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SITTING DAYS—2009

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FORTY-SECOND PARLIAMENT
FIRST SESSION—SIXTH PERIOD

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

Senate Officeholders

President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson

Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Stephen Shane Parry

Senate Party Leaders and Whips

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

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

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

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

Prime Minister: Hon. Kevin Rudd, MP
Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion: Hon. Julia Gillard, MP
Treasurer: Hon. Wayne Swan MP
Minister for Immigration and Citizenship and Leader of the Government in the Senate: Senator Hon. Chris Evans
Minister for Defence and Vice President of the Executive Council: Senator Hon. John Faulkner
Minister for Trade: Hon. Simon Crean MP
Minister for Foreign Affairs and Deputy Leader of the House: Hon. Stephen Smith MP
Minister for Health and Ageing: Hon. Nicola Roxon MP
Minister for Families, Housing, Community Services and Indigenous Affairs: Hon. Jenny Macklin MP
Minister for Finance and Deregulation: Hon. Lindsay Tanner MP
Minister for Infrastructure, Transport, Regional Development and Local Government and Leader of the House: Hon. Anthony Albanese MP
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate: Senator Hon. Stephen Conroy
Minister for Innovation, Industry, Science and Research: Senator Hon. Kim Carr
Minister for Climate Change and Water: Senator Hon. Penny Wong
Minister for the Environment, Heritage and the Arts: Hon. Peter Garrett AM, MP
Attorney-General: Hon. Robert McClelland MP
Cabinet Secretary, Special Minister of State and Manager of Government Business in the Senate: Senator Hon. Joe Ludwig
Minister for Agriculture, Fisheries and Forestry: Hon. Tony Burke MP
Minister for Resources and Energy and Minister for Tourism: Hon. Martin Ferguson AM, MP
Minister for Financial Services, Superannuation and Corporate Law and Minister for Human Services: Hon. Chris Bowen, MP

[The above ministers constitute the cabinet]
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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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<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>
</tr>
<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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<tr>
<td>Parliamentary Secretary for Defence Support and Parliamentary Secretary for Water</td>
<td>Hon. Dr Mike Kelly AM, MP</td>
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<tr>
<td>Parliamentary Secretary for 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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<tr>
<td>Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion</td>
<td>Senator Hon. Ursula Stephens</td>
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<td>Parliamentary Secretary for Industry and Innovation</td>
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<td>Senator the Hon. Michael Ronaldson</td>
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<td>Cabinet Secretary</td>
<td>The Hon. Greg Hunt MP</td>
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<td>The Hon. Dr Sharman Stone</td>
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<td>Mr Steven Ciobo</td>
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[The above constitute the shadow cabinet]
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The Hon. Chris Pearce MP

Shadow Assistant Treasurer
The Hon. Tony Smith MP

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

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

Shadow Minister for Housing and Local Government
Mr Scott Morrison

Shadow Minister for Ageing
Mrs Margaret May MP

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

Shadow Minister for Veterans’ Affairs
Mrs Louise Markus MP

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

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

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

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

Shadow Parliamentary Secretary for Roads and Transport
Mr Don Randall MP

Shadow Parliamentary Secretary for Regional Development
Mr John Forrest MP

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

Shadow Parliamentary Secretary for Energy and Resources
Mr Barry Haase MP

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

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

Shadow Parliamentary Secretary for Health Administration
Senator Mathias Cormann

Shadow Parliamentary Secretary for Defence
The Hon. Peter Lindsay MP

Shadow Parliamentary Secretary for Education
Senator the Hon. Brett Mason

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

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

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

CLERK OF THE SENATE

The PRESIDENT (9.31 am)—After consultation with senators this week, including at the Senate Appropriations and Staffing Committee, I am pleased to advise the Senate that I intend to appoint Dr Rosemary Laing to the position of Clerk of the Senate. Dr Laing is a highly regarded officer of the Department of the Senate and has extensive knowledge and experience in parliamentary law, procedure and practice. She joined the Department of the Senate in 1990 as Director of Research and has served as the secretary of a range of different Senate committees, and as a Clerk Assistant (Committees), Clerk Assistant (Procedure) and Clerk Assistant (Table).

She has been the Deputy Clerk since 2005. Dr Laing holds a BA with first-class honours from Sydney University, a Doctor of Philosophy from Oxford and a Graduate Diploma in Public Law with merit from ANU. Dr Laing was selected after a comprehensive appointment process that included the consideration by a panel made up of two former Senate presidents, Kerry Sibraa and Margaret Reid, and assisted by the Parliamentary Service Commissioner, Lynelle Briggs. I thank them for their participation in the process.

I will appoint Dr Laing as Clerk of the Senate from 5 December after the term of the current Clerk, Mr Harry Evans, expires in accordance with the provisions of the Parliamentary Service Act 1999. I congratulate Dr Laing and look forward to working with her in her new role. The current Clerk, Mr Harry Evans, has made an outstanding contribution to the operations of the Senate over many years and I am sure there will be an opportunity to say something more about him closer to the end of sittings.

Senator CHRIS EVANS (Western Australia)—Leader of the Government in the Senate) (9.33 am)—by leave—Mr President, on behalf of the government I congratulate both Dr Rosemary Laing on her appointment as Clerk of the Senate and you on the wisdom of your choice. We certainly think it is an excellent appointment. I know it has been done on the basis of merit and I think it will be welcomed broadly by senators. One of the things about this place is that you only ever say nice things about people when they retire or you retire, so it is nice to be able to say something nice about an appointment.

As I say, I think it is a tremendous appointment. We have great respect for Dr Laing and her advice. She has always been a very professional woman of obviously high intellect and has good skills in dealing with often quite desperate senators who want things yesterday, including very complex amendments to government bills. As a former opposition whip and opposition leader, I can say that we relied very much on the clerks because, as the opposition are probably learning, you do not have many resources in opposition and they are a great source of advice and they always do it in a professional manner. I think the clerks in this place reflect the best traditions of Australian public service. Even though we are usually less fond of clerks’ advice when in government, I can say I have always respected the professionalism and the independence that they have shown.

We think it is a great appointment and we offer our congratulations. I note that Dr Laing will be the first woman Clerk of the Senate or Clerk of the House of Representatives, so it is an important appointment that more broadly recognises the role of women in the administration of the parliament. I
know particularly that the late Anne Lynch would be very proud. We pass on our congratulations to Dr Rosemary Laing.

Senator MINCHIN (South Australia—Leader of the Opposition in the Senate) (9.35 am)—by leave—On behalf of the opposition I join with Senator Evans in warmly congratulating Rosemary Laing on this eminent appointment. She is extraordinarily well qualified for the appointment. She has enormous experience in the Senate, an extraordinary academic background and is a great servant of this Senate; so we warmly welcome her appointment. I congratulate you, Mr President, on behalf of the opposition on your conduct of the appointment process and on the wisdom of the appointment that you have made. We have no doubt Rosemary will serve in this position with great distinction and great aplomb. As Senator Evans noted, she is the first female officer of the Senate. That is a great achievement and historic in that sense. We certainly look forward to working with Rosemary in what I think is the most prestigious parliamentary office-bearer position in the land. As we all know, the Senate is of course the most prestigious chamber and to be Clerk of the Senate is the most prestigious office, and Rosemary will grace the position.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (9.36 am)—by leave—I want to congratulate Dr Rosemary Laing on her appointment. On the cross benches I know we use the Clerk heavily. I do not know whether the others do but I know that I certainly do. It is a pivotal role and I think it will prove to be an extremely wise choice. Not taking anything away from Harry at all, but I think it will prove to be a very wise choice. I congratulate Dr Laing.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.37 am)—by leave—I join in the congratulations to Dr Laing for her appointment. This is a very good choice. I do not know who the other candidates were but it is always a highly competitive position. By the reception being given to this announcement from you, Mr President, this morning you can see that senators around the chamber are very pleased with the choice of Dr Laing. She is intelligent, she has got a very judicious, clear and fair way of dealing with issues, including the complex issues that sometimes land on the Clerk’s desk. I have enjoyed working with Dr Laing these last 13 years, and my colleagues likewise. We unanimously welcome her appointment as Clerk and look forward to the years ahead with her as the Clerk. It is a breakthrough appointment because she is the first female Clerk to the Senate. May there be many more. We welcome her and wish her an enjoyable and productive time as Clerk of the Senate of Australia.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.38 am)—by leave—I want to congratulate Dr Rosemary Laing on her appointment. On the cross benches I know we use the Clerk heavily. I do not know whether the others do but I know that I certainly do. It is a pivotal role and I think it will prove to be an extremely wise choice. Not taking anything away from Harry at all, but I think it will prove to be a very wise choice. I congratulate Dr Laing.

Senator XENOPHON (South Australia) (9.38 am)—by leave—I endorse the remarks of my colleagues. It is an outstanding choice. I congratulate Rosemary Laing and I look forward to working with her for the next few years. I think you ought to be congratulated.
on the process, Mr President, in terms of how the appointment was made.

Senator FERGUSON (South Australia) (9.39 am)—by leave—I want to briefly congratulate the Deputy Clerk of her appointment as Clerk. I also want to commend you on the process that you undertook. There have been five presidents since Harry Evans was appointed Clerk of the Senate, and you as a former deputy president and I do both know how closely we work with the Deputy Clerk. For a lot of your period of time as deputy and certainly all of my time I have been briefed every morning by Rosemary. She is very professional in the way she does her job and I do not think there is anybody in this house who would have any other views than that she is a most appropriate appointment. I congratulate Rosemary on becoming, on 5 December, the Clerk of the Senate. I also want to particularly commend you, Mr President, for the process that you undertook in this appointment.

NOTICES
Presentation
Senators Ludlam, Xenophon and Fielding to move on the next day of sitting:

(1) That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by the first day of sitting in 2010:

   A process for determining public interest immunity claims made by the government in response to orders of the Senate or of Senate committees for the production of information and documents.

(2) That the committee consider whether the following proposed order of the Senate would provide a suitable process:

**INDEPENDENT ARBITRATION OF PUBLIC INTEREST IMMUNITY CLAIMS**

**PROPOSED RESOLUTION OF THE SENATE**

(1) If:

   (a) the Senate orders that a minister produce documents; and

   (b) the minister responsible for producing the documents considers that there may be reasons why the documents should not be produced,

   a minister shall make a statement to the Senate, on or before the date specified by the Senate for the production of the documents, setting out why it may not be in the public interest for the documents to be produced.

(2) If:

   (a) a minister makes a statement under paragraph (1); or

   (b) a committee makes a report to the Senate under paragraph (5) of the order of the Senate of 13 May 2009, and the Senate does not, within two sitting days after the statement or the report is made, by resolution accept the reasons given by the minister in the statement or as set out in the report of the committee, the statement or the report shall be referred to the independent arbitrator in accordance with this order.

(3) Where the reasons set out in the statement or the report consist of, or include, a claim that documents or information are commercially confidential, the independent arbitrator in respect of that claim is the Auditor-General.

(4) Where other reasons are given the statement or report shall be referred to an independent arbitrator appointed by resolution of the Senate.

(5) The independent arbitrator shall, as soon as practicable, report to the Senate on
whether the reasons given for withholding the documents or information are justified.

(6) Where the independent arbitrator reports that reasons given for the withholding of information or documents are not justified, the documents or information shall be produced in accordance with the order of the Senate or the requirement of the committee, subject to any further order of the Senate.

BUSINESS
Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.40 am)—I move:

That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

No. 9 Personal Property Securities Bill 2009.
No. 10 Long Service Leave Legislation Amendment (Telstra) Bill 2009.
No. 11 Statute Stocktake (Regulatory and Other Laws) Bill 2009.
Australian Sports Anti-Doping Authority Amendment Bill 2009.

Question agreed to.

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.41 am)—I move:

That the order of general business for consideration today be as follows:

(a) general business notice of motion no. 605 standing in the name of Senator Parry relating to border protection; and

(b) orders of the day relating to government documents.

Question agreed to.

NOTICES
Postponement

The following item of business was postponed:

Business of the Senate notice of motion no. 1 standing in the names of Senators Boswell and Macdonald for today, proposing the disallowance of the Proclamation dated 14 May 2009 [Coral Sea Conservation Zone], postponed till 16 November 2009.

PARLIAMENTARY ZONE

Approval of Works

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.43 am)—At the request of Senator Wong, I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the Department of Parliamentary Services to install additional CCTV cameras in the parliamentary precinct.

Question agreed to.

COMMITTEES

Legal and Constitutional Affairs
References Committee

Extension of Time

Senator O’BRIEN (Tasmania) (9.43 am)—At the request of Senator Crossin, I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs References Committee on access to justice be extended to 19 November 2009.

Question agreed to.

Legal and Constitutional Affairs
Legislation Committee

Extension of Time

Senator O’BRIEN (Tasmania) (9.43 am)—At the request of Senator Crossin, I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Crimes
Amendment (Working With Children—Criminal History) Bill 2009 be extended to 17 November 2009.

Question agreed to.

Education, Employment and Workplace Relations References Committee

Extension of Time

Senator PARRY (Tasmania) (9.44 am)—At the request of Senator Humphries, I move:

That the time for the presentation of reports of the Education, Employment and Workplace Relations References Committee be extended as follows:

(a) the oversight of the child care industry—to 23 November 2009; and

(b) the welfare of international students—to 25 November 2009.

Question agreed to.

Foreign Affairs, Defence and Trade References Committee

Extension of Time

Senator PARRY (Tasmania) (9.44 am)—At the request of Senator Trood, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on economic and security challenges facing Papua New Guinea and the island states of the southwest Pacific be extended to 19 November 2009.

Question agreed to.

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (RESTORATION OF RACIAL DISCRIMINATION ACT) BILL 2009

First Reading

Senator SIEWERT (Western Australia) (9.44 am)—I move:

That the following bill be introduced: A Bill for an Act to amend laws to restore the operation of the Racial Discrimination Act 1975 in the Northern Territory, and for related purposes.

Question agreed to.

Senator SIEWERT (Western Australia) (9.45 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 SIEWERT (Western Australia) (9.45 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009 is designed to ensure the Racial Discrimination Act and relevant Northern Territory anti-discrimination laws apply to the three pieces of legislation that implemented the Northern Territory Intervention -

• Northern Territory National Emergency Response Act 2007;

• Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007; and

• Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007.

It was and continues to be a disgrace that these Acts continue to specifically exclude the operation of the Racial Discrimination Act 1975. The Racial Discrimination Act 1975 is the implementation in Australia of our international obligations recognising the basic human right not to be discriminated against on the basis of race.
Social Justice Report

In his 2007 Social Justice Report, the Social Justice Commissioner, Tom Calma, provided a human rights analysis of the Northern Territory Intervention.

The Report raises significant human rights concerns with the Intervention legislation and proposes a way forward to ensure that the Northern Territory Intervention is consistent with Australia’s human rights obligations as embodied in legislation such as the Racial Discrimination Act 1975.

The Report makes it quite clear that it is entirely unacceptable to remove the protection of the Racial Discrimination Act 1975 for any acts performed for the purposes of the Northern Territory intervention legislation and notes that the exemption from the Racial Discrimination Act 1975 means there can be no challenge to any exercise of discretion by officials purporting to act in accordance with the legislation.

The Report concludes that the provisions exempting the Racial Discrimination Act 1975 should be immediately repealed and be replaced with a new clause requiring all acts authorised under the legislation to be undertaken consistently with the Racial Discrimination Act 1975. This new clause should be unequivocal that the provisions of the Northern Territory Intervention legislation are subject to the provisions of the Racial Discrimination Act 1975.

“Special measures”

Special measures are a form of positive discrimination whereby a group defined by race receives beneficial treatment. Such beneficial treatment is then not considered discriminatory under the Racial Discrimination Act 1975. By deeming the provisions of the legislation special measures, the legislation is therefore effectively exempting the legislation from the Racial Discrimination Act 1975.

The notion of a “special measure” under the Racial Discrimination Act 1975 comes with a body of law behind it defining what it means.

- There are certain criteria that have to be met for a “special measure” including:
  - provides a benefit to some or all members of a group based on race;
  - has the sole purpose of securing advancement of the group so they can enjoy human rights and fundamental freedoms equally with others;
  - is necessary for the group to achieve that purpose; and
  - stops once their purpose has been achieved.

Additionally where a measure negatively impacts on Indigenous people it must be done after consultation with and the consent of the people affected to qualify as a special measure. This was clearly not done in relation to the Northern Territory Intervention. The Social Justice Commissioner Report notes that measures cannot meaningfully be said to be for the advancement of a group of people if they are taken without consultation or consent.

If a measure does not meet these criteria it is not a “special measure”. To merely deem legislation to be a special measure is to ignore the body of Australian law giving meaning to the words and ignoring the international conventions upon which the Racial Discrimination Act 1975 is based.

The Australian Greens agree with the conclusion of the Social Justice Report that the Intervention measures are not “special measures” according to the Racial Discrimination Act 1975. The Report recommends that the relevant provisions in the Intervention legislation be amended to:

- clarify that the measures in the legislation are intended to qualify as special measures; and
- require that in implementing the provisions of the legislation all actions must be undertaken consistently with the intended beneficial purpose of the legislation.

If particular actions undertaken as part of the Northern Territory Intervention are intended to be to the benefit of the Indigenous communities involved then they should stand or fall on their own merits as ‘special measures’ under the Racial Discrimination Act 1975.

The Bill enacts the recommendations of the Social Justice Commissioner on how best to reinstate the Racial Discrimination Act 1975 and relevant Northern Territory anti-discrimination
laws and comply with our international obligations. The Bill will therefore require that actions taken as part of the Northern Territory intervention need to be to the benefit of Aboriginal people to be compliant with the Racial Discrimination Act 1975.

International Obligations
On a recent visit to Australia, United Nations Special Rapporteur Professor James Anaya found that the Northern Territory Intervention, in its current form and in its delivery, “is incompatible with Australia’s obligations under the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights. Australia is a party to both treaties. The intervention is also incompatible with the Declaration on the Rights of Indigenous Peoples, which Australia supports”.

There is no doubt that the Northern Territory Intervention legislation, in suspending the operation of the Racial Discrimination Act 1975, is contrary to Australia’s international obligations and is harming our reputation overseas.

Government inaction
At the time the Intervention legislation was debated in the Senate in 2007 there was much debate on the Racial Discrimination Act 1975. The Government while in opposition, strongly defended the Racial Discrimination Act 1975. For example, Senator Evans said:

“Labor is very proud of the Racial Discrimination Act 1975. We see it as one of the most important pieces of legislation ever passed by this parliament. We think it is a fundamental bedrock of our modern democracy and that it provides for people protections from discrimination on the basis of race, gender, ethnicity and religion. This is a fundamental protection in our democracy. I have seen the technical arguments from the government as to why they think they need to exempt the Northern Territory legislation from the Racial Discrimination Act and quite frankly the arguments are not strong enough. We have to do better than this.”

Yet after almost two years in power and a review of the Northern Territory Intervention which recommended the Racial Discrimination Act 1975 be re-instated immediately, the Government has not acted. This delay in re-instating basic human rights of the Indigenous people of the Northern Territory is inexcusable and must be rectified.

This Bill ensures the Racial Discrimination Act 1975 and the relevant Northern Territory anti-discrimination legislation applies to Aboriginal people in the Northern Territory as it does to all other people in Australia. It will ensure Australia is complying with our obligations under international conventions. And it is the morally and ethically correct response to the continued suspension of basic human rights in the Northern Territory.

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

Leave granted; debate adjourned.

COMMITTEES
Environment, Communications and the Arts References Committee
Reference
Senator FIELDING (Victoria—Leader of the Family First Party) (9:46 am)—I move:

That the following matter be referred to the Environment, Communications and the Arts References Committee for inquiry and report by 24 November 2009:

The practices and procedures of Australia Post over the past 3 years in relation to the treatment of injured and ill workers, including but not limited to:

(a) allegations that injured staff have been forced back to work inappropriate duties before they have recovered from workplace injuries;

(b) the desirability of salary bonus policies that reward managers based on lost time injury management and the actions of managers to achieve bonus targets;

(c) the commercial arrangements that exist between Australia Post and InjuryNet and the quality of the service provided by the organisation;

(d) allegations of compensation delegates using fitness for duty assessments from facility nominated doctors to justify re-
fusal of compensation claims and whether
the practice is in breach of the Privacy Act
and Comcare policies;
(e) allegations that Australia Post has no legal
authority to demand medical assessments
of injured workers when they are clearly
workers’ compensation matters;
(f) the frequency of referrals to InjuryNet
doctors and the policies and circumstances
behind the practices; and
(g) any related matters.

Senator WORTLEY (South Australia)
(9.46 am)—by leave—I move as an addi-
tional term of reference:
Omit paragraph (g), substitute:
(g) the comparison of outcomes arising
from circumstances when an injured
worker attends a facility nominated
doctor, their own doctor and when an
employee attends both, the practices in
place to manage conflicting medical
recommendations in the workplace;
and
(h) any related matters.

Question agreed to.

Senator WORTLEY (South Australia)
(9.47 am)—I seek leave to make a short
statement.

The PRESIDENT—Is leave granted?
Leave is granted for two minutes.

Senator WORTLEY—I am pleased to
support Senator Fielding’s motion with the
additional term of reference inserted and
welcome his interest in the disturbing prac-
tice of workplace injury management and
rehabilitation at Australia Post. Australia
Post has come under increasing criticism
from the community and has had many indi-
vidual cases raised by the relevant union, the
CEPU, about the way the organisation man-
ages the claims in cases of sick and injured
employees who have sustained work related
injuries. Labor has long been concerned that,
through various measures taken by Australia
Post management including the use of facil-
ity nominated doctors, employees’ rights to
workers compensation entitlements and
workplace rehabilitation are being under-
mined. Indeed, Labor acknowledged this at
our most recent national conference and re-
solved to implement this very inquiry. It is
good to see that Senator Fielding is such an
avid reader of Labor policy documents and
the Hansard of previous budget estimates
hearings. It makes a nice change to the dirt-
digging, fear and smear driven policy void of
those opposite.

