is the subject matter, (iii) what are the terms of reference, (iv) what is its duration, (v) what will it cost, and (vi) what is the method of procurement (i.e. open tender, direct source, etc.).

(2) Can copies be provided of all the completed consultancies.

(3) (a) How many consultancies are planned or budgeted for: (i) 2009, and (ii) 2010; (b) have these been published in the Annual Procurement Plan on the AusTender website; if not, why not; and (c) in each case, what is the: (i) subject matter, (ii) duration, (iii) cost, (iv) method of procurement, and (v) name of the consultant if known.

Senator Carr—The answer to the honourable senator’s question is as follows:

(1) In relation to consultancies of $10,000 or more, details are provided below.

Procurement contracts entered into by the Department of Innovation, Industry, Science and Research (Department), where the value is $10,000 or more are reported on AusTender within six weeks of the contract being executed. In addition, details of consultancies valued at $10,000 or more are also contained in the Department’s Annual Report. Consultancy details in the 2007-08 Annual Report are available at:


(2) Details of the Department’s consultancies of $10,000 or more in value can be obtained from the AusTender website www.tenders.gov.au.

(3) In relation to planned and budgeted consultancies, these are reported on a financial year basis. As such, for this question, I have responded for the 2009-10 financial year period as opposed to the 2009 and 2010 calendar years. The Department’s planned procurements for the 2009-10 financial year are included in the Department’s 2009-10 Annual Procurement Plan www.tenders.gov.au.

Salt Ash Air Weapons Range  
(Question No. 1948 amended)

Senator Bob Brown asked the Minister representing the Minister for Defence Personnel, Materiel and Science, upon notice, on 3 July 2009:

(1) Has the Salt Ash Air Weapons Range been gazetted under the Defence Force Regulations 1952 as a defence practice area; if not, why not; if so, have both the land and the airspace been gazetted.

(2) If only the land has been gazetted, why was the airspace not gazetted.

(3) If any part of the range has been gazetted, have any claims for compensation been made under regulation 57(1) of the Defence Force Regulations 1952; if so, what was the outcome.

(4) Are the aircraft using the range flying over residential areas with activated weapons.

(5) When is the review of the weapons range, initiated by the former Minister for Defence (Mr Fitzgibbon), as reported in The Herald, 7 May 2009, scheduled to be finished.

(6) When will the department publicly release its report about noise emission data from the F-35 Joint Strike Fighter as reported in The Herald, 7 May 2009.
Senator Faulkner—The Minister for Defence Personnel, Materiel and Science has provided the following answer to the honourable senator’s question:

(1) Yes. The gazettal includes both the land and the airspace.

(2) Not applicable.

(3) Defence has received six claims for compensation for the effects of aircraft noise from residents within the vicinity of RAAF Williamtown and the Salt Ash Air Weapons Range (SAAWR). Five of the six claims are regarded as abandoned because the claimants failed to pursue them following deemed refusal by Defence under the Regulation. One claim is presently under consideration.

(4) No.

(5) An internal review was completed in March 2009.

(6) Defence plans to publicly release available noise data as part of a consolidated information package on the expected environmental impacts from the introduction of the Joint Strike Fighter in late 2009.