Chapter 11 of our policy document New
ways of governing for a stronger democracy
contains a resolution that the federal gov-
ernment undertake an independent inquiry
into these alarming circumstances. Since
coming to this place I along with other Labor
senators and the minister have raised this
matter regularly with Australia Post through
the process of estimates. I have become
aware of apparently legitimate compensation
claims being denied on the recommendation
of the facility nominated doctors, allegations
of sick and injured workers having their
symptoms questioned or ignored by Australia
Post managers and of harassment by man-
agement following workplace injuries. I am
concerned about the incentives that the facil-
ity nominated doctors process gives Australia
Post management. One of the matters I be-
lieve this inquiry should look at is the inter-
play between salary bonus policies and
achieving low lost-time injury markers.
(Time expired)

Senator PARRY (Tasmania—Manager of
Opposition Business in the Senate) (9.49
am)—by leave—We gave leave for Senator
Wortley to make a statement. It got a little bit
political. Discovery of formal business is not
the place to do this. We also gave leave for an
amendment to the motion to be moved
which had not been circulated or received
earlier. We did that generously. I just remind
the chamber that, unless we get the motions and the amendments given to us in writing in good time, we cannot support granting of leave for amendments and then have a political statement made afterwards.

Original question, as amended, agreed to.

Environment, Communications and the Arts References Committee

Reference

Senator BIRMINGHAM (South Australia) (9.51 am)—I, and also on behalf of Senator Barnett, move:

That the following matters be referred to the Environment, Communications and the Arts References Committee for inquiry and report by 30 March 2010:

(a) the Federal Government’s Energy Efficient Homes Package (ceiling insulation), with particular reference to:

(i) the administration of the program from a pricing, probity and efficiency perspective, including:

(A) the basis on which the Government determined the size of the rebate for ceiling insulation,

(B) regulation of quoting and installation practices,

(C) protection against rorting and abuse of the rebate,

(D) the impact of the program in pushing up insulation prices,

(E) ensuring value for money for taxpayers,

(F) waste, inefficiency and mismanagement within the program, and

(G) ensuring the program achieves its stated aims as part of the Government’s stimulus package,

(ii) an examination of what advice was provided to the Government on safety matters, particularly in relation to fire and electrocution risks and to what degree the Government acted on this advice,

(iii) an examination of what advice was provided to the Government on occupational health and safety matters, particularly in relation to training for installers, including:

(A) to what degree the Government acted on this advice, and

(B) identification and examination of fires and electrical incidents resulting from the Government’s Home Insulation Program, and

(iv) an analysis of the effectiveness of the package as a means to improve the efficiency of homes and reduce emissions of greenhouse gases, including comparison with alternative policy measures;

(b) consideration of measures to reduce or eliminate waste and mismanagement, and to ensure value for money for the remainder of the program, noting the planned $2.7 billion to be distributed under the program in total; and

(c) other related matters.

Senator MILNE (Tasmania) (9.51 am)—by leave—I move the amendment to business of the Senate notice of motion No.3:

Omit all words after “with particular reference to”, substitute:

(i) the level of ceiling and wall insulation in Australian residences, state by state, prior to the announcement of the Energy Efficient Homes Package and the adequacy of the Building Code to ensure comprehensive roll out in future;

(ii) the administration of the program from a pricing, probity and efficiency perspective, including:

(A) the basis on which the Government determined the size of the rebate for ceiling insulation,

(B) regulation of quoting and installation practices,

(C) protection against rorting and abuse of the rebate,
(d) the impact of the program in pushing up insulation prices,

(e) the level of imported insulation to meet demand,

(f) ensuring value for money for taxpayers,

(g) waste, inefficiency and mismanagement within the program,

(h) ensuring the program achieves its stated aims as part of the Government’s stimulus package, and

(i) the consultation and advice received from current manufacturers regarding their ability to meet the projected demand.

(iii) an examination of:

(A) the employment and investment in insulation production and manufacturing resulting from the program,

(B) what advice was provided to the Government on safety matters, particularly in relation to fire and electrocution risks, and to what degree the Government acted on this advice,

(C) the costs and benefits of extending the scheme to include other energy efficiency products, including wall and floor insulation, draft stoppers and window treatments,

(d) the costs and benefits of changing or extending the scheme to make small and medium sized businesses eligible for installations,

(e) the extent to which imported insulation products met Australian standards and the method used to make that determination, and

(f) what advice was provided to the Government on occupational health and safety matters, particularly in relation to training for installers, including:

(1) to what degree the Government acted on this advice, and

(2) identification and examination of fires and electrical incidents resulting from the Government’s Home Insulation Program, and

(iv) an analysis of the effectiveness of the package as a means to improve the efficiency of homes and reduce emissions of greenhouse gases, including comparison with alternative policy measures;

(b) consideration of measures to reduce or eliminate waste and mismanagement, and to ensure value for money for the remainder of the program, noting the planned $2.7 billion to be distributed under the program in total; and

(c) other related matters.

Question agreed to.

Original question, as amended, agreed to.

Senator O’BRIEN (Tasmania) (9.51 am)—by leave—The government opposes this motion. We recognise that, with the opposition and the Greens voting together, it has a majority. We will not call a division.

Senator MILNE (Tasmania) (9.52 am)—I seek leave to make a short statement.

The PRESIDENT—Leave is granted for two minutes.

Senator MILNE—The Greens have supported the government’s Energy Efficiency Homes Package in relation to insulation. We believe that it has led to a significant rollout of jobs around rural and regional Australia at a time when we desperately needed those jobs. I want to make sure that we have a look at the jobs impact of this investment and also investment in manufacturing, installation and so on around the country, and I think the motion is improved by looking at that. I also included an amendment to look at the existing level of ceiling insulation and wall insulation around Australia and at the current Building Code. For decades now governments of all stripes at federal and state level have failed to require insulation. In 1989 I moved in the Tasmanian parliament to make
insulation mandatory in terms of building there, and it was vehemently opposed by the Master Builders Association, who continue in Tasmania to oppose insulation even though it provides much better amenity for people living in the houses and is much cheaper over time. I genuinely want to look at the improvements, but I also recognise there have been shortcomings in the program. I have added amendments in relation to the level of consultation about existing levels of capacity, because I think it is most unfortunate we had to import this from China. I want to make sure that the safety standards have been adhered to with that imported insulation, which is why I have included amendments pertaining to that. I also want to look at the possibility of rolling out the program further to small business in particular, which is seen to be a gap.

(Time expired)

Senator BIRMINGHAM (South Australia) (9.54 am)—I seek leave to make a very brief statement.

The PRESIDENT—Leave is granted for two minutes.

Senator BIRMINGHAM—I place on record thanks to Senator Milne for her cooperation in negotiating amendments on this inquiry, and we look forward to working with the Greens. It is disappointing that the government indicated their opposition to this. In the end, this inquiry is into a very significant area of government expenditure. We have heard through Senate estimates that the government knew before establishing this program that the average cost of home insulation in Australia was $1,200, yet they chose to establish a program offering a $1,600 cash rebate. If that is not wasteful, if that is not inflationary, if that is not madness, I do not know what is. We of course have seen many other problems highlighted with this program. We want to run an inquiry that hopefully shows the way forward for this and how such programs can be established in future in a way that will actually deliver a benefit for the Australian taxpayers and a benefit for the environment, not the type of wasteful inflationary expenditure of the government.

BUSINESS
Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.56 am)—To allow the apology to the forgotten Australians to be tabled, I move:

That, on Monday, 16 November 2009, the hours of meeting shall be noon to 6.30 pm and 7.30 pm to 10.30 pm.

Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (9.56 am)—by leave—by leave—I wish to, by way of clarification, ask if the minister can enlighten the chamber with some more detail. We had contact at 9.20 this morning in the leader’s office indicating some detail about the apology being given in the Great Hall, which we certainly support. We need to understand why the Senate is being asked to sit from 12 noon instead of 12.30. What is taking place in the Senate chamber? Senator Ludwig a few moments ago, whilst the chamber was active, indicated to me that there will be a statement tabled in the Senate. If we could understand why it is required to do that at 12 instead of 12.30, that would be appreciated. We are very supportive of the apology, but we just want to know the mechanics, the process and why the Senate needs to start half an hour earlier. If we can do this by exchange in the chamber, Mr President, I would appreciate that.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.57 am)—by leave—The House of Reps is starting at noon and I have similarly sought for the Senate to start at noon. These
are sensitive issues and there are also discus-
sions that are ongoing with the relevant in-
terested groups. All of the detail is not public
because it has not been finalised, as I under-
stand it. I ask the Senate to take on an under-
standing role in this respect. I understand
that the House has sought to sit from noon.
We could follow likewise so that we can al-
low those negotiations to be concluded and
dealt with in a sensitive way. It is not the in-
tention of this government to deal with work
during that time. It is about dealing with
what is a very sensitive and emotive issue.

Senator FIELDING (Victoria—Leader
of the Family First Party) (9.58 am)—by
leave—Mr President, could we defer this for
a moment and have a decent chat somewhere
else about it? I am not comfortable with what
is happening here. I think we should hold for
a second and bring this back a little bit later.

The PRESIDENT—That is not my deci-
sion, clearly. You have expressed your view.
It is the wish of the chamber that I will fol-
low, of course.

Senator PARRY (Tasmania—Manager of
Opposition Business in the Senate) (9.59
am)—by leave—In the spirit of our frank
discussion across the chamber, I would like
to further interrogate the minister. What I
understand from the minister is that this is a
contingency measure in case the Senate
chamber is needed to be active from 12 noon
in relation to the apology. That is seeking, in
real terms, an additional half an hour of Sen-
ate sitting time. If the minister can guarantee
that we are not facilitating additional gov-
ernment business by a backdoor method, I
will accept his word on that. In addition to
that, could he amend his motion to include
the adjournment debate from the normal
time? It is not explicit in the motion. It says,
‘The hours of meeting shall be noon to 6.30
pm and 7.30 pm to 10.30 pm’; the adjourn-
ment should be proposed then at 9.50. I seek
a response as to whether the adjournment
debate will still continue for the normal 40-
minute period.

Senator LUDWIG (Queensland—Special
Minister of State and Cabinet Secretary)
(10.00 am)—by leave—I will deal with the
last matter first. That is the standard way the
orders are written. Of course the adjourn-
ment is proposed from 9.50 pm, as is always
the case on that particular day, and that is the
way it has always been reflected in the past. I
can indicate that the matter of seeking to
start at 12 noon to synchronise with the
House of Representatives is about allowing
time for that particular matter I raised earlier
to be dealt with in a sensitive way and to
allow discussions to continue. This is the last
day that we can put in place arrangements
for that to occur. If the time is not needed
then we will talk to you about what we might
usefully use the time for.

Senator PARRY (Tasmania) (10.01
am)—by leave—I trust this will be my last
contribution on this. On that basis, the coali-
tion will support that provision. We are
clearly on the record, since May of this year,
indicating that the government has not allo-
cated enough sitting weeks, early enough, for
us to plan. We do not want to facilitate addi-
tional hours for the government. We are not
going to cover up for their mismanagement
of not extending hours. This is a significant
issue and, for that purpose only, the coalition
will support the additional half-hour of sit-
ting.

Question agreed to.

UGANDA: HOMOSEXUALITY

Senator HANSON-YOUNG (South Aus-
tralia) (10.02 am)—I move:
That the Senate—
(a) recognises the universal human rights of
same-sex attracted people to live their
lives free from persecution on the basis of
their sexuality;
(b) notes the Ugandan Government introduced, on 14 October 2009, the Anti-Homosexuality Bill, a law re-criminalising homosexuality and criminalising the promotion of homosexuality in Uganda;

(c) condemns the criminalisation of homosexuality anywhere in the world; and

(d) calls on the Australian Government to actively encourage the Ugandan Government to withdraw its Anti-Homosexuality Bill and respect the human rights of same-sex attracted people.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.02 am)—Mr President, I seek leave to make a short statement.

The PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—The government’s view is that complex matters of international relations should not be considered in the Senate by means of formal motions. It is counterproductive for motions of this kind to single out one country—in this case, Uganda. This said, the government fully supports the elimination of discrimination against individuals on the basis of their sexual orientation and gender identity and we have said so publicly. As recently as last month, in September 2009, the Australian ambassador to the United Nations in Geneva noted the importance of eliminating discrimination on the grounds of sexual orientation and gender identity. Australia will continue to advocate in support of human rights of all individuals in a manner that we judge to be effective.

In conclusion, I take this opportunity to remind the senator of the same-sex reforms delivered by this government. These reforms will eliminate discrimination against same-sex couples and their children in a wide range of areas including social security, taxation, Medicare, veterans affairs, workers compensation, educational assistance, superannuation, family law and child support.

Senator HANSON-YOUNG (South Australia) (10.03 am)—Mr President, I seek leave to make a short statement.

The PRESIDENT—Leave is granted for two minutes.

Senator HANSON-YOUNG—I thank the minister for his response. I would like to think that, after a successful bid of spending $13-odd million securing a seat on the UN Security Council, we may be able to put that to good use and have a proper discussion in our parliamentary chamber about foreign affairs issues. I look forward to that day.

Question put:
That the motion (Senator Hanson-Young’s) be agreed to.

The Senate divided. [10.08 am]

(The President—Senator the Hon. JJ Hogg)

Ayes…………. 6
Noes…………. 33
Majority…….. 27

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

NOES
Abetz, E. Adams, J.
Back, C.J. Bernardi, C.
Bishop, T.M. Brown, C.L.
Bushby, D.C. Colbeck, R.
Collins, J. Crossin, P.M.
Farrell, D.E. Feeney, D.
Ferguson, A.B. Fielding, S.
Forshaw, M.G. Hogg, J.J.
Humphries, G. Hurley, A.
Ludwig, J.W. Landy, K.A.
Marshall, G. Mason, B.J.
McEwen, A. Nash, F.
O’Brien, K.W.K. Parry, S *.
Payne, M.A. Polley, H.
Pratt, L.C. Ryan, S.M.
TIMOR SEA OIL SPILL

Order

Senator SIEWERT (Western Australia) (10.11 am)—I move:
That there be laid on the table by the Minister representing the Minister for the Environment, Heritage and the Arts, Senator Wong, no later than Monday, 16 November 2009, the report of the marine survey of the environmental impacts of the Montara oil spill and all documents used in its preparation, including drafts.

Question agreed to.

Senator O’BRIEN (Tasmania) (10.11 am)—by leave—I did not actually see a vote from the government there, but I was informed that they were supporting that motion—

Senator Parry interjecting—

Senator Abetz interjecting—

Senator O’BRIEN—Opposition—thank you. You have corrected me. I spent a lot of time in opposition, so I am sure that you will forgive me an occasional mental block.

Senator Abetz—That’s why you still blame us for the boat people!

Senator O’BRIEN—Yes.

The PRESIDENT—Order! Senator O’Brien—

Senator O’BRIEN—Senator Abetz cannot help himself, but I will try and restrain myself. The government does not support this motion. We believe that with the support of the opposition and the Greens it has a majority and we will therefore not call a division.

COMMITTEES

Publications Committee

Report

Senator CAROL BROWN (Tasmania) (10.13 am)—I present the 14th report of the Senate Standing Committee on Publications.

Ordered that the report be adopted.

BUDGET

Consideration by Estimates Committees

Additional Information

Senator O’BRIEN (Tasmania) (10.13 am)—I present additional information received by committees relating to estimates, as listed at item 6 on today’s Order of Business.

AUSTRALIAN SPORTS ANTI-DOPING AUTHORITY AMENDMENT BILL 2009

First Reading

Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.13 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) (10.14 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—

I think all of us would agree that doping and drug cheats have no place in sport.
And the Australian Government is committed to the fight against doping—and is determined to ensure that performance enhancing drugs are de-
In a sports-loving country like Australia, a strong anti-doping system is essential to protect the integrity of our sporting competitions and to also protect our athletes from the potential harmful health effects of using prohibited substances and methods.

Furthermore, it is essential to protecting Australia’s reputation on the world stage and importantly protecting the value of fair play which sport so powerfully conveys to our children through our sporting heroes.

This Bill amends the Australian Sports Anti-Doping Authority Act 2006 (ASADA Act) to keep the Australian Sports Anti-Doping Authority (ASADA), Australia’s peak anti-doping in sport agency, at the forefront of global and local efforts to stamp out drug cheats.

Specifically the Bill reflects the need for new structural and governance arrangements to ensure the efficacy of ASADA’s anti-doping programs today and well into the future.

ASADA is the key implementation agency for Australia’s anti-doping efforts supporting the Australian Government in co-ordinating and harmonising anti-doping initiatives with States and Territories and of course with our national sporting organisations.

At the core of anti-doping efforts in this country, ASADA’s responsibilities include detecting drug cheats and discouraging drug use through education programs, testing, investigations and enforcement.

The work of the organisation speaks for itself—in 2008/09 ASADA delivered 212 anti-doping education activities to 10,530 athletes and support personnel.

This included all Australian athletes that attended the 2008 Beijing Olympic and Paralympic Games.

In support of these education activities ASADA also conducted 4,212 government-funded tests across 57 sports and 3,286 user-pays tests for Australian sporting bodies or other organisations.

Every one of these figures stands as a strong deterrent against performance enhancing drug use, and a warning to athletes that drug cheats will not be tolerated.

To ensure that ASADA has the best governance arrangements in place to continue to support Australia’s anti-doping efforts—at the end of 2008 I agreed to an independent review of the organisation to ensure that its governance model was the best fit for the current environment and for the future.

The independent review found that while ASADA was successfully delivering its core business, primarily the Government’s anti-doping agenda, education programs, testing, investigations and enforcement, the review made a number of recommendations to streamline ASADA’s internal processes and give it greater cohesion with which to perform its key functions in the future.

Established with bipartisan support in 2006, ASADA is a statutory authority established under the ASADA Act and its current governance model is a hybrid of that which would be conventionally associated with an FMA Agency and an agency established to comply with the Commonwealth Authorities and Companies Act 1997.

Its financial arrangements and accountability are determined by the Financial Management and Accountability Act 1997 (FMA Act) and its staffing arrangements are determined by the Public Service Act 1999.

This Bill delivers on the recommendations of the independent review to alter these governance arrangements to more closely align ASADA with a traditional model for an FMA Agency.

The following specific changes are introduced through this Bill.

Firstly, ASADA is to be solely headed by a CEO who will be responsible for operational and strategic matters.

The accountability framework for the CEO will be similar to a traditional FMA agency and is considered the best fit for ASADA’s activities now and into the future.

Secondly, under proposed new arrangements the current ASADA members structure will be replaced with a new model to ensure that the functions previously undertaken by ASADA members
continue, for example, decisions on anti-doping rule violations.

To that end, provisions are being made for the establishment of a new independent Anti-Doping Rule Violation Panel whose role will be to make decisions about anti-doping rule violations and recommendations about follow-up action and sanctions.

Decisions regarding an anti-doping rule violation are inherently sensitive.

To avoid any perception of conflict, the Anti-Doping Rule Violation Panel will not include among its membership the ASADA CEO, ASADA staff, or members of the new Advisory Group which I will come to shortly. Such action ensures that the decision regarding an anti-doping rule violation is at arms length from Government and separate from the testing, investigative and prosecutorial functions of ASADA.

Anti-Doping Rule Violation Panel members will be appointed by the Minister and must have skills or experience of relevance to sport anti-doping in one of the following areas:

- sports medicine;
- clinical pharmacology;
- sports law;
- ethics; or
- investigative practices or techniques.

Thirdly, this Bill will establish an Advisory Group that will primarily be a consultative forum for the CEO on matters such as education, testing and investigations and provide advice to assist in the development, implementation and continuous improvement in the delivery of ASADA’s core business.

The Advisory Group will consist of a Chair and a small group of members comprising individuals with relevant skills in areas such as education and stakeholder services, sports medicine, sports law, ethics and investigations.

Further, this Bill also gives effect to incidental changes that are required to align the ASADA Act more closely with the World Anti-Doping Code which came into effect 1 January 2009.

Australia is committed to the principles of the World Anti-Doping Code (the Code) through its ratification of the UNESCO International Convention Against Doping in Sport (the Convention). This includes the operation of policies and programs that seek to eliminate doping from sport.

It is therefore imperative that ASADA has an appropriate legislative framework and governance model to ensure that it can continue to deliver its internationally-renowned, targeted and coordinated anti-doping program, consistent with the Convention.

The Bill will also introduce changes to the mechanism by which the National Anti-Doping Scheme will be amended in the future. Currently ASADA can amend all of the National Anti-Doping Scheme through a disallowable legislative instrument.

Under the new arrangements the CEO will still be able to make changes via a disallowable legislative instrument, but will be restricted to only those matters where it is critical for ASADA to respond quickly in order to ensure that Australia’s anti-doping regime continues to be aligned with the World Anti-Doping Code.

Finally, it is important to note that athletes will not be disadvantaged by the proposed amendments.

The changes do not impinge upon athletes’ rights, and all appropriate privacy safeguards continue to be maintained.

This means that in relation to ASADA’s decisions, athletes continue to have access to the Commonwealth Ombudsman, the Administrative Appeals Tribunal and the Federal Court or Federal Magistrates Court under the Administrative Decisions (Judicial Review) Act 1977.

The Privacy Act 1988 will also continue to apply to all of ASADA’s functions involving the collection and handling of personal information.

There is no doubt that when it comes to anti-doping in sport Australia is a world leader and these changes are necessary to ensure that this reputation is sustained well into the future.

Because while we lead the way on anti-doping— it is critical that we do everything we can to ensure the bar is high when it comes to anti-doping stan-
and that a tough, professional anti-doping agency is in place to enforce these standards.

And that’s why I urge the parliament to support this critical Bill.

Debate (on motion by Senator Ludwig) adjourned.

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

PRIVATE HEALTH INSURANCE LEGISLATION AMENDMENT BILL (No. 2) 2009

First Reading

Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.14 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) (10.15 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—


The commencement day for provisions dealing with extended family policies and surplus assets is the later of 1 July 2009 and the day on which the Act receives Royal Assent. The commencement day for provisions dealing with amendments to the Private Health Insurance Act 2007 which are a consequence of the Private Health Insurance (National Joint Replacement Register Levy) Bill 2009 is the same time as the commencement of the proposed Private Health Insurance (National Joint Replacement Register Levy) Act 2009.

The amendments will permanently allow private health insurers to offer extended family policies that cover people aged 18 to 24 (inclusive), who do not have a partner, are not receiving a full time education at school, college or university and where the fund rules of a private health insurer provide for this group.

The Bill also includes consequential amendments to the Private Health Insurance Act 2007, consistent with the introduction of the Private Health Insurance (National Joint Replacement Register Levy) Bill 2009 which imposes a levy upon sponsors of joint replacement prostheses in order to recover the costs of maintaining the National Joint Replacement Register (NJRR).

Extended family policies

The 18 to 24 age group has relatively low participation in private health insurance. Private health insurers developed extended family policies to encourage 18-24 year olds to continue their health cover into adulthood. Under the Private Health Insurance Complying Product Rules 2008 (No 3), transitional arrangements were made to allow these extended family policies to continue until 31 December 2009.

The Bill will amend the Private Health Insurance Act 2007 to allow insurers to permanently offer extended family insurance policies.

While premiums on an extended dependent family policy can be more than other family policies covering just younger children and older students, most importantly, the overall cost should nonetheless be lower than if such young adults had to take out their own separate policy.

This will make it more attractive for people aged under 25 to remain in private health insurance.

This is a win-win amendment. It is a win for the private health industry as it will be able continue to offer an attractive product for families and young adults, and it is a win for many families who will be able to save money by utilising extended dependent private health insurance policies.

The Bill also amends the Age Discrimination Act 2004 to provide an exemption from any unlawful
age discrimination under that Act which may arise from allowing a higher premium to be set for policies that include ‘dependent child non-students’.

National Joint Replacement Register Levy

A new cost recovery Act to fund the National Joint Replacement Register has been proposed and will commence on 1 July 2009 or, if later, the day of Royal Assent. The Bill includes consequential amendments related to the National Joint Replacement Registry Levy, with respect to the administration of the levy.

Debate (on motion by Senator Ludwig) adjourned.

COMMITTEES

Economics References Committee Reference

Senator MILNE (Tasmania) (10.15 am)—I move:

That the following matters be referred to the Economics References Committee for inquiry and report by 31 March 2010:

(a) a reconsideration of the committee’s findings in relation to Australia’s Mandatory Last Resort Home Warranty Insurance Scheme, in light of:

(i) the 2008 Federal Ombudsman’s report that demonstrated that last resort home warranty insurance is the worst performing insurance in the nation,

(ii) the Essential Services Commission’s review of the Victorian Domestic Insurance Scheme which demonstrates that there is virtually no benefit to anyone other than the insurers and their brokers of this insurance product,

(iii) evidence to these inquiries which demonstrate that the Senate’s conclusions were based on information now shown to be wrong, including the fact that the Senate estimated that less than 10 per cent of builders provided securities whereas 44 per cent of those in Victoria have done so since 2002,

(iv) the lack of competition in the market which is now down to three insurers, and

(v) the questionable legality of the deeds of indemnity, bank guarantees and securities demanded by insurers as a condition of eligibility for warranty insurance;

(b) any reforms which may lead to appropriate consumer and builder protection and improved housing affordability; and

(c) any related matters.

I am at a loss to understand why the government and opposition, as has been indicated to me by both of them, will not support this motion of reference back to the Senate Economics References Committee for a one-day hearing to reconvene the inquiry we held in order to review the evidence and the conclusions the committee made previously. I find it extraordinary because of what I am now going to put on the record. Something is about to happen, and when it happens I do not want to hear from the government or any member of the coalition that they did not know it was going to happen. I do not want to see them wringing their hands. We are aware that by the end of November, CGU insurers and, by the end of December, Lumley Insurance will have withdrawn from the market for builders warranty insurance. That means that by the end of December, 25 to 30 per cent of Australia’s builders are going to be in dire straits.

Those builders are going to be in dire straits because the law says there has to be mandatory last resort home warranty insurance. The law says it has to be in place or they cannot build. But they will not be able to adhere to the law because they have no more securities to offer. They have already provided securities to Vero and QBE insurers, who were the only two major players left in the market. The builders already have securities with them. They have no more to
offer, so they will not be able to build. They will either go broke or have to build illegally. Twenty-five to 30 per cent of Australia’s builders are going to be in this position by the end of the year and both the government and the coalition know it but will not act on it.

What is going on here? There have been 38 inquiries into last resort home warranty insurance since 2002 and every one of them hears the same evidence. Parliamentary inquiries, one after the other, have been told that this insurance product is worthless. Tasmania has finally abolished it and that is a good thing. Every one of these inquiries hears that the best way of managing this is the Queensland system. Everybody knows that, and yet every time these committees report they are immediately swayed by the Housing Industry Association and by Vero Insurance and suddenly they go to water. It is time we heard why governments go to water so profoundly in the face of lobbying from these insurance companies.

So I want this inquiry reconvened because at the end of the year builders are going to be in dire straits and either will be forced into noncompliance with the law or will go broke. The other reason why it is critical we deal with it is that I believe the evidence given to the committee was either misleading or misleading by omission. We had a lot of allegations about just how profitable this insurance is to the insurers and what a worthless product it is to the consumers. We heard that over and over again. But along came the insurance companies saying, ‘No, no, that is not the case.’ Since the Senate economics committee reported on this, we have had the Victorian Essential Services Commission report. That report used New South Wales builders warranty insurance templates and, on page 36 of the report, it is stated that the total number of claims paid between 2002 and 2008 was only 273. In that six-year period the total payout to consumers was only $9 million or thereabouts. But the total payout from premiums received each quarter from December 2005 to June 2008 was $10 ½ million. In other words, the insurance companies have taken more in three months than the total paid out over the full six years.

That is a good business to be in, isn’t it. You earn more in three months than you pay out in six years. But it was not just the Essential Services Commission report that has come out since the Senate report. We have also had the insurance ombudsman’s report, and it makes very clear that evidence being given by organisations like the Builders Collective of Australia was true and that evidence being given by the insurance companies was not. In the ombudsman’s report, in terms of commercial lines of insurance, it states that the highest rate of rejected claims, running at 45 per cent, was found in relation to builders warranty. If you have a look at the others, you find that it is a very small number. So look at the profitability and look at the number of claims that have been rejected and ask yourself: why is this product mandatory?

I simply do not understand it because, as we know, it has not been used. It has not been used when there have been collapses such as the Beechwood collapse in New South Wales and the Gumleaf Construction collapse in Victoria. If it is effective in providing redress when you have major collapses, why was it bypassed in those cases? The government has argued previously that it has to be mandatory. My argument is that if it was worth anything then people would go and source this insurance product. In the end, even the HIA was embarrassed into saying that they thought it would be all right if this product were made voluntary. But no, the government insists that it remains a mandatory product.
I think we have to look at who is benefitting. The overwhelming beneficiaries are Vero Insurance and QBE, with Vero being the dominant player in the market. There have been 38 inquiries which, time after time, keep coming up with recommendations that benefit this particular insurance company. I ask the government to explain when they stand up to respond to this what the level is of Australian Labor Party investment in Suncorp-Metway, which owns Vero Insurance. I think the community has a right to know the answer to that question. Builders around Australia are asking that question. Consumer groups—Choice magazine—quite rightly called this junk insurance. At least the Tasmanian government found it to be worthless and abolished it. We should be moving to a much better regime of consumer protection than this offers, but it is rolled every time. I simply do not understand why, when clear evidence is presented, governments cannot reach the obvious conclusions. In the last Senate inquiry, there was sufficient evidence to suggest that the recommendations ought to have been that we should have a national approach to this issue of protecting consumers in the face of shoddy building or builders becoming insolvent, dying, disappearing and so on, that we should move to a system based on the Queensland model of home warranty insurance and that the federal government should oversee the design of the scheme and have it implemented through the COAG process. We should have adopted a time frame for that to happen so that the new scheme would come into operation as soon as possible. That has not happened. We do not have a national approach. And guess what has happened: we now have yet more inquiries announced with, as I see in media reports, a new inquiry being announced in Victoria. That was announced on 17 September this year as a result of the Victorian Essential Services Commission report.

The first thing that should happen is that the federal government should immediately move to abolish this, come up with a uniform scheme and have it delivered through COAG. Secondly, we should be making sure that the product which exists at the moment is not mandatory. If it is any good, it will be supported voluntarily. Thirdly, we should make sure that any form of home warranty insurance is included in the National Claims and Policies Database so that there is transparency about the performance of the insurance product. Fourthly, we should make sure that, if any loopholes remain in Commonwealth regulation or legislation, such that home warranty insurance is exempted in any way from oversight by APRA, the ACCC or ASIC, that legislation or regulation should be amended immediately to close the loophole.

The last time the Senate Economics References Committee inquired into this issue, it heard evidence from insurers which seemed to contradict other evidence that they were making great profits and that they had a poor-performing insurance product. Now, however, with the insurance industry ombudsman’s report making it perfectly clear it is the worst-performing product in the nation—45 per cent of claims rejected—and with the Victorian Essential Services Commission report showing that, each quarter, these insurers are making more than they have paid out in the whole period, you really have to ask, ‘Is the Senate going to stand for people coming before it who know all this and who, when they are asked, keep quiet about it in order that their product at the expense of builders continues to be supported by being kept mandatory?’

Going back to the issue of builders, we have a situation now with securities and indemnities. This was brought up in the last inquiry. The way that the insurance companies were requiring builders to provide unlimited bank guarantees and various kinds
of deeds of indemnity that lock in builders and preclude them from being able to change insurers was made very clear. You have to ask, ‘How is it possible that you can offer an insurance product and then require the person seeking insurance to put up some surety against it?’ That is virtually asking the person seeking the insurance to become the reinsurer. I cannot believe that is legal. It has got to the point now where builders are so desperate and worried about what is going to happen to them by the end of the year that they have gone to court to try to establish whether it has been legal for these insurance companies to require them to put up securities and deeds of indemnity such that they are now stuck in a situation where they cannot meet the law and are likely to go broke because they have been forced to reinsure.

These insurance companies are taking virtually no risk here. They get the premium. They have the reinsurance capacity so that, if anything goes wrong, they can get it back from the builders concerned. How fair is that? When you take out any other form of insurance, the insurance company does not come back and require you to put your house up as surety against that insurance. The premium reflects the level of risk. That is what you do for life insurance, house insurance, car insurance or anything else. If you are an at-risk applicant for insurance, you will pay a premium.

As we said when we talked in this place about sea level rise around the coast, the issue is—as I have warned for years—that there will come a point, and there already is a point, when insurance companies will say that if you are at risk or have damage as a result of an action of the sea, you are not covered. That is why thousands of people around Australia are not covered by the insurance that they think they have got. This matter has been referred to the Law Reform Commission, because as damage starts to occur to houses around the coast and people find that they are not insured, they are going to find themselves in a position where they do not have the money to even demolish the house they have got—let alone get the insurance to build a new one.

The other situation is that local governments are giving out planning permission to build in areas that are vulnerable. Ultimately, insurers will not pay and the only option people will have is to sue the local council for allowing them build in the first place. I ask: why is it that these insurance companies have been able to force builders to be the reinsurers to guarantee maximum profits to Vero—which is owned by Suncorp Metway? Suncorp Metway has a substantial investment from the Labor Party. I am really looking forward to hearing the government telling us how much the ALP have got invested in this company. I will be delighted to hear if they no longer have an investment in that company. That will clear up one issue that I have in relation to findings that are always coming down from governments from one end of the country to the other.

I simply cannot understand why this parliament would not agree to reconvene the inquiry for a one-day hearing, given what I have just said about builders being in dire straits by Christmas, with 30 per cent of them forced into noncompliance and having to go to court to test the legality of whether the insurance companies actually can force them to become reinsurers. The inquiry would not have to take a whole lot more evidence but, firstly, review the evidence that was given by the insurance companies to see whether their evidence in relation to the percentage of claims that were rejected was true; secondly, look at the profitability, because the claims they made certainly do not match what the insurance ombudsman or the Victorian Essential Services Commission have had to say. I just want to have that evi-
The inquiry should then review the conclusions that the Senate committee reached, which were weak and did nothing to assist the consumer or the builders in this particular circumstance. It should also revisit the issue of whether the product should be mandatory or not. If the federal parliament could move to at least remove the mandatory nature of this product in the next month or two, that would stop these 30 per cent of builders from being forced into a position of noncompliance with the law, while we get things sorted out. That could be done in the course of a single day. That is not a lot for a Senate committee to do. It is about reconvening, examining those issues, getting rid of the mandatory nature of it and checking that this particular insurance product is not exempt from oversight by these financial oversight bodies. It is critical that the committee be able to look at it, because it is not until you get reports from bodies like the Essential Services Commission and the ombudsman that you actually find out what is going on with this product. Once we get rid of the mandatory nature, then we can move quickly into next year to start looking for a harmonised system of consumer protection across Australia. Getting rid of it in the short term would help the 25 to 30 per cent of builders who are in trouble right now.

I am not asking for a comprehensive inquiry. We have had the inquiry. I am asking for an assessment of whether evidence given to the inquiry was true, whether the conclusions were valid, whether the claims being made now are true—that 25 to 30 per cent of builders are going to be noncompliant by Christmas because CGU and Lumley, plus the one other that is in the market, will have withdrawn and we will be left with only Vero and QBE, and those builders will be unable to get security.

We have had a lot of talk in this place about how people support small business. Oh yes, they support small business. If you do not support this reference you are not supporting small business in Australia; you are undermining it. Many of these builders are small to medium sized builders, and many of the companies that are contracted to them are also small to medium sized contracted businesses. You are putting the whole construction industry at risk by not re-examining this. This is not just my assertion; this is factual. This is also the claim of the insurance industry ombudsman and the Essential Services Commission from Victoria. Reject it if you choose to, but understand the ramifications. When this happens at Christmas time, come out and admit that you are the people who knowingly allowed it to happen. I urge the Senate to reconsider.

Senator HURLEY (South Australia) (10.35 am)—The government is aware of concerns about builders home warranty insurance and sympathises with the frustration that has caused some consumers and builders to make representations. The Senate Standing Committee on Economics recently held an inquiry into builders home warranty insurance, and that inquiry did hear all of the concerns that Senator Milne has raised this morning. We understand that the government is considering its response to the Senate inquiry into the mandatory last resort home warranty insurance scheme and will table its response soon.

The Senate inquiry reported on 13 November last year. Its main recommendation was that COAG and the Ministerial Council on Consumer Affairs pursue a nationally harmonised scheme of consumer protection in domestic building. That recommendation is already in place as a result of the inquiry last year.
In the meantime the government gained the agreement of the states and territories at the Ministerial Council on Consumer Affairs meeting in May this year to review consumer protection measures in the building industry, following the Commonwealth placing it on the meeting agenda. That ministerial council noted the findings of the Senate inquiry’s report, and it has already agreed to refer this matter to the Standing Committee of Officials of Consumer Affairs to consider as part of the review of the harmonisation of conduct provisions for the national licensing system. Establishment of a national trade licensing system is identified as a priority within the national partnership agreement to deliver a seamless national economy between the Commonwealth and the states and territories. This agreement forms part of the broader Council of Australian Governments reform agenda. Additionally, the ministerial council has agreed to place builders home warranty insurance on its strategic agenda.

State and territory governments are responsible for regulating builders home warranty insurance. Senator Milne asked for the Economics References Committee to do a one-day hearing and then, as she said, get rid of it in the short term; but that is not a possibility. The Commonwealth does not have responsibility. The economics committee certainly does not have responsibility for those laws and regulations, and it is unable to put such a thing in place before Christmas. Having the Senate committee revisit its inquiry in which all of these issues were raised will not produce Senator Milne’s desired action before Christmas.

Action has already been undertaken by the government to have this reviewed by the state governments, who are, after all, responsible for laws and regulations in this area. Therefore, the ministerial council is the most appropriate body to pursue the issues further, as it includes representatives of state and territory governments. This process will enable insurance arrangements to be considered in conjunction with broader aspects of the building industry, including licensing requirements and dispute resolution mechanisms. The Senate inquiry included those two issues specifically as something that had to be considered in conjunction with insurance. The government considers it is essential that insurance be considered in this broader context as well.

The government is also closely monitoring developments following the recent decisions of both Lumley General and CGU Insurance Ltd to withdraw from the home warranty insurance market. In its role of monitoring the implementation of the General Insurance Code of Practice, the Financial Ombudsman Service published statistics provided by insurers about insurance claims, including builders warranty claims. As part of the process of responding to the Senate inquiry, the government is considering options to address issues associated with the lack of access for homeowners to effective dispute resolution schemes, as well as a lack of homeowner understanding about the product. So the government has put in place motions.

Senator Milne raised questions about the Labor Party’s role in Suncorp. I have no knowledge of Labor Party involvement in Suncorp. But I would point out that it was a Tasmanian Labor government that abolished mandatory home warranty insurance. The Queensland government—and, as I understand it, Suncorp is based in Queensland—runs its own very good government insurance warranty. We had no complaints from either South Australia or Western Australia. This is principally an issue for Victoria and New South Wales governments. Our Senate inquiry found that the New South Wales government is undertaking significant reform in this area. As chair of the economics com-
mittee during the inquiry, I did not see that there was any basis to suspect that there was any Labor government involvement in Sun-corp.

So, as chair of the economics committee, I see no benefit in doing an additional inquiry, whether it is one day or 10 days. The frustrations were in evidence. We understood the frustrations. We understood the issues. We made strong recommendations, which the government has commenced dealing with. I think that there would be no benefit—beyond what the government is doing—in pursuing another inquiry. I think it would be basically a waste of time.

Senator XENOPHON (South Australia) (10.42 am)—I indicate my support for Senator Milne’s motion. I think it is a very worthy motion and it deserves support. I would like to discuss both the merits and the issue of process as well.

In relation to the merits of having another inquiry, I would like to say a few things. Senator Hurley says that the Commonwealth does not have responsibility for home warranty insurance—and that is correct. The Commonwealth does not have responsibility for home warranty insurance at this time. But what is clear from the High Court’s decision in Work Choices is that the sphere of Commonwealth power and the extent to which the Commonwealth can be involved in issues previously thought to be the purview or the jurisdiction of the states is quite extensive by virtue of using the corporations powers, and other powers in the Constitution. I think that, if the Commonwealth wants to have responsibility in relation to this very important issue, it ought to. I believe that in terms of state schemes there has not been a seamless national approach to home warranty insurance. It has been a mishmash and a fiasco in terms of the way it has operated in various states. I note the move of the Tasmanian government to abolish the scheme, to go it alone, in a sense, with respect to this.

I think it is relevant to take into account the whole issue of what has occurred in the last 12 months since the inquiry of the Senate Standing Committee on Economics into home warranty insurance. There have been developments. The 2008 federal Ombudsman’s report demonstrated that home warranty insurance is the worst performing insurance in the nation. The recent review of the Essential Services Commission in Victoria demonstrated that this scheme is fundamentally flawed. An article from insurancenews.com.au of 21 September this year states:

The Victorian Essential Services Commission has released the latest report into the controversial privatised last resort system, which once again reveals a massive disparity between the number of claims submitted and those paid by insurers. The Victorian report reveals insurers have accepted just 273 claims from 1363 received between 2002-08, for a total outlay of $10.23 million. It’s a profitable line of business, with insurers earning around $7 million in premium each quarter.

Senator Milne—It’s outrageous.

Senator XENOPHON—Senator Milne says, ‘Outrageous,’ and she is absolutely right. That is price gouging. Not only are you being ripped off on price but also you are being ripped off on service in terms of what is being covered by this form of insurance. The article in insurancenews.com.au goes on to say:

Judging by the report, the product is clearly failing to meet consumer expectations. That’s having a negative effect on the industry via a stream of critical reports in the daily media.

Madam Acting Deputy President Hurley, it was not so long ago that we were both in the South Australian parliament when HIH collapsed. I remember that I was involved with a group of HIH victims dealing with their
frustration with the system. The then Liberal government eventually moved to provide support for those families, but it was a very difficult time for them. The delay caused a lot of angst and a lot of heartache for those people while they were waiting to see whether they were covered.

I think it indicates that we need a national, seamless scheme with consistency of purpose and consistency of service—a scheme that actually does what it is meant to do in terms of home warranty insurance. I believe there is a lot of merit in Senator Milne’s motion on the whole issue of the process. I note, Madam Acting Deputy President, in your role as Chair of the Standing Committee on Economics, you quite rightly pointed out that a comprehensive report was prepared last year and I commend the committee on the work done. I was not that involved in it—I think it was in my first few months as a member of the committee—but things have changed since that time. There have been a number of developments that indicate a need for a further review of this matter and I believe, as does Senator Milne, that we can deal with this in the course of the day. I know how busy both the Economics References Committee and the Economics Legislation Committee are, but I have confidence that we can build on the work done previously to review the recent developments and that we can at least push the agenda forward. There are many consumers around the country who have been affected by a building company collapsing and, by their having to go through the trauma of trying to claim through a very inadequately administered scheme, some good can come out of the Senate committee process.

I urge my colleagues in the coalition to consider supporting this motion. It might involve an extra day’s hearing to advance the debate. I think it is inevitable there will eventually be a national scheme for home warranty insurance. When you consider the figures and what the Victorian Essential Services Commission said about the extraordinary profits made—the gouging, as Senator Milne says, and I agree with her—these are way out of kilter with anything that the insurance industry is making from general insurance. This shows there is something wrong. I am not against people making a decent profit from their businesses, but this goes beyond that. It is a case of price gouging; it is a case of very poor service. I urge my colleagues to support Senator Milne’s motion. I also urge Senator Milne, in the event that it is defeated today, to keep pushing this issue because I think reform is needed. I also believe the Economics References Committee can play a useful role in advancing an informed debate in relation to the reforms that are needed for this industry.

Senator MILNE (Tasmania) (10.48 am)—I take it that the coalition is not even going to speak to this motion. It is very interesting that members of the coalition are not going to speak because it is they who run around saying they support small business. So let them explain to the builders, their suppliers and companies in November and December this year why they refused to bring this matter to a head in a time frame that would have allowed the federal government to take some action to save builders from being put in a position of building in a non-compliant way under the law or else going broke.

I want to address some of the issues that people have raised. I heard the Chair of the Standing Committee on Economics, Senator Hurley, saying that the matter has been referred to the standing committee of officials at COAG and that it is now on its strategic agenda. I am sure that the builders around Australia are enormously relieved to know it is on the strategic agenda! Things are on that strategic agenda for a decade and never get
beyond the strategic agenda. COAG is the biggest black hole for inaction. If you want to make sure nothing happens, then you leave it to COAG, but if the Commonwealth decides to drive something at COAG it can do it.

It is a question of political will. If it is left to the states nothing will happen. The Commonwealth needs to drive it. Of course, it needs to be done through COAG and the ministerial council, because that is the mechanism through which the federal government relates to the states. But it should be driven by the Commonwealth and there should be the political will to do it. To say it is not possible for anything to be done before Christmas is saying that it is not possible to save 25 per cent to 30 per cent of Australia’s builders from being in dire circumstances before Christmas. This is the national parliament. This is what we are supposed to be doing. We are supposed to be looking out for the interests of people.

We have Tasmanian dairy farmers in complete chaos because of what National Foods has done. The Commonwealth has no direct power to do anything about that, yet everyone is quite rightly rushing around trying to do something. You would expect parliamentarians to support people who are in dire straits. So why isn’t the government prepared to put its shoulder to the wheel and help builders right now when it has the power to do something about it by driving it through COAG and the ministerial council? I have heard it said that the government is closely monitoring the situation with Lumley Insurance and CGU pulling out. What does ‘closely monitoring the situation’ mean? Who is closely monitoring the situation? To what end is it monitoring the situation? What is being done to assess the fact that the securities that have already been offered cannot be transferred? That is the issue for these builders, because when those two companies pull out there will be no more securities to provide because the ones that have already been provided to Vero, QBE and other companies are not transferable. What are they supposed to do?

What is the government doing? It says it is monitoring the situation. The minister did not tell me what that means. It is like in *Oliver Twist*: ‘I am monitoring the situation.’ Very good. I am glad they are monitoring the situation! But what is monitoring of the situation actually doing about the situation? This is the sort of thing that people in the community cannot stand: bureaucratic gobbledygook for monitoring a situation. I hope Senator Abetz can tell me what monitoring the situation means since he is not prepared to support the builders on this occasion. I would like him to tell us why he is so comfortable about the fact that the federal government is monitoring the situation. Very good. Let us see what the builders think the government’s close monitoring of the situation is doing.

The New South Wales government is about to engage in significant reform. Nobody could seriously believe that the New South Wales government is capable of engaging in significant reform, and I cannot believe the coalition would think the New South Wales government was capable of engaging in significant reform. It needs to significantly reform itself before it can significantly reform anything else in the New South Wales economy. Frankly, people have lost all confidence in the New South Wales government being able to administer things in a way that is not in many ways questionable. Whilst we have the New South Wales government reviewing the situation—no doubt, closely monitoring the situation, again; no doubt, looking into it, again, being yet another government of mirrors looking into things—we have the Commonwealth, the chair of the Senate estimates committee and
of the Senate Standing Committee on Economics and the federal parliament saying that there is no benefit in an additional inquiry, that it would be a waste of time.

I hope every builder in Australia knows that as far as the Labor Party, the Liberal Party and the National Party are concerned it is a waste of time to consider the fact that 25 to 30 per cent of Australia’s builders are going to either be carrying on their businesses illegally by Christmas or be out of business by Christmas, and the fact that they have to raise money to go to court in order to try and get some judgment about whether these companies can force them to be their own reinsurers. This is a ludicrous situation and it just cannot be allowed to continue. I really am appalled that we have a situation where the federal parliament is prepared to abrogate its responsibilities in this regard to a group of people who are the backbone of the government’s stimulus package. All this money is being spent on building and construction around the country, supposedly to keep people in work, in the face of the global financial crisis and we have a ridiculous, last resort, mandatory home warranty insurance scheme putting people out of work. This is a classic case of the government failing to look at the consequences of its action: pouring money in and then letting builders build illegally. That is the situation we have at the moment. Worse still, it is forcing them to put up their own deeds of indemnity and their own bank guarantees to get insurance so that they continue to carry on their businesses.

I thank Senator Xenophon for his support for recognising what is clearly in the figures from the Essential Services Commission of Victoria and the insurance ombudsman, which pointed out that this is a very, very poor insurance product—45 per cent of claims rejected—and that what is going on with these insurance companies is price gouging. There is no-one who could justify the fact that the total value of the claims between 2002 and 2008 was $10.23 million yet at the same time the average premium income was $6.9 million a quarter since December 2005. How can you possibly justify that? So few claims have been paid out. In the course of the inquiry we discovered the reason for that. It is very difficult to prove that a builder has become insolvent and the insurance company just says, ‘No, they remain solvent.’ Then you have to take another legal route to try and prove anything to the contrary.

This is a disaster for Australian builders and for communities, and we desperately need a standardised system around Australia of consumer protection. Tasmania started the ball rolling. This should be a two-stage process. Instead of just monitoring the situation, the government should be moving now to call an emergency meeting to make sure we abandon the mandatory nature of this before Christmas, so that the builders can build legally and then, instead of putting it on the strategic agenda for some consideration years down the track, move rapidly to get it quickly onto the national radar so that we can roll out a system similar to the one in place in Queensland.

I want to express my thanks to Senator Xenophon and my disgust at the government and the coalition for their lack of care and responsibility for builders in Australia—

Senator Xenophon—Consumers.

Senator MILNE—Yes, builders and consumers. I congratulate the Builders Collective and the work they have been doing for years and years to bring to the attention of the parliament the reality of what is going on with this junk insurance. The community already knows it because consumers are suffering. Choice called it junk insurance, quite rightly. Tasmania responded and the rest of the country is lagging behind in response. I
really urge the coalition to reconsider its position, because I can see chaos in the building industry ensuing by Christmas. I do not know when the Builders Collective court case will get into court. But why should a consumer advocacy group have to get to the situation of taking this matter of whether reinsurance is legal to court in order to continue their business?

For the life of me, I cannot understand why a parliament is so careless about such a significant group of people, a significant number of businesses and the whole consumer public when it comes to the issue of constructing your own home. For most families who get to the point of building their own home it is the major asset in their life. It is a failure of leadership by the Australian parliament to be so careless about this consideration in reassessing the validity of these schemes, the price gouging of companies like Vero and the failure of this insurance product.

Senator EGGLESTON (Western Australia) (11.00 am)—There is no doubt that home warranty insurance is a very serious matter in which there is room for a great deal of improvement. The facts of the matter are that there are different regimes around this country and consumers, except in Queensland and the ACT, in fact get very little protection from their home warranty insurance even though they think it means that if something goes wrong with the construction of their building then they will be indemnified and the necessary repairs will be made.

As Senator Milne said, I think, there have been 38 inquiries into this matter. So one must conclude that all the relevant facts are known about this issue of home warranty insurance and how inadequate it is in, as I said, all places except perhaps Queensland and the ACT. There are certainly a lot of issues of consumer protection that need to be addressed. However, the coalition does not believe that a further hearing will lead to more relevant or substantially different knowledge about the state of affairs in home warranty insurance than what has already been revealed through the very long inquiry into this matter by the Senate Standing Committee on Economics.

The coalition believes that the time has come for the question of home warranty insurance to be referred to COAG so that common legislation can be developed which will apply across Australia and give protection to people building homes across this country. I think that, Senator Milne, is what we should do from this point on. There should be a common agreement to refer this to COAG for the COAG process to come up with, as I said, legislation which would apply across the country and provide adequate protection to people building houses anywhere in Australia.

There is no doubt that Senator Milne is quite right: it is a scandal that home warranty insurance has the flaws that it does. Home warranty insurance is in fact quite fraudulent. People are taken in by it and consumers are put at risk. But it is not really a federal matter; it is a matter for the states, and the best outcome would be to refer this to COAG for the COAG process to deal with it.

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

The Senate divided. [11.08 am]
(The Acting Deputy President—Senator A Hurley)

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Thursday, 29 October 2009

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

Hanson-Young, S.C.
Milne, C.
Xenophon, N.

NOES
Adams, J.*
Bilyk, C.L.
Cameron, D.N.
Conroy, S.M.
Eggleston, A.
Ferguson, A.B.
Furner, M.L.
Hutchins, S.P.
Kroger, H.
Marshall, G.
Nash, F.
Payne, M.A.
Pratt, L.C.
Stephens, U.
Troeth, J.M.
Williams, J.R.

Bernardi, C.
Birmingham, S.
Cash, M.C.
Crossin, P.M.
Feeney, D.
Forshaw, M.G.
Hurley, A.
Joyce, B.
Lundy, K.A.
McEwen, A.
Parry, S.
Polley, H.
Ryan, S.M.
Sterle, G.
Trood, R.B.
Wortley, D.

* denotes teller

Question negatived.

Environment, Communications and the Arts References Committee

Report

Senator BIRMINGHAM (South Australia) (11.11 am)—I present the report of the Environment, Communications and the Arts References Committee on forestry and mining operations on the Tiwi Islands, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BIRMINGHAM—by leave—I move:

That the Senate take note of the report.

This is an important inquiry, particularly important for the Tiwi people, for whom it has very direct relevance and impact on their lives. It was referred to the Senate back in December 2008, and it has been a challenging inquiry to undertake, not least because one of the major factors in this, forestry on the Tiwi Islands, has been impacted by the demise of the Great Southern group. This group went into receivership during the course of the inquiry, dramatically changing the outlook for the islands and dramatically changing its impact on the future for forestry operations and how they will be conducted on the islands.

Notwithstanding the difficulties that that presented and the fact that, with that situation, the administrators, regrettably, refused to provide approval for Great Southern or its officials to appear before the committee, I thank all of those who did cooperate during the undertaking of this inquiry, particularly those on the Tiwi Islands, some of the employees of Great Southern who did assist the committee in its visit to the Tiwi Islands, as well as the many people in the communities of the Tiwi who helped us throughout the course of the inquiry. I also acknowledge the great work of the secretariat and of my fellow committee members in the undertaking of this inquiry.

It is important to think about forestry and mining on the Tiwi Islands in the context of economic activity in Indigenous areas. I thought we had outstanding evidence given to us by some members of the Tiwi Land Council in highlighting the importance of such economic activity. I want to take a quote that has been printed in the report and highlight it to the Senate. Mr Marius Puruntatameri, of the Tiwi Land Council, stated:

... the fundamental thing of having developments on our land is to do away with handouts from the government, to create employment for our people. That is the key issue of creating business on our land, which is important to us because we cannot rely on the government to give us handout money all the time.

Those sentiments are indeed welcome and they highlight the importance of such work, such development, on Indigenous lands and of giving every opportunity to such developments to succeed into the future.
The committee looked at the range of opportunities that exist for Tiwi people not only in the areas of forestry and mining but also in their businesses in tourism, sport and aquaculture—and hopefully they can succeed and further grow in all of those other areas of activity. The committee certainly encourages all of those involved with the Tiwi to look to continue to grow economic activity on the island and to ensure that it advances the wealth and opportunities of the Tiwi people.

Obviously, as I flagged, the demise of Great Southern was particularly significant during the course of this inquiry. Forestry has a long history on the Tiwi Islands. It has gone through several guises of ownership and progress, with Great Southern being the latest private sector partner to be working with the Tiwi Land Council and the people of the Tiwi Islands in the forestry operations. The committee is, of course, upset at the fact that the demise poses challenges for the Tiwi people. We also noted throughout the inquiry concerns that existed from many people who were either opposed to forestry outright—Tiwi people who were opposed to forestry—or confused or concerned about the benefits flowing from it. Jobs have flowed from it and revenue has flowed from it, but certainly not to the extent that many Tiwi people had hoped or expected. Those expectations have certainly been struck down as a result of some of the management and perhaps some of the building up of false expectations in the first place about these issues.

The committee heard evidence about the structures of the business entities that operate on the Tiwi Islands and work with companies like Great Southern in these projects. It seems that there is a level of confusion about how those entities operate in terms of the types of commercial arrangements they enter into and how those commercial arrangements will or will not directly impact on Tiwi people. We have made very clear recommenda-

tions and have said that we believe new communications strategies need to be put in place to ensure that Tiwi people are fully informed and understand what is happening in terms of development on their land and what benefits will flow from such development. Equally, we encourage all of those business entities to operate in the most efficient and transparent manner possible.

Looking forward, we face the situation where nearly 30,000 hectares of land have been cleared and trees have been planted. Forestry is happening on the island. This is a reality that the committee acknowledged. There is no point going back and arguing over decisions that have been made. Those trees are there and they are growing. What is important is to make this work for the Tiwi people. It may be that in the future there will be opportunities to rehabilitate that land. That is an option for the longer term. But, in the short term, the truth is that somehow the Tiwi people are going to need to be given support or engage support to manage these forestry operations and to at least see the responsible harvesting of the current crop of trees, if not the replanting of future crops of trees, on that land.

We recognised that McGrathNichol, the administrators of Great Southern Limited, have indicated that they have withdrawn funding and resources for the plantation. In withdrawing that funding it seems as if that land now essentially reverts back to Tiwi Island ownership—to the Tiwi Land Council. There is an opportunity inherent in that, and that is of course that they now have inherited—in essence, at no cost to them—a plantation industry that has been cleared and planted. But the challenge for them will be finding the markets for those plantations and caring for those trees in the remaining years before harvesting can begin—and, of course, ensuring they have the skills base there to do so. Caring for the trees involves making sure
that the trees do not spread into the native forest areas of the island and making sure that threats from fires and cyclones are minimised. A massive challenge that exists for them is in relation to infrastructure following the collapse of the wharf facilities at Tiwi Island in the last few years, which will make exporting of woodchips from the island particularly difficult.

The committee has recommended that the federal and Northern Territory governments work closely with the Tiwi Land Council and Tiwi islanders and the relevant business entities to undertake an urgent assessment of the ongoing economic viability of the forests—to make sure that we know whether or not those forests are going to be viable into the future and whether those trees should be replanted when they are ultimately harvested; to assist in the preparation of a business model for whatever situation proves to be economically viable and put in place that model that will help the Tiwi people achieve success; and, if need be, to ensure that these are successful ventures for the Tiwi people that deliver jobs and income for them, to consider providing infrastructure support for them.

Personally, I hope that the Tiwi people can overcome the many difficulties that they face in dealing with this forestry situation that they now inherit and make it work for them into the future. Those who seek to develop jobs, opportunities and industry on Indigenous lands often do so against a backdrop of difficulties and, indeed, in some case, prejudices that do not make it easy to do so. I suspect that sometimes the collective ownership structures in these cases equally make it hard to develop unifying projects when, like any community, Indigenous communities will have quite divided areas. I acknowledge that there were some issues raised with us about the management of the Tiwi Land Council—and I am sure that Senator Crossin will address a number of those in her comments. The committee has highlighted some of those concerns, particularly in relation to the representation of women on the land council.

I hope that the federal government and the Northern Territory government will look at this report and will heed our advice that they need to work with the Tiwi people and provide them with the support and the opportunity to make sure that these income-earning opportunities are maximised for the Tiwi people into the years ahead. I commend the report to the Senate.

**Senator CROSSIN** (Northern Territory) (11.21 am)—People will have the opportunity to read the report of the Senate Environment, Communications and the Arts References Committee on forestry and mining operations on the Tiwi Islands, as it is tabled today, and I would urge people to have a look at the commentary throughout this report and not necessarily the recommendations. I will begin by saying that economic development activity in remote Aboriginal communities is difficult at the best of times. There is always, I suppose, a measure of judgment about whether you are in it for a long-term gain or a short-term gain, whether it is going to have wings—whether it is going to fly—and what can best be set up and developed to maximise beneficial returns to the Indigenous people on whose land this activity occurs.

People, particularly in the Northern Territory, will know of the very chequered history of the development of this forestry on the Tiwi Islands. It goes back many, many years. Some would believe that it originated with the previous CLP government, but forestry on the islands commenced many decades before that and was picked up again under Paul Everingham with the establishment of Sylvatech. Nevertheless, what we find in this report is an attempt by the Senate to lay out
quite succinctly the history, the problems, the negatives and the positives of the forestry program and also some facts and figures about what has been realised in the development of this industry on the islands.

There are many interwoven layers of this report that go to whether or not people acted in the best interests and whether or not people were actually not aware of what this forestry project would mean at the end of the day. Of course, halfway through the inquiry we saw the collapse of Great Southern, which went into liquidation. That put the whole situation of forestry on the islands completely up in the air and made it very difficult for this committee to come to any firm conclusions about the future of this project, because at the time of deliberating on this report no-one quite knew what the future of Great Southern was going to be.

It has been a difficult inquiry to conduct because there was always this moving feast from week to week. You will read in the report that, although Great Southern provided us with a submission before they went into liquidation, we were never able to question Great Southern or the liquidators or any people connected with that company once it went into liquidation. So we have a written submission which is incredibly out of date now and essentially irrelevant because it illustrates the views of a company that believed it was not going to be in the situation that it is now. Of course, things have totally changed.

By and large, I do not think, for my part, that the Tiwi Islanders ever realised that what they were doing was simply leasing their land for use. I think they always believed that they were going to get substantial benefits from the forestry operations. At the end of the day, those benefits really have not been realised for these people. We know there has been a $600,000 loss in a number of original shipments of the red gum eucalypt that was cut down. There has been some controversy about why you would cut down good eucalypt trees and replace them with woodchipping trees. You will see in the report that there is controversy about whether there is a future market for chipping or whether the market in South-East Asia is actually saturated. It will be very difficult to sell off this product now.

At the end of the day we have 28 people on the Tiwi Islands employed on this project. That is not a very significant number. Most of those people are in the marine and horticulture ranger area, which I think that the Commonwealth department of environment should now pick up. During the course of Great Southern’s operations, they breached the environmental conditions. As a result of that, they had to make a $1 million payment, which was taken by the federal department of the environment. The federal department of the environment now has that $1 million. One of the ways in which the area that has been destroyed by forestry could be rehabilitated is by handing that money over to employ those 28 people to continue as rangers and to undertake the job of rehabilitating the forests, and I would urge them to do that. That is one way forward on that one particular aspect. Essentially, the landholders get about $20 per hectare per year. All-up in 2007-08 the total payment to the Tiwi Islanders was only $467,000—less than half a million dollars. Now with the collapse of Great Southern we are very uncertain about the future of the forestry project there.

Another issue raised in our inquiry was concerns with the Tiwi Land Council. To be honest about it, we need to now actually say there are problems in terms of transparency and decision making. We had an in camera meeting with a couple of dozen women. From memory, there were about 50 women in the room. They wanted the whole session
to be in camera. You have to ask yourself, ‘Why?’ Why were they not confident enough to put the evidence they gave us on the public record? Why is it that they needed to speak to us in camera? Land council minutes are available, but you have to ask particular people to see them. You can only see them; you cannot copy them or take them away. The report outlines a way in which we believe the land council can be more transparent about its decision-making process and in its availability of documents so that people on the islands clearly know how decisions are made, why decisions are made and what benefits or disadvantages there are in particular economic decisions that are taken.

Finally, there is a section in the report about female representation on the land council. The committee have stopped short of making a recommendation about this; however, if you look at the very last paragraph you will see that we urge the federal minister to have a look at the concerns. The concerns are that the constitution of the Tiwi Land Council at this point in time does not proactively suggest that women should be on the land council. In fact, we heard arguments that a very patriarchal, unfriendly system is being promoted. It was suggested that that was the Aboriginal way. I have to say, that is not my experience in the Northern Territory. It is not the way the other three land councils operate. I am at a loss to think why the Tiwi Land Council believe that that is the way they can operate. My personal view is that it is an excuse to exclude women from the decision-making process. Nevertheless, it is an issue that has been raised right through the ages. John Reeves raised it in the review of the Northern Territory land rights act. The lack of women on the Tiwi Land Council has been raised in a number of inquiries and commentary in the past. As I said, the committee stopped short of making a recommendation about this, but I do have to say that I think it is time that the constitution of the Tiwi Land Council was reviewed. I think it is time that the federal minister for Indigenous affairs undertook consultations about the best way forward to ensure that women are represented on the land council.

So what is the future of the Tiwi forestry project? I think it is a very difficult issue. I do not believe there are the skills on the island to maintain the forestry project. Senator Birmingham is right: acres and acres of acacia mangium have been planted and it is likely that the Northern Territory government will declare it to be a weed. A run-off of this weed will happen around the island. There is concern that when these trees are cut down the price that would be obtained for the chips they emulate would be difficult. Some are suggesting there is an $80 million profit there; others are suggesting the market is saturated and that it would be hard to sustain over the long term. There are trees there; they do have to be cut down one way or the other. Whether you replace them with the same will be a decision for the Tiwi islanders. Whether you replace them with eucalypts or whether you spend the money to rehabilitate the natural growth and move on to something else is a matter for the Tiwi islanders. But, having said that, I would be very concerned if the federal government and the Northern Territory government were not heavily involved in doing a risk assessment, a business plan and a future analysis with them. I do not believe that this is up to the land council. The Tiwi islanders are on their own in determining the future of this forestry project. We have now seen it go from good to bad to worse. I seriously have doubts about its economic viability. I have doubts about its long-term employment prospects. If they are going to move forward it needs to be done with both governments. (Time expired)
Senator SIEWERT (Western Australia) (11.31 am)—I too would like to address the Forestry and mining operations on the Tiwi Islands report of the Environment, Communications and the Arts References Committee. It was the Greens that referred this matter in the first place because we were concerned about a number of so-called economic development opportunities and projects that were occurring on the Tiwi Islands, the latest being the plantation project. Since it was referred to the committee, as has been highlighted in the chamber, the project has gone into administration and it is posing very serious questions for the people of the Tiwi Islands and for the Tiwi Land Council. I share Senator Crossin’s concerns about the future of that project and its future viability. The Tiwi Land Council is seeking in the vicinity of $80 million to keep it going before it starts to be harvested in 2013.

A lot of evidence was presented to the committee about the plantation: its environmental management; the breaching of environmental conditions, such as plantations being planted in buffers; the advice of the Northern Territory government on the proposal in the first place not being accepted that there should have been bigger buffers; and recommendations that a national park be put in place to protect some of the ecologically important, highly biodiverse areas on the Tiwi Islands. The questions that hang over the project regarding its environmental management vary significantly. From the evidence received during the inquiry, it appears the trees were planted as a result of a management investment scheme to make the project look good—to maximise profits for the company but not necessarily for the Tiwi islanders. There has also been some heavy government financial support for infrastructure for the project—over $4 million from the ABA fund for the establishment of the wharf. We were not able to ascertain exactly how much government funding has gone into supporting that project. We believe there needs to be a forensic audit of the project and a sale of the native forest logs. A number of submissions indicated concern that one of the reasons driving the establishment of the plantation was the clearing of native forest to replace the highly valuable so-called Red Tiwi timber.

It is unclear from the information that we received—there is contradictory evidence and I highlight that in the Greens minority report—whether there was an almost $610,000 loss to Pirntubula, which is the financial arm of the Tiwi Land Council. That was clarified. It was said there was a loss of expectation and that in fact the loss was to the company Sylvatech. Quite frankly, it is unclear what happened there. It is unclear where the logs went, who bought them, what was paid for them and where that money went—whether it went back to the company or whether any money was received for those logs. There is also a large number of logs sitting on the wharf that are unable to be dealt with because of the collapse of the wharf.

We are concerned that the Tiwi islanders may now have to take on responsibility for a plantation that may not be viable. We very seriously doubt that it will provide the financial returns that the Tiwi islanders were led to believe they would receive. A distribution strategy has not yet been devised on how any harvest royalties that come from the plantation will be divided amongst Tiwi islanders. There was a concern raised with us around the distribution of the money received from rents for the plantation.

The Greens very strongly support development of a sustainable economy on the Tiwi Islands—an economy that supports and embraces the Tiwi way of life, that respects their culture and that manages their land and
water resources for the future. As a result of what we have learnt from this inquiry, we are not convinced that logging and plantation operations on the Tiwi Islands have been sustainable, have made the best of Tiwi's natural resources or have delivered an appropriate level of community benefit. The plantations are there. We certainly do not believe there should be an expansion of the plantations, but we believe help needs to be provided to the Tiwis to make sure that they get the maximum benefit and do not bear the losses in what has turned out to be a very unfortunate circumstance where there was overconfidence in investment and the profitability of the development was inflated, and the Tiwis are now having to bear the consequences of what the administrators say is an unviable operation. In other words, the Tiwi islanders are being asked to take over a failed company. What the administrators are saying is that it is financially unviable. That is of very deep concern to us. The environment of the Tiwi, we believe, has been compromised for what is turning out to be an unsustainable and unviable project.

The evidence to the inquiry leads us to believe that the harvesting and exporting of woodchips from Melville Island may not be profitable in the foreseeable future, as it was predicted to be, and that in the meantime it is very clear that additional capital will be required to undertake plantation management. We therefore believe that, if there is any further investment in this area, it has to be on the basis that you are looking at how to make this operation sustainable, how to maximise the employment of the Tiwi people—because, as Senator Crossin said, very few Tiwi people have actually been employed in these operations to date—how to make sure that the area is sustainable, how the environmental conditions put on the operation of the plantation can be maintained and how the area can be rehabilitated.

We believe that the weight of evidence to the inquiry indicated that the environmental management of the forestry project was flawed from the outset, and we believe that avoidable damage has been caused to the natural environment as a result. We have very strong concerns about ensuring that the existing environmental conditions and requirements of the project are met in light of the fact that at the present time it is unviable and it is unclear where the money will come from. It is reported that upwards of $700,000 a year is required to manage the project. Plus I understand that a significant investment in infrastructure is being asked for to enable the export of the woodchips.

We believe that there are economic alternatives available for the Tiwi. We explored some of those in the committee. For example, we felt very strongly that the carbon economy was such an area. We received evidence from people who are working on the mainland about the role that proper management of the area could play in the carbon economy. We also received evidence of successful involvement in the arts industry. There are very good examples from the Tiwi where they are already actively involved, and we believe that needs to be further explored.

We believe that as a matter of priority the federal government and Northern Territory agencies need to work with the Tiwi Land Council and Tiwi Islanders to undertake an adequately resourced research project to determine the most appropriate process for rehabilitating the plantation area as it is harvested. We need to consider the provision of financial and technical support to ensure the full range of employment and rehabilitation opportunities is explored and that ongoing management of the area is undertaken. That is absolutely critical. The plantation is there. We now need to make sure that it is adequately managed. Otherwise, we will have
an even bigger problem on our hands in the future.

As I said, we need to ensure that all the existing environmental requirements are met. It is unclear now where the $450,000 that was committed to the ongoing range of projects is going to come from. In estimates I did in fact ask about that and it is unclear where that money is coming from, so that needs to be addressed. We need to make sure that the remediation plan to address the environmental damage caused by the breach of the EPBC conditions of the project is available and implemented. We believe there needs to be a full forensic financial inquiry into the logging and plantation operations to uncover the extent to which taxpayers’ money has already been spent on infrastructure and to look at what happened to the native forest logs that were exported, for which there was basically no financial return to Tiwi Islanders. (Time expired)

Senator IAN MACDONALD (Queensland) (11.41 am)—Mr Acting Deputy President, can you indicate just how long is left for this debate?

The ACTING DEPUTY PRESIDENT (Senator Bernardi)—I have just been advised we are in fact out of time.

Senator IAN MACDONALD—I seek leave to continue my remarks later.

Leave granted; debate adjourned. (Quorum formed)

BUSINESS
Consideration of Legislation

Debate resumed from 28 October, on motion by Senator Conroy:

That the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009 is exempt from the order of the Senate of 13 May 2009 relating to the consideration of legislation, enabling consideration of this bill to proceed in accordance with the standing orders.

Senator XENOPHON (South Australia) (11.44 am)—In relation to the motion that is before us, this matter was adjourned last night and that allowed an opportunity to further discuss this matter with the minister. I would like to apologise to Senator Minchin—I have been trying to get on the phone to him this morning but I physically have not been able to, so I have not had an opportunity to speak to him, and that is not through lack of trying but because of other business. But essentially, and I indicated this broadly to Senator Minchin yesterday, I do have some concern about the whole issue of commercial-in-confidence, and I think those are concerns I have expressed to both Senator Conroy and Senator Minchin in terms of how commercial-in-confidence and public immunity claims have been dealt with in the past to prevent the release of information.

We note that the Auditor-General, both for this government and the previous government, was critical of the way commercial-in-confidence was being used. I note Senator Minchin’s arguments in relation to the issue of the relevance of the documents that were referred to—I think 16 pages out of about 884 were released—in relation to that. I believe it has been dealt with in this respect given the statement made yesterday by Senator Conroy about the basis upon which those documents were released, and that is on the record in Hansard. It is fair to say that I do not think it right for the government to say that these documents are completely irrelevant in the context of the structural separation bill, but in the context of the debate they are clearly more relevant in relation to the NBN bill that will be coming up next year.

Following discussions with my colleagues in the Greens, in particular Senators Ludlum and Brown, and Senator Fielding from Family First, I believe the best way forward in
seeking to deal with this longstanding problem is to give notice of motion that there ought to be a reference to the Senate Finance and Public Administration References Committee. That committee should report back on the first day of sitting in 2010. It should consider the process of the release of documents to test whether such documents ought to be protected using the public interest immunity claims. It should also look at the approach used by, for instance, the New South Wales upper house in its processes, and look at whether an independent arbitrator, or indeed the Auditor-General, should look at these documents.

I want to make it clear to the government, publicly as well as privately, that I believe there ought to be reform in terms of the whole issue of commercial-in-confidence documents. There will be debate on the NBN in February, and the whole purpose of this process is to ensure there needs to be fundamental reform with respect to this. The committee will report back by the first sitting day in 2010, and my position is very clear: that governments need to do much better than they have in the past in dealing with commercial-in-confidence claims. In terms of this matter proceeding, my position is to support the government’s motion. We will not, in effect, be able to deal with this until the last two sitting weeks of this year. That does not mean that I am signed up, by any means, to the government’s position. I do, however, think the debate ought to proceed further.

I note Senator Minchin’s general concerns on the whole issue of commercial-in-confidence with respect to this process, and I believe that by the first sitting day next year we will be in a better position to deal with those issues. I note that the minister will be making a statement in relation to the government’s support for this inquiry, as well as the resourcing of that inquiry, and further that the government will fully cooperate with such an inquiry dealing with public interest immunity claims. So that is my position, and I am grateful to the Senate for adjourning this matter last night to allow further discussion.

Senator LUDLAM (Western Australia) (11.49 am)—I will speak very briefly on this motion in relation to the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009. Just before we adjourned last night, Senator Brown put some remarks on the record on the way that commercial-in-confidence information is handled. Whilst recognising, of course, that there are legitimate times when commercial-in-confidence material should not be tabled and put into the public realm, he noted that it is used as a shield by both sides of politics against disclosure of documents that may well be in the public interest.

It is quite a number of months since Senator Minchin originally put this motion on the Notice Paper, and in that time we have consistently maintained that the government’s claims are unacceptable. It is completely unacceptable for the government to say of the entirety of the material produced by the ACCC and by the expert panel in relation to the work done last year and earlier this year: ‘No, you cannot have it. The entire content of those documents is commercial-in-confidence because we run a commercial tender.’ If we run too far down this road, given the pervasive influence of corporations in Australian society, and indeed globally, we wind up with nothing at all in the public domain because everything somehow ends up being tied up in commercial-in-confidence considerations one way or the other.
Last night these two principles finally came into conflict. The documents really had not been tabled. A tiny proportion of the RFP documentation had actually been made available and put into the public domain, and we had to take it on trust from the Minister for Broadband, Communications and the Digital Economy that nothing else was going to be able to be tabled. Against that—the principle of the fact that the Greens do support debate on the Telstra bill before the end of this year—we, similar to Senator Xenophon, have some concerns. We will be putting some amendments to the minister. Those negotiations are ongoing. We look forward to the government’s support for those amendments but we do, in the first instance, believe that it is time that this bill was debated.

I have sat through a year and a half of quite constructive hearings and work done in the Senate Select Committee on the National Broadband Network, and the response from the industry, that this market is dysfunctional and has been so for a period of some time, has actually been pretty overwhelming. This was partly relating to the privatisation of Telstra, which obviously the Greens did not support, and partly relating to the fact that Telstra, as an incumbent, has been in a position for a long time to use and to abuse the dominance it has, both vertically and horizontally, within telecommunications markets. We understand, although we are not party to the negotiations, that Telstra is in negotiations with the government and that those will be ongoing, but we believe that there should be a framework within those negotiations to take place. That is why we believe the Telstra bill should be brought forward for debate before the end of this year.

As I said, Senator Brown spoke last night in some detail about the reason we needed more time to negotiate with the government and to come to an agreement around the issue that it is not really good enough that we simply need to take it on trust that the minister cannot release any further documentation. This is obviously the tip of the iceberg of a much broader issue around the way that corporations are accountable to the parliament and to the public of Australia. I note advice that we received from the Clerk that the motion we are debating today is of direct relevance to the NBN and that there is indirect relevance to the Telstra bill. That, of course, is why the block was put up. We are putting the minister on notice that, before we get to consideration of the substantive NBN bill and the other NBN bill floating around which we have been considering for some time, the order of the Senate stands. I believe that the process we have put in place is long overdue. It is long past time that we had some investigation of commercial-in-confidence claims and other claims which shield documentation and information from disclosure to the public, because there are far better models than are used here in the Senate. Orders for production of documents should be taken seriously and there should be some mechanism for independent review so that we are not simply taking the minister, from whichever side of politics, on trust.

I would like to thank my crossbench colleagues for the constructive way in which they approached the negotiations. I think we have a good outcome. I would like to thank the minister and his staff for the way in which they approached the negotiations as well. Most of all, I look forward to bringing forward the debate on the Telstra bill so that we can actually discuss, at long last, the structure of telecommunications markets, which have been dysfunctional for such a long period of time.

**Senator MINCHIN** (South Australia)  
(11.54 am)—by leave—I thank the chamber for granting me leave to make a few remarks in response to the statements of Senator Xenophon and Senator Ludlam on the mo-
tion relating to the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009. I must say, on behalf of the opposition, that I am disappointed that the crossbench senators have agreed to exempt this most radical of bills which is directly related to the National Broadband Network proposal from the order that required the government to produce the relevant documents if it wished to have its NBN related legislation considered by the parliament.

We must remember that this was not just a straight order for the production of documents. It was a motion of the Senate to the effect that, if the government wanted its NBN related legislation considered by the Senate, it should provide the Senate with the requisite background information to enable the Senate to vote with the full knowledge of the background to the government’s decision to embark on what it itself describes as the biggest infrastructure project in the nation’s history involving up to $43 billion of taxpayers’ money. If the government did not want to produce the documents, that is fine, but what the Senate was saying was that the Senate itself would not consider NBN related legislation until it saw those documents. I thought that was a very proper position for the Senate to adopt, given the magnitude of the NBN and the fact that the government had consistently said from the moment of the announcement of this rather extraordinary proposal that it was relying on the report from the evaluation study of NBN mark 1 to advance the proposition that we now set up a government owned company to roll out, at a cost of $43 billion, a nationwide fibre-to-the-premises network.

I think it is reasonable for the Senate to say, ‘We would like to see that evaluation report on which you are basing this whole package, this extraordinary proposition that you are asking the Senate to support, before we agree to pass such legislation.’ I think that is the proper position for the Senate and I was pleased that the Senate supported our motion when we put it up. I am very disappointed that the crossbench senators have decided not to hold to that position because the government has agreed to have an inquiry. I think you are selling yourselves out very cheaply if that is the price. Senator Conroy has done a remarkable deal, because all that has happened is that you have agreed to have an inquiry. I do acknowledge and welcome the fact that Senator Ludlam has made clear that, as far as he is concerned, the order still applies in relation to any other NBN related legislation.

For the government to have come to this chamber and produce 16 of the 893 pages of the evaluation study and claim that the remaining 98.5 per cent of the report is all commercial-in-confidence is, from the perspective of someone who has spent 10 years in government as a minister, a complete nonsense. What I suspect is the case is that the evaluation report does not provide the justification which the government claims for it advancing this proposition that we now set up a government business to build, own and operate a $43 billion national broadband network. That is the reason we are not seeing the evaluation report—not that it is commercial-in-confidence but the fact that it does not provide the justification.

On behalf of the opposition, I say, ‘Yes, we have no objection to this inquiry,’ although I do, as I say from the experience of government, acknowledge that there are documents which are in fact commercial-in-confidence and cannot be released. In this case, I say that that could not possibly cover 98.5 per cent of the evaluation report, but we are happy for this inquiry to proceed. I must again say, however, how very disappointed I am that the crossbench senators—certainly Senator Xenophon and the Greens—have let
the government off the hook on this, but I acknowledge the weight of numbers.

Senator FIELDING (Victoria—Leader of the Family First Party) (11.58 am)—This matter goes back to 4 February 2009 when there was a motion before the chamber that matters ‘be laid on the table by the Minister for Broadband, Communications and the Digital Economy no later than Thursday, 5 February 2009’ and I amended that motion to omit ‘Thursday, 5 February 2009’ and substitute ‘the day after the day the winning bid is announced’. On 13 May another motion was put and it was carried on the voices. That is the issue that we are really debating again today. That motion said, ‘if the government continues to refuse to comply with the orders of the Senate for the provision of these documents’—which were tender documents and some other bits and pieces; it was not just those documents but some others as well—‘consideration of any bill relating to the government’s new national broadband network be postponed and made an order of the day for the next day of sitting after the documents described’ and so on.

The issue is whether the legislation that the government wants to put before us be held up while we wait for some other documents to come through. We have had some documents come through. Some of it, it has been claimed, is confidential and commercial in confidence. It is like claiming diplomatic immunity or something, like you see in those television shows when someone says, ‘Diplomatic immunity! I can’t do any more!’ We do need to get to the bottom of it. We do need to have a better process. A notice of motion has been put in, and I think we will deal with this once and for all. To be absolutely frank, I have been here long enough to know that both major parties have, I think, occasionally claimed certain things and all of a sudden we are left guessing, ‘Is it really or is it not?’ I think we need a far better process of dealing with commercial in confidence and confidential documents and why they cannot be tabled. I think that the notice of motion that was put in today will go to the essence of resolving that particular issue.

I have to come to a conclusion on whether I think we need more documents, which may be confidential or whatever, to debate the legislation that the government wants to put through or whether that will unnecessarily hold it up. Is it going to substantially change the debate on those bills? I do no think so. With this motion from Senator Conroy, even though potentially there may be politics being played by both major parties, I have got to look at the essence from here. The reason I suggested that Senator Conroy change the notice of motion was that I did not want to make any links—whether there were links to NBN or whether there were not. There are clearly some links to NBN. You cannot deny that. But I had a look at the bill that the minister wants to put to parliament over the coming days, and I could not hand-on-my-heart justify not allowing that to come into the chamber before some other documents that have been claimed to be commercial in confidence or confidential. We need to sort that issue out. I think that we should allow the bill to come in and have a look at that and see where it goes from there.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (12.02 pm)—In closing the debate on this motion, I thank all of those who have made a contribution. I thank the crossbenches for their indicated support and their willingness to move ahead with this bill, which represents part of the government’s historic reforms in this sector. Could I also indicate that I am pleased to support the notice of motion for a Senate inquiry into these commercial-in-confidence issues. I understand the concerns and the frustrations that senators have on this matter, so I look
forward to the report coming back to the parliament in February.

We would hope and will seek to ensure that the resourcing of the committee is adequate to do its task. We have debated this for a couple of days now, so I am sure we would all like to just move on to the next stage, as Senator Ludlam indicated, and actually get down to the substance of this issue, which is a historic package to reform the telecommunications sector in this country, which is so desperately needed. I thank all those who have contributed.

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

The Senate divided. [12.08 pm]
(The President—Senator the Hon. JJ Hogg)

Ayes............. 30
Noes............. 29
Majority......... 1

AYES
Arbib, M.V. Bilyk, C.L.
Brown, B.J. Brown, C.L.
Cameron, D.N. Collins, J.
Conroy, S.M. Farrell, D.E.
Faulkner, J.P. Feeney, D.
Fielding, S. 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. * Milne, C.
O’Brien, K.W.K. Polley, H.
Pratt, L.C. Siewert, R.
Stephens, U. Sterle, G.
Wortley, D. Xenophon, N.

NOES
Abetz, E. Back, C.J.
Bernardi, C. Birmingham, S.
Boswell, R.L.D. Boyce, S.
Brandis, G.H. Bushby, D.C.
Cash, M.C. Colbeck, R.
Cormann, M.H.P. Eggleston, A.

Fifield, M.P. Fisher, M.J.
Heffernan, W. Humphries, G.
Johnston, D. Kroger, H.
Macdonald, I. McGauran, J.J.J.
Minchin, N.H. Nash, F.
Parry, S. Payne, M.A.
Ronaldson, M. Ryan, S.M.
Scullion, N.G. Troeth, J.M.
Williams, J.R. *

PAIRS
Bishop, T.M. Joyce, B.
Carr, K.J. Barnett, G.
Crossin, P.M. Fierravanti-Wells, C.
Evans, C.V. Adams, J.
McLucas, J.E. Mason, B.J.
Moore, C. Coonan, H.L.
Sherry, N.J. Trood, R.B.
Wong, P. Ferguson, A.B.

* denotes teller

Question agreed to.

COMMITTEES

Environment, Communications and the Arts References Committee

Reference

Senator FIELDING (Victoria—Leader of the Family First Party) (12.11 pm)—I seek leave to move a motion to amend the terms of reference to an inquiry agreed to earlier today.

Leave granted.

Senator FIELDING—I move:
That the order of the Senate agreed to earlier today be varied to read as follows:

That the following matters be referred to the Environment, Communications and the Arts References Committee for inquiry and report by 2 February 2010:

The practices and procedures of Australia Post over the past 3 years in relation to the treatment of injured and ill workers, including but not limited to:

(a) allegations that injured staff have been forced back to work in appropriate duties before they have recovered from workplace injuries;
(b) the desirability of salary bonus policies that reward managers based on lost time injury management and the extent to which this policy may impact on return to work recommendations of managers to achieve bonus targets;

(c) the commercial arrangements that exist between Australia Post and InjuryNet and the quality of the service provided by the organisation;

(d) allegations of compensation delegates using fitness for duty assessments from facility nominated doctors to justify refusal of compensation claims and whether the practice is in breach of the Privacy Act 1988 and Comcare policies;

(e) allegations that Australia Post has no legal authority to demand medical assessments for injured workers when they are clearly workers’ compensation matters;

(f) the frequency of referrals to InjuryNet doctors and the policies and circumstances behind the practices; and

(g) the comparison of outcomes arising from circumstances when an injured worker attends a facility nominated doctor, their own doctor and when an employee attends both, the practices in place to manage conflicting medical recommendations in the workplace; and

(h) any related matters.

Question agreed to.

BUSINESS

Rearrangement

Senator FAULKNER (New South Wales—Minister for Defence) (12.11 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 3 (AusCheck Amendment Bill 2009).

Question agreed to.

AUSCHECK AMENDMENT BILL 2009

Second Reading

Debate resumed from 19 March, on motion by Senator Chris Evans:
The amendments will also include specific provisions to authorise and protect biometric information about an individual where this is required in order to complete a background check. The amendments are intended to ensure that if AusCheck is required to facilitate the provision of this information to the relevant police jurisdiction then this information will be afforded all of the additional protections given to other AusCheck personal information but not be available for any purpose other than a further background check. This is intended to reflect the purpose of collecting this information in the first place, which is the verification of a particular individual’s identity only and for no wider purpose.

The bill also includes amendments to the provisions that give authority for AusCheck to provide an online verification service. The online verification service is currently restricted to verifying aviation security identification cards and maritime security identification cards. With the addition of a national security background check capacity this authority is accordingly expanded so that an online verification service may be used to verify other types of cards or licences that may be issued indicating that a person has undergone a national security background check.

The bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee, which reported on 18 June 2009. The committee unanimously made seven recommendations for amendments to the bill. The recommendations were directed to increasing safeguards for the protection of private information and to restrict the uses to which AusCheck data may be put. The recommendations are, if I may say so, very sensible and a testament to the good work of the committee. I am pleased that the government has responded to the report with the amendments circulated on sheet AF220. The amendments directly implement five of the committee’s seven recommendations. The two remaining recommendations are also being implemented by sensible alternative means. I commend those amendments.

Australia’s airside and waterfront sites are obvious areas of vulnerability to crime and security threats. We need to have confidence that, as far as possible, those areas are secure and that those with a demonstrated criminal propensity or otherwise posing unacceptable risks are excluded from them. This regime is not perfect: in particular, there are serious concerns about the maritime security identification card arrangements that allow people with criminal histories to work on our docks and deal with sensitive cargo. This is an area which requires constant vigilance and, while supporting this bill in its amended form, I urge the government to give priority to minimising the criminal element on the waterfront.

Senator FAULKNER (New South Wales—Minister for Defence) (12.17 pm)—I thank Senator Brandis for his contribution to this debate on the AusCheck Amendment Bill 2009. I am aware that this bill has been the subject of a review by the Senate Legal and Constitutional Affairs Legislation Committee. On behalf of the government it is my intention to move some amendments to give effect to the recommendations of the committee. At this stage, with this very brief second reading debate, let me conclude by comments by commending the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator FAULKNER (New South Wales—Minister for Defence) (12.19 pm)—I table a supplementary explanatory memorandum relating to the government amend-
ments that I will be moving to this bill. I have been advised that the memorandum was circulated in the chamber on 26 October. I seek leave to move government amendments (1) to (9) on sheet AF220 together.

Leave granted.

Senator FAULKNER—I move:

(1) Schedule 1, item 1, page 3 (line 8), omit “AusCheck scheme”.

(2) Schedule 1, item 2, page 3 (lines 14 to 16), omit “performed in relation to the individual for a purpose referred to in subparagraph 8(c)(i), (ii), (iii), (iv), (v) or (vi)”, substitute “conducted in relation to the individual under an Act or legislative instrument referred to in subparagraph 8(1)(b)(i) or (ii) for a purpose referred to in paragraph 8(2)(a), (b), (c), or (d)”.

(3) Schedule 1, items 6 and 7, page 3 (line 27) to page 4 (line 10), omit the items, substitute:

6 Section 8

Repeal the section, substitute:

8 Establishment of AusCheck scheme

(1) The regulations may provide for the establishment of a scheme (the AusCheck scheme) relating to the conduct and coordination of background checks of individuals if:

(a) any of the following laws requires or permits a background check to be conducted of an individual for specified purposes:

(i) the Aviation Transport Security Act 2004 or regulations under that Act;
(ii) the Maritime Transport and Offshore Facilities Security Act 2003 or regulations under that Act; or
(b) any other Act (other than this Act) expressly:

(i) requires or permits a background check of an individual to be conducted under the AusCheck scheme for purposes specified in the Act; or
(ii) provides for the making of a legislative instrument requiring or permitting a background check of an individual to be conducted under the AusCheck scheme for purposes specified in the Act.

(2) If paragraph (1)(b) applies, the background check must be conducted for purposes related to:

(a) Australia’s national security; or
(b) the defence of Australia; or
(c) a national emergency; or
(d) the prevention of conduct to which Part 5.3 of Chapter 5 of the Criminal Code (which deals with terrorism) applies.

7 Saving of regulations

Despite the amendment made by item 6, regulations in force for the purposes of section 8 of the AusCheck Act 2007 immediately before the commencement of this item continue in effect, after that commencement, as if they had been made for the purposes of that section, as in force after that commencement.

(4) Schedule 1, page 5 (after line 2), after item 10, insert:

10A Division 1 of Part 3 (heading)

Repeal the heading, substitute:

Division 1—Collection, retention, use and disclosure of information

(5) Schedule 1, item 12, page 5 (line 9), after “conducted”, insert “under the AusCheck scheme”.

(6) Schedule 1, item 12, page 5 (line 13), after “conducted”, insert “under the AusCheck scheme”.

(7) Schedule 1, item 14, page 5 (line 28) to page 6 (line 16), omit the item, substitute:
14 Subsection 14(1)
Omit “, including AusCheck scheme personal information,”, substitute “(other than identity verification information).”

Note 1: The heading to section 14 is altered by inserting “and disclosure” after “use”.

Note 2: The following heading to subsection 14(1) is inserted “Establishment of AusCheck database”.

14A Subsection 14(2)
After “individual” (first occurring), insert “(other than identity verification information)”.

Note: The following heading to subsection 14(2) is inserted “Use and disclosure of AusCheck personal information other than identity verification information”.

(8) Schedule 1, item 17, page 6 (line 33), omit “Identity verification information about an individual”, substitute “AusCheck scheme personal information about an individual that is identity verification information”.

(9) Schedule 1, item 19, page 7 (lines 5 and 6), omit the item, substitute:

19 After section 14
Insert:

14A Special rule relating to collection, retention, use and disclosure of identity verification information by AusCheck staff members

Despite sections 13 and 14, those sections only authorise the collection, retention, use and disclosure by the Secretary or an AusCheck staff member of identity verification information about an individual in relation to whom a background check is being or has been conducted, if the collection, retention, use or disclosure is directly necessary for the purpose of:

(a) passing the information to a Commonwealth, State or Territory body, agency or organisation that is responsible for, or deals with, law enforcement, criminal intelligence, criminal investigation, fraud or security intelligence in, or in a part of, Australia for the purpose of that body, agency or organisation verifying the identity of the individual for the purposes of the background check; or

(b) providing the information to the individual.

20 After subsection 15(1)
Insert:

(1A) A person commits an offence if:

(a) the person obtains information; and

(b) the information is AusCheck scheme personal information; and

(c) the person discloses the information to someone else.

Penalty: Imprisonment for 2 years.

21 Subsection 15(2)
After “(1)”, insert “or (1A)”.

22 After paragraph 15(2)(c)
Insert:

(ca) if the information is AusCheck scheme personal information—a disclosure that is:

(i) taken to be authorised under section 13; or

(ii) authorised under section 14; or

(iii) required or authorised by or under another law;

As I mentioned, these particular government amendments adopt four of the six recommendations made by the Senate Legal and Constitutional Affairs Legislation Committee as it examined this piece of legislation. Let me say to the Senate chamber that I believe that the amendments that have been moved strengthen privacy and other safeguards in the bill. I commend the amendments to the Senate.
The coalition supports the Asian Development Bank (Additional Subscription) Bill 2009. The bill proposes to allow the government to increase the number of shares Australia holds in the bank. The Asian Development Bank, ADB, is raising capital and has offered its members the opportunity to increase their shareholding. The reason for this is the global economic crisis, which has affected the viability of the international financial institutions, including the ADB. On 2 April, the G20 leaders meeting agreed to a 200 per cent general capital increase for the bank as part of its $850 billion commitment to support growth in developing countries. On 29 April 2009, the ADB board of governors resolved to raise capital by allowing its members to increase their shareholding. The board’s aim is to triple ADB’s capital, which will be achieved if all the members take up all of the shares on offer. Members can buy additional shares in proportion to their current subscription. Australia currently owns 5.7 per cent of the total number of issued shares. As such, we were entitled to buy 409,480 additional shares, 16,379 paid-in shares and 393,101 callable shares. In layman’s terms, paid-in shares are normal shares—the stake in the bank; callable shares serve as security for ADB’s borrowing on world capital markets. The bank has never drawn down on its callable capital and it is not likely to do so.

In the 2009-10 budget, the government announced it would purchase US$197.6 million, the equivalent of A$241 million, of additional shares in the bank over 10 years and draw on US$5.6 billion, the equivalent of A$6.8 billion, of callable shares. The additional shares are a capital measure in the 2009-10 budget and do not impact on the underlying cash or fiscal balance. The additional callable shares appeared in the statement of risks as a contingent liability.

This bill will continue Australia’s work with the Asian Development Bank to develop our region. Established in 1966, the ADB is an international development institution which works to foster economic growth and cooperation in the Asia-Pacific region. It works with its members to develop them both on an individual level and as a group of interconnected nations. Australia was one of
the original 31 members of the bank, along with the United States, Japan, New Zealand, China, Canada, Germany and the United Kingdom. There are now 67 members, both inside and outside the region, including Brunei Darussalam, the Cook Islands, Portugal and Luxembourg.

The ADB works with individual countries, the private sector and non-government organisations and uses its triple-A credit rating to finance projects in agriculture, education, health, law, governance, transport and communications. The ADB funds training programs in public policy, water management, transborder animal disease control, customs and quarantine. ADB consultants provide technical advice on energy projects, road construction and air pollution. ADB loans are made available for infrastructure, and grants allow education and immunisation to take place.

I think the Senate would be interested in hearing about some of these projects. One example of a worthwhile project is a public policy training program in Cambodia, Lao People’s Democratic Republic and Vietnam. These three Asian countries have moved from planned to market oriented economies in the past two decades. The ADB supports their transition, with US$17.8 million for training programs for senior civil service officials. Another example is HIV prevention. As we know, the countries in South-East Asia are improving their transport infrastructure. While this is good news for trade, it brings with it social and health issues, such as the spread of HIV. The ADB has provided US$6 million to tackle this problem. A third example is a health project to prevent and control avian influenza. We all remember the pandemics of the last few years, including bird flu. The ADB is providing US$25 million to fight the spread of H5N1 virus among birds and to improve the region’s preparedness to tackle human influenza outbreaks.

There are a number of reasons why the coalition supports this bill. Firstly, Australia plays an important role in providing both funding and expertise to the bank’s projects. The majority of the bank’s contracts are awarded through an international tender system, which is open to companies and individuals from any member country. In 2008, Australia’s contracts for goods and works were worth $3.57 million and $32.64 million in addition for consulting services. A number of Australian companies have worked with the ADB in recent years, including HSBC Bank Australia, Flinders University, Sinclair Knight Merz and the Australian ITA Consortium. Australia has also recently co-financed projects in the areas of road assessment management in Cambodia, HIV/AIDS prevention in Papua New Guinea, and hydroelectricity in Lao People’s Democratic Republic. As of 31 December 2008, 49 Australian professionals were working at the ADB.

When the coalition were in government, we made significant contribution to Australia’s place in the Asia-Pacific region. The most noteworthy economic contribution of the Howard government was our action during the Asian financial crisis of 1997. We were one of the first countries to offer assistance and Australia became an important regional player as a result. We provided $3 billion in currency swaps and loans to South Korea, Thailand and Indonesia through the ADB. By doing so, we were able to engage these countries in the economic reform that has helped them develop.

The Howard government acknowledged that the Asia-Pacific region is integral to Australia’s future. We recognised that its development directly affects us in a number of ways, including in the vital areas of trade and security. The Howard government successfully managed regional partnerships during the move to independence by Timor-Leste in 1999. We maintained and improved
our relationship with Indonesia. We successfully maintained our relationship with Japan, our most important trading partner, while building a relationship with emerging China. We successfully identified the importance of India as an emerging economy and the Howard government helped make India a stronger trading partner.

Seven of Australia’s top 10 export markets are now in the Asia-Pacific region: Japan, China, the Republic of Korea, India, Singapore, Taiwan and Thailand. The export revenue for goods and services to these countries in 2007-08 was $118.7 billion from Australia’s total export revenue that year of $232 billion. This gives you an idea of the significance of the relationship between our economies. Added to that, of course, is the trade activity with our other regional neighbours, which widens the mutual benefit.

In terms of security, development in the region will reduce Australia’s risk of being a target for terrorism, illegal drugs and people smuggling. While these are criminal acts, they have strong links to poverty, weak border protection and corruption—three problems that have plagued the region. The Howard government recognised that it is in everyone’s interest to support development to combat these problems. The coalition believes this still, which is one of the reasons why we are supporting this bill.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.31 pm)—I am grateful to both Oxfam Australia and Manna Gum for information upon which I will base my remarks on the Asian Development Bank (Additional Subscription) Bill 2009. The Greens have been concerned for a long time about the Asian Development Bank’s spending, the lack of control and the note being taken of local communities, and the social and environmental outcomes. Not least amongst those is the building of hydro schemes on the Mekong River. The Australian government ought to be in much closer liaison with community groups in the countries which are recipients of Asian Development Bank spending to ensure that the Asian Development Bank’s own charter is upheld in the expenditure of moneys.

The decision by the G20 finance ministers in London in April to channel an additional US$850 billion to international financial institutions ultimately has resulted in the Asian Development Bank’s fifth general capital increase. Although discussions around the increase were already underway before April, the G20 agreement provided the trigger for the bank’s member countries to agree to a 200 per cent increase in capital. To enable Australia to put into practice the agreed capital increase, Treasury has drafted the Asian Development Bank (Additional Subscription) Bill which we now have before us. If it is approved it will result in payments of $240 million over the next 10 years on top of what would have happened and an additional $6.8 billion callable capital being distributed through the bank.

The bill was approved in the House and we are now dealing with it in the Senate. I need to point out that the capital increase for the bank is in line with Australia’s commitment to increase multilateralism. That is no problem. The Asian Development Bank is a multilateral donor and it is in the strategic position to channel aid flows to developing countries. However, while well intentioned, the bank’s projects and programs can be counterproductive as far as communities, their environments and their human rights are concerned.

Let me go to some specific examples. The Highway 1 project in Cambodia was approved in 1998 with the spending of US$40 billion to upgrade the highway between
Phnom Penh and Ho Chi Minh City. As a result of the construction, about 6,000 Cambodian villagers living along the highway experienced economic and social hardship due to full or partial loss of their houses, agricultural land, businesses and/or jobs. In violation of its own policy, the bank failed to ensure that the affected communities received adequate compensation in time. There were delays of years. This failure forced families to borrow from black market lenders to finance the reconstruction of their homes, businesses and livelihoods, plunging them into further poverty and debt cycles in which many families remain. A decade later, hundreds of families are still waiting adequate redress. I would like to hear what the government’s attitude has been to ameliorating that stress on those families as a result of the Asian Development Bank operations.

In the Greater Mekong subregion, the bank’s flagship Subregional Economic Cooperation Program in the Asia-Pacific means that $11 billion has promoted large-scale infrastructure, primarily transport and energy, in Mekong countries. The investments facilitated rapid and unsustainable natural resource exploitation in the form of logging, plantation agriculture, hydro power and mining in a region where over 75 per cent of the population still depends directly on lands, forests and rivers for their livelihood. The bank publicly claims that such developments have led to poverty reduction, but let us look at the bank’s own empirical studies of actual poor communities in Laos to see what the real picture is:

[Compared to the year 2000] villages that were revisited in 2006 were found generally to be either about the same or worse off ... the survey shows that poor villagers increasingly experience difficulty in providing food for their families. Natural resources were said to be seriously depleted in almost all locations ...

The bank is a ‘vigorous promoter’ of the hydropower projects I previously referred to. My briefing from Oxfam says that this is the case:

... particularly in Burma, Yunnan and Laos, where independent civil society participation and open debate are stifled. The bank’s dams in Laos such as the Nam Theun-Hinboun, the Nam Leuk and the Nam Song have negatively affected approximately 40,000 people, many of whom are still waiting for adequate compensation. And the ADB has neglected better renewable energy solutions and planning processes that would avoid this destructive path.

I have no doubt that the bank will read this transcript and I am inviting the bank to send a response to the Senate either through the government or directly, if it will. We will ensure that that goes into the transcript. The Oxfam briefing continues:

The ADB has contributed funding for the controversial Nam Theun II Hydropower Project in Laos (approved 2005, total loan amount US$ 70 million, plus US$ 50 million political risk guarantee), which involves large-scale involuntary resettlement and will cause fisheries losses—
as well as potentially blocking the migration paths of major fisheries and fish stock—
increased flooding and water quality problems for over 120,000 people. The dam will be fully commissioned in 2010—
yet it promises limited outcomes as far as the local people are concerned as well as great stress on those societies. The same can be said about the Visayas base load power project in the Philippines, which is a circulated fluidised bed coal-fired station that is leaving locals with a great deal of concern about, for example, coal ash from the plant. I have raised problems that we have not seen acknowledged in the debate in the House but which are very real for the people, particularly poor people. The assumption that increased funding equals increased results for those people is wrong. The government must
be held to account to ensure that the additional resources are well used. I again invite the government to respond to the matters I have raised or to have the Asian Development Bank itself respond to the Senate on these matters. There are initial signs of that intention but it will take a concerted effort from all sides to ensure that Australia’s contributions to the bank are used in a way that promotes long-term sustainable development without disadvantage and without wrecking the livelihoods of local people.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.40 pm)—I thank the senators who have participated in the debate on the Asian Development Bank (Additional Subscription) Bill 2009. The purpose of this bill is to obtain approval to allow Australia to subscribe to its additional capital share in the Asian Development Bank. This will ensure that Australia continues to deliver on its commitments within the G20. The G20 has paid a landmark role in responding to the impacts of the global recession. It is important that members of the G20 continue to work together to support recovery in the global economy. In September, the G20 leaders met in Pittsburgh to review progress in addressing the impact of the global recession since their April summit in London. Leaders noted then that we are in the midst of a transition from a crisis to recovery but that a sense of normalcy should not lead to complacency.

Multilateral development banks are planning a very important role in supporting recovery in developing economies and, therefore, the global economy. The multilateral development banks are on track to deliver the US$100 billion in additional lending in response to the global recession. The ADB is helping to support economic recovery and sustained growth and stability in the Asia-Pacific region, of which Australia is an integral part. By working through the ADB to build stronger communities and economies in the region, we of course improve Australia’s own economic and security interests. The April G20 leaders summit agreed to support the ADB through a 200 per cent general capital increase. Australia’s capital contribution will cost around US$197.6 million, payable to the ADB over 10 years. This subscription appeared as a capital measure in the 2009-10 budget and does not directly impact on the budget bottom line. Supporting this bill will enable Australia to demonstrate its leadership globally as well as supporting recovery from the global recession in the Asia-Pacific region. I acknowledge the support of all senators and 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.

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) (12.43 pm)—I move:

That government business order of the day No. 9 (Personal Property Securities Bill 2009), be postponed until the next day of sitting.

Question agreed to.
LONG SERVICE LEAVE LEGISLATION AMENDMENT (TELSTRA) BILL 2009
Second Reading

Debate resumed from 26 October, on motion by Senator Wong:

That this bill be now read a second time.

Senator BRANDIS (Queensland) (12.44 pm)—The coalition supports the passage of the Long Service Leave Legislation Amendment (Telstra) Bill 2009. The bill has the effect of continuing arrangements established by the Howard government relating to the treatment of long service leave for employees of Telstra. In 2006 the Howard government introduced the bill to ensure that employees of Telstra were able to continue enjoying the benefits of long service leave provided under the Long Service Leave (Commonwealth Employees) Act.

It did this in an endeavour to ensure that the transition from government to private ownership of Telstra occurred in a manner that was cohesive, workable and practicable. The Howard government did not wish to alter the working conditions for any employee working for that telecommunications company. At that time a transition period of three years was envisaged. As is now apparent, that period is soon to expire and there has become a need to extend coverage in the manner consistent with the approach and intention of the bill.

I can indicate to the chamber that the shadow minister whom I represent, Mr Keenan, has received communication from Telstra management to indicate that it supports the passage of the bill. I note with interest that the communication indicated that this bill is the result of an agreement between Telstra, its employees and the relevant union, in this case the CEPU.

Like many other keen observers of matters involving workplace relations, I was reminded that things within Telstra have not always been so rosy. Previously there were long-running disputes between Telstra and the CEPU about a wide range of matters. The disputes in that workplace were widely publicised and sometimes heated. Those disputes occurred for a number of reasons and involved a number of technical and perhaps even philosophical disagreements. However, in my view those disputes boiled down to one simple issue. That issue was whether or not Telstra had the right to speak with and engage its employees directly without having to go through a third party intermediary.

Telstra, of course, has previously adopted a position that I believe most if not all employers in this country would agree with—that being, if they want to speak with their employees directly, so be it. There is nothing wrong with management and workers sitting down to discuss issues that affect them both. This is called employee engagement. Those on my side of the chamber recognise that workers and management are the two most important and valuable participants in any employment relationship. The actions of workers influence the success of the business, and the success of the business influences the benefits and culture that the workers enjoy. Employment relationships are two-way streets. Both workers and management have obligations to one another. They both benefit from improving the lot of each other.

Facilitating employee engagement is something the coalition strongly supports. We believe that workers and management are best placed to work things out amongst themselves in a fashion that is amicable, effective and constructive. While third party interference is sometimes warranted, by and large it does little to achieve what could already have been achieved had workers and management spoken directly. Often, sadly, it
results in situations that benefit neither the workers nor their managers. Strikes, protests, lockouts, stand-downs, placards and picket lines are all features of the disputes in workplaces where there has been the involvement of a third party. When these types of actions occur, everyone becomes a loser in the end. Productivity drops, workers lose pay and the culture of the workplace can be adversely affected.

In contrast, workplaces that adopt a focus on employee engagement are winners. There has been much research conducted into the benefits of direct employee engagement. For example, direct employee engagement leads to increased levels of emotional attachment. Employees who have a high emotional attachment are more likely to experience higher levels of personal reward for their efforts at work. They feel as though they are working towards a common purpose and have a higher level of personal fulfilment.

Direct employee engagement also leads to increased levels of employee empowerment. There is nothing wrong with having a workplace where employees know that they have a say and role in the broader direction of the business. Letting workers have a say should be a key objective of all workplaces. They make a contribution to a business and deserve their right to be heard.

Worker commitment levels have also been shown to be markedly higher in workplaces that engage employees directly. A committed employee is likely to experience better feelings of job security and is less likely to leave for another workplace. Morale is higher. Higher levels of empowerment, commitment and personal reward are all significant benefits for workers and workplaces generally. Of course, enterprise benefits from employee engagement, too. Once again, studies have shown that workplaces using direct employee engagement have less turnover, higher levels of productivity, higher levels of staff morale and increased levels of customer satisfaction.

When you take an approach of direct employee engagement everyone wins, and that is how it should be. I believe all workplaces in Australia would share my view. However, as I observed earlier, sometimes this has not been the case. Moving away from engaging employees towards engagement via third parties detracts from the benefits the former approach brings. In this context one has to question the intention of Labor’s recent changes to the Australian workplace system. Sadly, these changes facilitate, encourage and sometimes even mandate the involvement of third parties in a workplace.

We acknowledge that Labor’s new laws are in their infant stages. However, the signs so far are not looking good. Broadly speaking, we are beginning to see an upward trend in levels of industrial action, so this will be a key test for Labor’s laws. Will they facilitate the reasonable and beneficial approach of employee engagement or will they take Australian workplaces backwards to the dark old days of strikes and disputes?

These are early days for Labor’s new laws and some say there is much to be said for giving them the benefit of the doubt. But I believe workplaces are entitled to be concerned about where the new laws are taking them. It looks as if the new laws are, so far, failing to facilitate the reasonable and beneficial approach of employee engagement and by default taking Australian workplaces backwards. I do struggle to see how this goes towards the government’s stated aim of creating a balanced, flexible and productive workplace system.

I remain hopeful, however, that, whatever the future holds, Telstra and its workforce are able to achieve a resolution to its current circumstances. I also remain hopeful that the
agreement giving rise to this bill is something that becomes the norm rather than the exception. It is with this in mind that the opposition supports the passage of this bill. It reflects an agreement achieved in a manner that we believe should be encouraged throughout Australian workplaces, an aim that I hope will not be hindered by Labor’s new workplace laws.

Senator STEPHENS  (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (12.51 pm)—I thank Senator Brandis for indicating coalition support for the Long Service Leave Legislation Amendment (Telstra) Bill 2009. It makes a lot of sense, of course, to do so. As noted by the Deputy Prime Minister in her speech, the bill is designed to ensure the continued operation of the Long Service Leave (Commonwealth Employees) Act to Telstra employees. The bill is an interim measure designed to address the particular historical circumstances of Telstra, pending the development of a national long service leave scheme, and the discussion with state and territory governments on that has commenced.

The move to develop national long service leave arrangements is yet another example of this government’s commitment to building a truly national employment system for the private sector in Australia, and the government is well on the way to achieving this goal. Victoria, for example, has already referred workplace relations powers to the Commonwealth. South Australia, Tasmania and Queensland have agreed to refer power and have introduced legislation into their parliaments to give effect to their decision. Last week the Minister for Employment and Workplace Relations introduced the Fair Work Amendment (State Referrals and Other Measures) Bill 2009 to give effect to these referrals, and cooperative discussions are also occurring with New South Wales. Unfortunately, the Western Australian government has indicated that it will not refer powers, denying the benefits of a national system to employers and employees in that state. However, the government is also making considerable progress towards developing uniform national occupational health and safety laws, which will dramatically reduce complexity and red tape for businesses that operate in multiple jurisdictions.

In taking these steps, the government is answering the repeated calls by business to end the overlap and duplication of state and federal employment laws and to end the inefficiency, uncertainty and legal complexity for Australian businesses and employees. In the absence of the measures proposed in this bill, Telstra would need to transition its employees from the Long Service Leave (Commonwealth Employees) Act to multiple state and territory schemes when current transitional arrangements expire on 24 November 2009 and then back to a Commonwealth scheme when the new national long service leave arrangements are implemented through the National Employment Standards. The government agrees with Telstra and relevant unions that a sensible solution to the complexity and uncertainty that these multiple transitions would cause is to extend the existing transitional arrangements until the new national employment standard on long service leave is in place. This is a piece of legislation that supports the premise of common sense. 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.
Debate resumed from 26 October, on motion by Senator Wong:

That this bill be now read a second time.

Senator BRANDIS (Queensland) (12.55 pm)—The opposition supports the Statute Stocktake (Regulatory and Other Laws) Bill 2009, though I must wonder aloud when we adopted the practice of describing periodic legislative reviews with the somewhat undignified metaphor ‘stocktake’, rather than the previous, more dignified and appropriate term ‘statute law revision bill’.

Senator Fifield—Hear, hear!

Senator BRANDIS—Thank you, Senator Fifield. Perhaps this is thought by some in the bowels of the Attorney-General’s Department to serve the value of accessibility, but it just goes to show how accessibility can be taken too far. The acts to be repealed are self-evidently obsolete and have been superseded by other legislation. In the acts to be amended, most of the proposals relate to transitional provisions and periods that have expired. Schedule 1 to the bill contains amendments to 17 acts. Schedule 2 repeals eight acts and makes consequential amendments to three other acts. The most notable of the changes affect the Trade Practices Act 1974 and the Telecommunications Act 1997.

The amendments to the Trade Practices Act involve the repeal of part VB. These are the GST price exploitation provisions, which were enacted following concerns that price rises unrelated to the GST might be represented to be caused by the introduction of the GST. Given that the GST has been in place for almost 10 years, it is unlikely that any such representations would be made now. Any misrepresentations of price would, in any event, be covered by other provisions of the act. The amendments to the Telecommunications Act relate to the regulatory framework supporting a digital data capability of 64 kilobits per second and in which Telstra was the declared provider. Telstra’s declaration has been repealed and the market now provides data capabilities far beyond the rate provided for in the act. The bill also proposes to repeal the Income Tax (Franking Deficit) Act 1987.

Senator Fifield—Go on! No, it doesn’t!

Senator BRANDIS—Be still, Senator Fifield. Do not become too excited! This tax ceased to be payable after June 2002. The relevant provision of the Income Tax Assessment Act was repealed in 2006 as inoperable; the 1987 act is therefore redundant. Bills of this nature are traditionally non-controversial and receive the support of the parliament because they are regarded as an essential tool in the process of keeping the Commonwealth statute books accurate and up to date. Accordingly, the coalition is pleased to support the bill and looks forward, on the next occasion we have such a bill, to reverting to the more dignified form ‘statute law revision 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) (12.58 pm)—I thank Senator Brandis for his comments and his indication that the coalition supports this important piece of legislation. Some people might consider it a review, some people might call it a statute stocktake and some of us might say it is a good piece of government housekeeping. Whatever the name of the bill, I think we all agree that well-designed and targeted regulation is essential to reducing costs and complexity for business and the not-for-profit sector, and it forms a part of...
the government’s commitment to ongoing microeconomic reform. Well-designed regulation increases Australia’s productivity and international competitiveness and fosters innovation and structural flexibility.

The Statute Stocktake (Regulatory and Other Laws) Bill 2009 underlines the government’s commitment to reduce unnecessary or poorly designed regulation. It proposes to amend or repeal almost 30 acts where the provisions no longer have any functional purpose, as Senator Brandis described, including the Income Tax (Franking Deficit) Act 1987 and a number of acts relating to the removal of digital data service obligations—and thank heavens we have gone beyond 64 kilobits per second as our digital data standard!

The redundant regulations were identified through a regulatory stocktake conducted by the Commonwealth departments in 2008. This was, in fact, the first stocktake of its kind conducted since the Federal Register of Legislative Instruments commenced in 2005. The review identified a large stockpile of redundant or potentially redundant regulations. In addition to this bill, the government’s wider regulation clean-up exercise is expected to remove around 200 pieces of unnecessary subordinate legislation over coming months.

Further, in an effort to better understand the impost on business and to identify scope for further regulatory efficiencies, a review of 30,000 subordinate legislative instruments is being conducted to identify reform priorities and ensure the current stock of regulation is being adequately managed and tested for ongoing relevance. While it may go unnoticed by many, leaving undated, redundant regulation actually increases costs for business. It is harder to identify which rules apply and resources are diverted to irrelevant and inefficient activities. There is also a high probability of inconsistent or overlapping rules.

This bill represents just one element of the government’s ambitious regulatory reform agenda. Through COAG we are working with the states to achieve a more consistent and harmonised national approach to key regulatory issues. On 2 July 2009 the Council of Australian Governments reaffirmed its commitment to microeconomic reform and the critical role that the National Partnership Agreement to Deliver a Seamless National Economy, and its regulatory reform agenda, plays in enabling productivity gains for the economy. At the Commonwealth level the minister is delivering regulatory reform in the areas of Commonwealth regulatory responsibility including reducing the length and improving the readability of product disclosure statements for financial products and reviews of health technology assessment arrangements as examples to improve unnecessary costs and facilitate earlier patient access to innovative and cost-effective new health technology.

The global economic stresses we have faced and continue to encounter remind us of the importance of delivering microeconomic reform efforts that enhance our productivity. A sustained commitment to better regulation is an essential tenet of our microeconomic reform agenda and this bill is an important step in delivering on the government’s commitment to continuous improvement in regulation. 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.
Senator FIFIELD (Victoria) (1.03 pm)—
I rise to speak on the Australian Sports Anti-Doping Authority Amendment Bill 2009, which the opposition supports. This legislation primarily focuses on the governance of ASADA and the bill builds on the foundations which the former coalition government put in place to tackle doping in sport. The policies that the coalition developed ensured that ASADA built a strong international reputation as a world leader in best practice anti-doping regulations.

In 2006 the coalition replaced the Australian Sports Drug Agency with ASADA. This change was implemented by the then Minister for the Arts and Sport, the Hon. Rod Kemp. I should note that Mr Kemp is generally regarded as Australia’s best and most successful sporting minister ever. In saying that, I mean no disrespect to Senator Brandis and his tenure in that portfolio. Indeed one of the cruel twists of political fate was the premature end to Senator Brandis’s service in that portfolio. We can, sadly, wonder all we like, but we will never know whether Senator Brandis may have even perhaps eclipsed Mr Kemp in that portfolio. We can but wonder.

I do think Senator Brandis showed great promise during his brief tenure. Senator Brandis was also a great crusader against drugs in sport and I remember very fondly Senator Brandis urging the AFL to be even more rigorous in their anti-doping efforts and the TV footage of the high noon showdown between Senator Brandis, Mr Pyne and Mr Demetriou. For those of us from the state of Victoria, it is indeed a brave public figure who takes on the AFL, and can I just say there should be more of it.

The 2006 change was brought about because of the Anderson inquiry in 2004 into the Australian track cycling team. The coalition ensured that this new agency had strong powers to investigate and present cases as well as to exchange information with other enforcement agencies. The coalition provided an additional $2.24 million to ASADA in the 2007 budget to enhance its capacity to investigate instances of alleged doping violations and the subsequent preparation and submission of briefs in relation to individual cases, bringing the total funding to $12.9 million. Because of the work of the previous government, ASADA has earned a fine international reputation.

To ensure that our anti-doping efforts are as effective as possible ASADA, which is central to our fight against doping, must be operating at optimum capacity. A review of ASADA commissioned by the Department of Health and Ageing in 2008 found that this is not necessarily the case. The review found that the complex governance arrangements made it difficult to resolve disagreements between the ASADA chair, who was also the head of the agency, and the ASADA members.

I would also like to take the opportunity to note the great work being done by former federal minister and former New South Wales Premier John Fahey as head of the World Anti-Doping Agency. I think his position is a measure of how well regarded Australia is in the antidoping field. Again, credit goes to Senator Brandis for securing the election of Mr Fahey. Senator Brandis was able to deploy for good purpose all the skills of lobbying, negotiating and persuading that he developed within and between the factions and forums of the Liberal and National parties in Queensland.

Senator Brandis—All those dark arts!
Senator FIFIELD—That is right, Senator Brandis. It is nice to have one happy ending, isn’t it? This bill seeks to alter ASADA’s governance arrangements by ensuring that ASADA operates as a conventional FMA Act agency by removing its CAC Act elements. Just in reference to the CAC Act, we do need to find a new acronym in that place. This legislation will create a new CEO position with an advisory board, it will create an antidoping rule violation panel and it will make changes to the way the National Anti-Doping Scheme will be amended in the future.

In conclusion, the coalition regards this legislation as very straightforward. It goes to the governance of ASADA. ASADA has operated well in the past, but some governance problems have been identified and they need to be resolved. The opposition supports this legislation.

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)—I thank Senator Fifield for the opposition’s support. I think we are at one in wanting to ensure that Australian sport continues to be played in a domain which is safe and equitable for all Australian athletes and their support personnel and to ensure that performance-enhancing drugs are detected, dealt with and deterred at every opportunity. It always amuses me to come and discover things about my colleagues in the chamber, and today I have discovered something about Senator Brandis’s dark arts that I will remember for another occasion.

The reforms in the Australian Sports Anti-Doping Authority Amendment Bill 2009 will enable ASADA to continue to deliver its prescribed functions efficiently and effectively and to be well placed to handle the ever-changing challenges within the fight against drugs into the future. These reforms will provide greater clarity and transparency to the structural and governance arrangements of ASADA and provide an effective framework for the delivery of the Australian government’s antidoping priorities to ensure that Australia remains a world leader in the fight against drugs in sport. The bill brings ASADA’s governance arrangements into alignment, as Senator Fifield said, with those of a traditional model of Financial Management and Accountability Act, or FMA, agency. ASADA will remain an FMA agency but will cease to be a corporate entity with a legal identity separate from that of the Commonwealth. In addition, these changes will further deliver on recommendations of the independent review of ASADA, which sees ASADA being headed by a CEO who will be responsible for operational and strategic matters.

In line with the recommendations of the independent review, an advisory group will also be established to assist the CEO in the development, implementation and delivery of core business matters. The establishment of this advisory group will give the CEO access to individuals with specialist skills and knowledge to assist him or her on matters such as education, testing and investigation. The targeting of members’ skills and knowledge ensures that the advice and support that the advisory group provides are not only of the highest quality but also very appropriate to this challenging task.

Under the bill, the newly established antidoping rules violation panel will be responsible for making decisions on antidoping rule violations, recommendations about follow-up actions and sanctions. They will also be responsible for maintaining the register of these findings. The antidoping rule violation panel will consist of members with specialist knowledge and experience in sport law, ethics, medicine and pharmacology. Australian
athletes and support personnel can be confident that the decisions regarding an antidoping rule violation will be at arm’s length not only from the government but also from ASADA, which is responsible for testing, investigation of possible rule violations and prosecution of such violations. The bill also gives effect to a number of other changes to ensure that the ASADA Act maintains consistency with the revisions of the World Anti-Doping Code, which came into effect on 1 January 2009. With those comments, 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.

TAX AGENT SERVICES
(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS)
BILL 2009

First Reading

Bill received from the House of Representatives.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.13 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator 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)—I table a revised explanatory memorandum related to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This Bill, the Tax Agent Services (Transitional Provisions and Consequential Amendments) Bill, will facilitate a smooth transition from the current law concerning the registration of tax agents to the new regulatory regime provided in the Tax Agent Services Act 2009.

The Tax Agent Services Act 2009 was passed both Houses of Parliament earlier this year and received Royal Assent on 26 March 2009. That Act will ensure that tax agent services are provided to the public in accordance with appropriate professional and ethical standards.

This Bill provides the transitional and consequential amendments required to ensure a smooth transition to the new regulatory regime.

The Bill consists of a number of key elements.

Firstly, the Bill ensures that entities currently providing tax agent services are able to transition into the new regime with as little disruption as possible. This includes tax agents and nominees registered under the current law, as well entities currently providing Business Activity Statement (BAS) services. The Bill also includes special transitional provisions to cater for entities providing specialist tax agent services.

Secondly, the Bill will amend the Taxation Administration Act 1953 to introduce two ‘safe harbour’ provisions. These provisions exempt taxpayers who engage an agent, from liability for administrative penalties for mistakes and omissions made by their agent, in certain circumstances. These safe harbours have been a key feature of the new regime since it was first proposed in 1998. They reflect the fact that under the new regime, effective action will be able to be taken to improve the performance of tax agents or BAS agents where necessary.

Thirdly, the Bill makes minor amendments to the Tax Agent Services Act 2009 to, among other
things, facilitate certain disclosures of information from the new Tax Practitioners Board, established under that Act, to the Commissioner of Taxation.

Lastly, the Bill will make consequential amendments to other existing legislation. These amendments will be necessary upon the commencement of the key regulatory provisions in the Tax Agent Services Act 2009. For example, the Bill repeals Part VI A of the Income Tax Assessment Act 1936, which is the existing law relating to the registration of tax agents.

The new regulatory regime has undergone significant development and refinement over a number of years. The key transitional and consequential amendments, including the proposed safe harbour provisions, have been the subject of extensive consultation. Indeed, this Bill was publicly released for six weeks public consultation earlier this year.

The Government values the input provided by interested parties through consultation. Comments received during consultation have led to significant improvements being made to achieve what is provided in this Bill today.

The full details of the provisions in the Tax Agent Services (Transitional Provisions and Consequential Amendments) Bill are contained in the explanatory memorandum.

I commend the Bill and present the explanatory memorandum.

Senator FIFIELD (Victoria) (1.14 pm)—The opposition will support the passage of Tax Agent Services (Transitional Provisions and Consequential Amendments) Bill 2009 through the Senate. I thought the ASADA legislation was a fairly dry piece of legislation, but I think the Tax Agents Services (Transitional Provisions and Consequential Amendments) Bill does eclipse it. However, I do know that there are tax agents who eagerly await this sort of legislation, and to them we devote this legislation.

This bill contains a range of consequential and transitional provisions to the tax agent services regime legislation that was passed with the support of the coalition on 12 March this year. The new tax agent services regime will mean that for the first time there will be a single national regime governing the registration and regulation of tax practitioners.

This bill contains two schedules. Schedule 1 of this bill includes the 'safe harbour' provisions that protect taxpayers from administrative penalties that would otherwise arise from certain shortfalls or late lodgements. It will provide protection to taxpayers who provide their tax agents with all required information, and then their tax agent fails to take reasonable care by making a false or misleading statement or by failing to lodge a return. This will provide certainty and confidence for all those taxpayers who use the tax agents to manage their tax affairs.

Schedule 2 provides for the transition from the current state based registration system to the new national based registration system. Schedule 2 includes provisions to ensure that those tax agents that are currently providing tax agent services will be granted registration through the three-year transitional period. This includes certain entities that are not currently required to be registered.

This schedule also includes provisions to register those specialist tax advisers, such as those who provide R&D tax advice, regardless of their ability to meet the registration requirements. Schedule 2 also includes provisions to transfer all of the responsibilities and roles of the state boards to the new national Tax Agents Board. These provisions will ensure that the new board will be able to adopt all the functions of the existing state based boards. These provisions in schedule 2 will also ensure that the roles that the state boards are currently playing in legal proceedings and inquiries will be continued by the new national board.
This bill contains consequential changes to a regime begun under the coalition. It will provide protection for taxpayers and certainty for tax agents. The coalition supports the 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) (1.17 pm)—I thank Senator Fifield for indicating support for this important bill and for describing in great detail what it is all about. It is a transition bill; the existing regime for the regulation of tax agents was actually introduced in 1943, and it is now inappropriate for Australia’s current tax and commercial setting. The primary piece of legislation that replaces this existing framework with a new regulatory regime was the Tax Agents Service Act 2009, which was enacted earlier this year.

As Senator Fifield has described quite clearly the key provisions in the bill, I just want to assure senators and those listening that the key provisions in the bill, like all of the key elements of the new regime, have been developed through extensive consultation over a number of years. The consultation process has involved a broad range of stakeholders representing very different areas in the community. It was quite a robust consultation process that has resulted in a very balanced regulatory regime that the government is ready to implement, and that those involved in the tax agent service industry are keen to see occur. They have expressed their strong support for the introduction of the new regulatory regime, and so I appreciate that the opposition understands that and is supporting the implementation of that new regime as quickly as possible.

The government is committed to implementing a new regulatory regime that is tailored to Australia’s dynamic and modern tax and commercial environment, and is designed to strengthen the integrity of the tax system and the tax industry. The passage of this bill will represent another important step in the creation of this much awaited regime, and I can also confirm that the final part of the tax agents services package, the tax agents services regulations, was also the subject of public consultation in August of this year, and the government is moving to finalise these regulations in the very near future.

I commend the bill to the Senate.

Question agreed to.

Third Reading

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

Sitting suspended from 1.21 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Asylum Seekers

Senator FIERRAVANTI-WELLS (2.00 pm)—My question is to the Minister for Immigration and Citizenship and the Minister representing the Prime Minister, Senator Evans. Given the minister’s refusal or inability to rule out bringing the 78 attempted—

Senator Cameron interjecting—

The PRESIDENT—Order! I need to hear the question, Senator Cameron.

Senator FIERRAVANTI-WELLS—Given the minister’s refusal or inability to rule out bringing the 78 Sri Lankans on board the Oceanic Viking to Christmas Island during question time yesterday, I ask the minister once again: will you rule out bringing the 78 Sri Lankans on board the Oceanic Viking to Christmas Island?

Senator CHRIS EVANS—I have made it clear on a number of occasions this week in the Senate that the Australian government responded to a rescue call and a request from
the Indonesian government to go out and rescue these 78 persons who were at risk from drowning at sea. I am not sure whether the opposition is suggesting that we should not have dispatched the Navy and the Oceanic Viking—I do not think so.

Senator Abetz—Just answer the questions.

Senator CHRIS EVANS—Senator Abetz, I will, if you will just belt up for a second.

The PRESIDENT—Order!

Senator Minchin—Mr President, on a point of order: there were two breaches of the standing orders there. One was that the Leader of the Government did not address his remarks through the chair and the other was that his remarks were unparliamentary. I ask you to rule on that matter.

The PRESIDENT—There were actually three breaches of the standing orders, Senator Minchin. The first was the interjection and the others were the comments that followed. I think we can do without those comments during question time. Whether it be interjections or people responding to interjections, it does not help the conduct of question time in any way. Senator Evans, be cautious of the way in which you address the question, and I remind you that you now have one minute and 28 seconds in which to answer the question.

Senator CHRIS EVANS—I am happy to withdraw the remark. I am, though, concerned that we have proper consideration of what is a serious issue of a rescue at sea; 78 people’s lives were at risk. The Australian government, responding to the request to the Indonesian maritime safety authorities, went in and saved those people’s lives. Following that rescue at sea, the Indonesian government indicated that they were prepared to have those people disembark in Indonesia because they were rescued in an Indonesian sea rescue zone. They agreed that these people ought to be disembarked in Indonesia. That agreement has been confirmed by the President of Indonesia and we have been in the process of seeking the safe disembarkment of those passengers in Indonesia. Negotiations are continuing to effect that disembarkment, but it is our intention and the agreement with the Indonesian government to see those persons disembark safely in Indonesia. We have made that clear and we are working with both the Indonesian government and the passengers to ensure that there is a safe landing and that those people are cured for once they disembark in Indonesia. We think that is the appropriate course of action.

Senator FIERRAVANTI-WELLS—Mr President, I ask a supplementary question. Given Minister Tanner’s refusal to rule out paying 78 asylum seekers to leave the Oceanic Viking, will the minister now on behalf of the government rule out paying the 78 asylum seekers to disembark from the Oceanic Viking?

Senator CHRIS EVANS—Mr President, I do not really understand the basis of the question. There is no suggestion of anyone paying people to disembark from the Oceanic Viking. There is a negotiation between the Indonesian government and the Australian government to ensure the safe disembarkation of those persons. That will obviously involve discussing with them their future and ensuring that they are confident of disembarking safely and being processed by the UNHCR if they seek to make asylum claims. There is no suggestion that people will be paid to disembark. Other than that, there will be a proper orderly disembarkation of these people who have been rescued at sea by the Australian authorities. That is our firm intention and that is the agreement with the Indonesian government.
Senator FIERRAVANTI-WELLS—Mr President, I ask a further supplementary question. What has been the total cost to Australian taxpayers of the Oceanic Viking’s 11-day stand-off?

Senator CHRIS EVANS—I am happy to seek to get some of that information for Senator Fierravanti-Wells. I make the point, though, that the alternative cost was the death of 78 people. The cost of the Oceanic Viking was in going to a rescue at sea. You have to answer the question: do you oppose the rescue at sea of those 78 individuals? The cost of the Oceanic Viking is the cost of the rescue of people in fear of death.

Senator Fierravanti-Wells—Mr President, a point of order: I asked the minister a very direct question and that was: what was the total cost to Australian taxpayers of the 11-day stand-off? I did not ask for a diatribe, again. I asked him a specific question. Could you direct him to answer the question.

The PRESIDENT—Order! I cannot tell the minister how to answer the question. The minister is answering the question. The minister has 26 seconds left.

Senator CHRIS EVANS—The opposition may not like the answer, but that is the answer. The cost of the expedition of the Oceanic Viking will be provided in due course, but you have to decide whether you would prefer to see 78 people die. This government decided that we would act in the proper, moral and humanitarian way. You cannot have it both ways. The Liberal Party have to decide whether they should support the rescue or not. (Time expired)

Afghanistan and Pakistan: Terrorist Attacks

Senator FORSHAW (2.07 pm)—My question is to Senator Faulkner, the Minister representing the Minister for Foreign Affairs, and my question relates to the terrorist attacks that occurred overnight on women and children in Pakistan and on UN employees in Afghanistan. I ask the minister if he could indicate what the government’s response is to these terrorist attacks.

Senator FAULKNER—The Australian government and I know all senators condemn yesterday’s shocking terrorist attack on a street market in Peshawar in Pakistan. This was a brutal attack on innocent civilians, most of them women and children. In fact, the area that was targeted was part of the street market that held toy shops and women’s jewellery and clothing stores. Reports of dead and injured and intense fires in this crowded and popular market I think are particularly disturbing, and it appears that the surrounding area was largely destroyed in the devastating car bomb attack. I would say it highlights again the ruthlessness of terrorists and the challenge that the global community faces against terrorism.

I can inform the Senate that unfortunately, according to our Department of Foreign Affairs and Trade, the death toll is now 103 confirmed dead, with 235 injured. We are not aware that any Australians were in the vicinity of the attack, but officials are working to finally confirm that.

The Taliban are continuing a campaign to kill innocent Pakistanis and are attempting to undermine the government of Pakistan at a time when the confrontation against this enemy has been escalating. I think the gravity of the situation in Pakistan cannot be understated. This morning the foreign minister spoke to the Pakistani High Commissioner to Australia to formally extend Australia’s and the government’s condolences, and of course I know that all senators share those sentiments. (Time expired)

Senator FORSHAW—Mr President, I ask a supplementary question. Thank you, Minister, and certainly I know we all do share those sentiments and the outrage at
these terrible attacks. Minister, I understand that there were early morning attacks on UN staff staying in accommodation in Kabul in Afghanistan, and I would ask you to comment on the government’s response to that attack particularly but also on the ramifications that this may have for the conduct of the upcoming run-off election in Afghanistan.

Senator FAULKNER—I thank Senator Forshaw for that supplementary question. Yes, there was an attack on UN staff in Kabul yesterday in which at least five United Nations staff were murdered by heavily armed gunmen. Afghan civilians and security forces were also killed and injured in the attack, which was on a guesthouse which is popular with foreign workers. Around the same time, a rocket attack occurred on the Serena Hotel in a day of what can only be described as violence I think designed to undermine the upcoming election. We join with many others, including UN Secretary-General Ban, in condemning the attack and again send condolences to families of the victims. The United Nations Assistance Mission in Afghanistan and of course our own troops are deployed— (Time expired)

Senator FORSHAW—Mr President, I ask a further supplementary question. I thank the minister and I ask the minister, particularly in relation to the attack discussed in the answer to that supplementary, to comment on the resolve of the UN in Afghanistan in regard to ensuring that this attack does not prevent or have an impact on the election.

Senator FAULKNER—I was saying that UNAMA and our own troops are deployed to Afghanistan as a part of a UN mandated NATO led mission, and the UN of course has a very critical role in the up and coming run-off election. On 7 November Afghan institutions, including those backed by the UN, will again be called upon to ensure that constitutional and legal processes are followed in the second round of voting. The Taliban have let it be known that they will use violence and intimidation to disrupt the outcome, and I would say that this attack on the UN staff is just one act of violence to try and do just that. I am sure that many of the Afghan people will defy these threats to vote for a properly constituted government, but we remain committed to security and stability in Afghanistan. (Time expired)

Asylum Seekers

Senator ABETZ (2.13 pm)—My question is to the Minister for Immigration and Citizenship and the Minister representing the Prime Minister, Senator Evans. Whose responsibility is it to remove the 78 Sri Lankans from the Oceanic Viking if they continue to refuse to leave—Australia’s or Indonesia’s?

Senator CHRIS EVANS—I thank the senator for his question. The operational responsibility on board the ship, and the control and management of the passengers, is under the control of Customs and Border Protection officers. The ship is captained, I think, by a P&O crew, but a Customs and Border Protection unit on board is in control of the passengers and is responsible for their care, safety and supervision. So any operational decision regarding the disembarkation of those passengers will be taken by them—although, obviously, they may take advice—and they will supervise the disembarkation of the passengers onto Indonesian territory. That will, of course, be done in accordance with their normal regulations and guidance, and obviously the Indonesians will take responsibility for the care and supervision of those passengers once they are disembarked in Indonesia. But Customs and Border Protection officers are highly trained and professional and are equipped to deal with these circumstances. We expect them to perform
their role professionally and we are sure they will. They will obviously have operational control when it comes to the disembarkation of those passengers in Indonesia.

Senator ABETZ—Mr President, I ask a supplementary question. Which minister is directly responsible for the Oceanic Viking debacle? Given that the minister is bound by sessional orders to be directly relevant to the question, a name will suffice.

Senator CHRIS EVANS—I am not sure that it is within the standing orders for the questioner to demand the answer that he would like, but can I say that the management of this situation is across government and that we have had a range of agencies and ministers engaged with the process. Clearly the responsible minister for customs and border protection has immediate ministerial responsibility for the ship and the actions of the Customs officers on board the ship. But there has been a series of negotiations with the Indonesian government, as you would expect, and they have largely been led by our embassy in Jakarta. Obviously other ministers have been engaged but, fundamentally, in terms of the operational matters, it is a matter for Customs and Border Protection.

Senator ABETZ—Mr President, I ask a further supplementary question. Exactly what is the Prime Minister’s role in this debacle? Has the Prime Minister exhausted his foreign affairs prowess with Indonesian authorities? Does the Prime Minister agree with the Indonesian foreign minister’s understated observation—one that all Australians would agree with—that ‘I don’t think what is happening just now is necessarily the model of how we will proceed in the future’? If so, what would the Prime Minister do differently?

Senator CHRIS EVANS—Again, it is a rather odd question, but can I say that the Prime Minister has been taking responsibility for the government by appearing in question time every day this week and answering a series of confused and contradictory questions from the opposition where they try and make up their mind just whose side of the debate they are on on this. They ask questions that reflect that policy confusion that exists among them. What is usual is that we have a mature relationship with the Indonesian government. We operate under the conditions of the Lombok Treaty, which is established to deal with those sorts of relationships, and we are also operating under the Bali processes where we co-chair with Indonesia regional solutions to people-smuggling. We are engaged in that partnership with Indonesia and other nations and we will continue to engage in that way. (Time expired)

Horseracing

Senator BOB BROWN (2.19 pm)—My question is to the Minister representing the Minister for Agriculture, Fisheries, Forestry and fast horses, Senator Carr. Is the minister aware that the British Horseracing Authority’s integrity department has in the past fortnight interviewed the British trainer Gary Moore, who has prepared Mourilyan and Bankable, two horses owned by the Chechen dictator Kadyrov, which are both now in Melbourne? What talks has the government had with Australian racing authorities about the entry by Mr Kadyrov of the two horses in the Melbourne Cup and potentially the Emirates cup, and what process is in place to vet the potential for winnings on the Australian circuit from people like Mr Kadyrov?

Opposition senator—Come on, you broken down old man!

Senator CARR—What was that?

Opposition senators—Come on, you broken down old man!

Opposition senators—He is a stayer!
The PRESIDENT—Order! Let us keep the racing terms out of question time, even though the Melbourne Cup is due.

Senator CARR—It’s been a while since you backed a winner, Senator, so I suggest you keep quiet.

The PRESIDENT—Senator Carr, address the question.

Senator CARR—The Commonwealth, as Senator Brown knows full well, has no responsibility or authority over horseracing in Australia as these are matters that are managed by the states and by racing authorities. The Commonwealth’s role is to ensure that any imported horses for any purposes meet our biosecurity import conditions. I understand that there have been several imported horses registered for the upcoming spring carnival and that they are currently in quarantine. They are preparing for that spring racing carnival. I am not able to comment on any legal or policing matters as they do not relate in any way to the purview of the minister I am representing here this afternoon.

Senator BOB BROWN—Mr President, I ask a supplementary question. Will the Rudd government be content to see the Melbourne Cup and the attendant prize money go to Chechnyan dictator Kadyrov with the blood he has on his hands? Will the Commonwealth look, as the British Racing Authority is doing, at vetting the ownership of horses which are brought into Australia with the clear intent of taking home largesse from such lucrative races as those at the spring carnival in Melbourne to owners who have been involved in criminal or other activity?

Senator CARR—I have no brief whatsoever on these matters, Senator Brown, as one would expect, given that the Commonwealth has no responsibility for or authority over horseracing in Australia. These are matters which are managed by the states and by the racing authorities. I cannot add any more to my answer than that, Senator.

Senator BOB BROWN—Mr President, I ask a further supplementary question. A good many Australians will question the Commonwealth if Mr Kadyrov gets windfall gains from his horses running in the Melbourne Cup and, potentially, the Emirates Cup. I ask the minister: has the Commonwealth government looked at the record of Prime Minister Kadyrov of Chechnya—his involvement in torture, his involvement in domestic assassinations and his involvement in international assassinations—and is the government content that it has no due diligence role whatever in the import of horses which may benefit such a dictator?

Senator CARR—I thank the senator. The government has the Department of Foreign Affairs to deal with issues relating to the Russian Federation and it is not a question that I can make comment upon. I have no information on what the government has done in regard to the Russian Federation—

Opposition senators interjecting—

Senator CARR—I suggest I know considerably more about the Russian Federation than you, Senator.

Opposition senators interjecting—

Senator CARR—I would say this to you, Senator: what I can assure the Senate—

Opposition senators interjecting—

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

Senator CARR—What I can assure the Senate is that this is not a matter that is under the purview of the minister for agriculture. If you wish to ask further questions on this matter, I suggest you address them to the relevant minister.
Economy

Senator FIFIELD (2.25 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. Can I say how pleasing it is to see Senator Conroy back at the crease representing the Treasurer. Minister, in light of yesterday’s CPI figures, the recent interest rate rise and the expected Cup Day rate rise, can the minister detail for the Senate the current status of the Prime Minister’s five-point plan to fight inflation?

Senator CONROY—Could I congratulate Senator Fifield on finally getting a question again. Absurd claims have been made that our stimulus measures have somehow contributed to inflation. I would like to give you three reasons why these are wrong, both in logic and in fact.

Inflation grew at just 1.3 per cent over the year to the September quarter, its lowest rate in a decade—since the June quarter 1999. These figures are consistent with an easing of inflationary pressures in the economy. Since the September quarter last year, annual inflation has slowed from 5 per cent to 1.3 per cent and both the Treasury and the Reserve Bank have said that inflation is expected to remain subdued in the near term. That reflects the fact that our economy is operating well below capacity and is expected to do so for some time. As the RBA governor has said on a number of occasions now, it is hard to say there is too much growth in the economy. ‘I think it is a bit hard to claim that as of this moment there is too much growth in the economy,’ were his exact words.

Secondly, the stimulus is being phased down—

Senator Fifield—Mr President, on a point of order on relevance: my question to the minister was in relation to the Prime Minister’s five-point plan to fight inflation. I should not do this, but I will draw the attention of the minister to the fact that that plan was released on 21 January 2008. It may help to prompt his memory of that plan.

Senator Ludwig—Mr President, on the point of order: the minister is answering the question; the minister is being directly relevant to the question; the minister is providing answers to the question in relation to inflation and what those impacts are. Clearly, this is a pointless point of order being taken by the opposition to restate the question.

The PRESIDENT—I draw the minister’s attention to the fact that there are 27 seconds remaining to answer the question. I draw the minister’s attention to the question.

Senator CONROY—As I said, the stimulus is being phased down as the economy strengthens, making room for the recovery in private activity. That means that, far from fuelling growth and inflation, our stimulus will actually subtract from growth through 2010. In fact, the stimulus will subtract from growth in every quarter of 2010. (Time expired)

Senator FIFIELD—Mr President, I ask a supplementary question. How do the government’s current stimulus spending and projected budget deficits meet the fiscal discipline required by the Prime Minister’s five-point plan and, in particular, does the government stand by the Prime Minister’s commitment at the plan’s launch last year: ‘Fiscal policy should not complicate the task of monetary policy. It should make the job of the Reserve Bank easier, not harder’?

Senator CONROY—I guess I must have been a little prescient. I will just reiterate the points I was making. Stimulus is being phased down as the economy strengthens, making room for the recovery in private activity. That means that, far from fuelling growth and inflation, our stimulus will actually subtract from growth through 2010. In fact, stimulus will subtract from growth in
every quarter of 2010. That means that fiscal and monetary policy will continue to work in the same direction during the recovery, just as they did during the downturn. Governor Stevens made that point to the Senate inquiry just last month. The bulk of remaining stimulus is in nation-building infrastructure: investment in highways, rail upgrades, ports, hospitals and schools. (Time expired)

Senator FIFIELD—Mr President, I ask a further supplementary question. In the same speech, the Prime Minister also said, ‘Prior to the election we ran as fiscal conservatives. With the election behind us, we now intend to govern as fiscal conservatives.’ Minister, given this, how can the government continue to justify its wasteful and excessive spending, putting upward pressure on interest rates? How can the government still deny that it is now time to wind back the stimulus spending?

Senator CONROY—That is one of the problems when you write the question before you actually hear the answers—because I have just gone through, in considerable detail, how the stimulus package is reducing the pressure on spending. It is taking it down. The final point is: the bulk of the remaining stimulus is in nation-building infrastructure.

Senator Fifield—Mr President, on a point of order: I fear the Senator Conroy may be on the verge of misleading the Senate. Senator Conroy stated that the government was winding back the stimulus spending. The government’s intention is to continue to spend every dollar that it originally envisaged.

The PRESIDENT—There is no point of order.

Senator CONROY—I repeat yet again, because those opposite do not seem to want to hear this answer: far from fuelling growth and inflation, our stimulus will actually subtract from growth through 2010. In fact, stimulus will subtract from growth in every quarter next year.

Senator Fifield—How can stimulus subtract from growth?

Senator CONROY—I thought you were actually a little smarter than that, Senator Fifield, but you feel free to demonstrate that you are not. I remind the chamber that those opposite ignored the infrastructure crisis in this country. (Time expired)

Nation Building and Jobs Plan

Senator JACINTA COLLINS (2.33 pm)—My question is to the Minister Assisting the Prime Minister on Government Service Delivery, Senator Arbib. Could the minister please update the Senate on progress on the rollout of the government’s stimulus package? That is very relevant to the question just asked. Is the minister aware of comments from the opposition that propose seeking to cut infrastructure as part of the stimulus package? In particular, is the minister aware of comments made by Senator Eggleston in the Senate yesterday regarding the stimulus:

Most of this funding is for useful infrastructure projects, and one option would be to consider reducing the annual expenditure levels while retaining the gross expenditure proposed. That means the government could, for example, extend the period over which this $31 billion was to be spent to 10 or 15 years …

Can the minister advise the Senate what impact this new opposition policy would have regarding the stimulus?

Senator ARBIB—Thank you, Senator Collins, for the question. I am happy to inform the Senate that the stimulus package has moved into the infrastructure stage, and construction is taking place. There are 25,000 projects underway, which are supporting jobs and small businesses across the country. I will give a few examples for the
Senate: 8,000 primary school projects are underway; 2,000 social housing projects are underway; there are 14 road projects of which five are underway; there are 17 rail projects with 10 underway. Three of those rail projects are complete. I can inform the Senate that the modernisation of the Brisbane-Sydney-Melbourne rail corridor continues, with the opening yesterday of the newly-upgraded passing loop at Kerewong in New South Wales.

In terms of rail, the Rudd government have spent more on rail in 12 months than the coalition spent in 12 years. That is what the government are doing in terms of infrastructure, and it totally shows the absolute neglect that the Liberal Party had for infrastructure. Don’t ask us; ask Don Argus, the Chairman of BHP Billiton, who said, ‘Infrastructure to GDP ratio fell during the Liberal Party period by 10 per cent.’ That was their commitment to infrastructure. I can inform the Senate that Senator Eggleston did make those comments yesterday. His plan for the stimulus is to extend it out for 15 years. So kids who are starting school now would not see the school halls, the school libraries or the classrooms under Senator Eggleston’s plan. We would not see the road projects under Senator Eggleston and the Liberal Party, because those projects would not be finished for 15 years. That is what the Liberal Party’s view is. (Time expired)

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. In light of Senator Eggleston’s plan to stretch the stimulus package into the distant future, is the minister aware of other suggestions from some members of the opposition that the stimulus should continue without change? In particular, is the minister aware of comments by Senator Humphries two days ago that the Australian Capital Territory deserves more of the stimulus package? Is the minister aware of a call by Senator Humphries for Canberra to get ‘a little more attention than it is getting from this government regarding stimulus programs’? Could the minister also advise the Senate of comments made by Senator Humphries in Senate estimates regarding seeking more stimulus programs? Can the minister advise the Senate of how many times Senator Humphries actually voted against the packages?

Honourable senators interjecting—

The PRESIDENT—Order! Senator Collins, repeat that last part of the question. There was noise and I could not hear it.

Senator JACINTA COLLINS—Can the minister advise the Senate how many times Senator Humphries actually voted against the government’s stimulus package?

Senator ARBIB—This question shows the complete hypocrisy of the Liberal Party. One question ago, Senator Fifield was attacking the stimulus. Yesterday Senator Humphries was saying, ‘Give me the stimulus.’ He is the Jerry Maguire of the Liberal Party: ‘Show me the money.’ That is what Senator Humphries is. That is what the Liberal Party are about. They have no plan to support jobs. They have a plan to stop the stimulus package, but at the same time they want the funding for their own priorities, for their own little pet projects. It has been proven. It has been done time and time again in the other place, and now Senator Humphries has been caught out in his home territory of the ACT. In the ACT, the government is delivering in terms of the stimulus package: $240 million for 257 projects as part of the education stimulus, and $87 million for 352 units under our social housing package. The government is delivering with this stimulus, and it would be good if once in a while the Liberal Party showed some actual decency

Senator JACINTA COLLINS—Mr President, I ask a further supplementary
question. Can the minister clarify the impact of the contradictory plans to continue the stimulus in the Australian Capital Territory but at the same time delay the infrastructure stimulus until 15 years from now?

_Opposition senators interjecting—_

**The President**—Order! Interjections across the chamber at this hour are completely disorderly. I need to hear the question.

**Senator Jacinta Collins**—Given that the Liberal-dominated Senate Economics References Committee has recommended winding back the stimulus line by line, how does this recommendation compare with these alternative plans from the opposition? Can the minister advise of any projects that would be at risk from being targeted on such a hit list? Would any of these projects be cut in defiance of the local community’s view on the need for these projects and indeed their opposition representation?

**Senator ARBIB**—We now know that the Liberal Party have a hit list for the stimulus and that they want to go line by line through the infrastructure projects. I am happy to go line by line. Maybe I will start with Senator Mason in his home territory. Would Senator Mason like the government to withdraw funding from the Mount Gravatt Special School? Would you like us to withdraw funding? How about the Upper Mount Gravatt State School? Maybe we should withdraw funding there? Or the Old Yarranlea State School? Should we withdraw funding there for infrastructure projects? What about Senator Macdonald and his preoccupation with Cairns, which I share—should we take funding away from the Ravenshoe State School?

**Senator Ian Macdonald**—It’s Ravenshoe, you donkey!

**Senator ARBIB**—Should we take funding away from Miallo State School? Should we take projects away? This is what the Liberal Party—

_Opposition senators interjecting—_

**Senator ARBIB**—I apologise; I should have said ‘Ravenshoe’. Sorry to those residents. But I am sure Senator Macdonald does not want to take funding away from that school—does he? I am sure Senator Humphries does not want to take any funding away from ACT schools. *(Time expired)*

**Economy**

**Senator Joyce** (2.41 pm)—My question is to Senator Conroy, the Minister representing the Treasurer. Would the minister like to explain to us what the difference is currently between Australian interest rates and United States interest rates?

**Senator CONROY**—I am, as you know, representing Senator Sherry this week, Senator Joyce. American interest rates, off the top of my head—no. I can tell you about America’s broadband speeds, if you would like an answer on that—

**Senator Joyce**—Mr President, I rise on a point of order. I know you find this amazing—

**The President**—I understand the answer has finished. Is that correct, Senator Conroy?

**Senator CONROY**—I was just about to indicate—

_Opposition senators interjecting—_

**The President**—Order! I will take Senator Joyce’s point of order.

**Senator Joyce**—My point of order is that the question may have finished but the answer actually never started.

**The President**—Senator Conroy, you have one minute and 47 seconds to address the question.

**Senator CONROY**—I was in the middle of saying that I agree with Senator Joyce: I
had not got around to completing my answer. So, thank you for that, Senator Joyce. As I said, I am representing Senator Sherry, who represents the Treasurer in this chamber, so I do not have handy the current level of American interest rates but I am happy to get that information and pass it on to you.

Senator JOYCE—It is going to be hard work today, isn’t it, Mr President. I have a supplementary question to the question that was never answered. Are inflationary pressures due to the Labor Party’s absolutely ridiculous and profligate wasting of money due to other external factors which the minister might like to direct us to, or is the Reserve Bank wrong?

Senator CONROY—The level of interest rates in this country, as has been indicated, has been historically low. At the moment the Reserve Bank have the view that there are some pressures that they are reacting to. Let us be very clear: the government’s stimulus package, which you described as ‘wasteful spending’, has been absolutely critical to keeping hundreds of thousands of Australians in their jobs. In fact Mr Rory Robertson, an economist at Macquarie Bank, in appearing before a Senate inquiry recently summed it up nicely. He said: ‘I think the economy at this stage remains sufficiently weak that it needs quite a bit of help.’ I think it is hard to argue right now that the economy is too strong and therefore we must stop it from growing as fast, which is effectively what pulling back would involve. Mr President, that is the entire tenor of those opposite—(Time expired)

Senator JOYCE (2.45 pm)—Mr President, I ask a further supplementary question. Does the government have any concerns about Australian working families and the current upward pressure on interest rates and what the cost of living will be for them and how they are going to find the money to compensate because of Labor’s absolute and profligate waste of money?

Honourable senators interjecting—

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

Senator CONROY—I quote Reserve Bank governor Glenn Stevens from a statement he made on 28 September:

If we find that government borrowing rates are a lot higher in the years ahead, I do not think it will be because of Australia’s outcomes. It will be because there is a lot of government debt being issued around the world by countries that have really serious fiscal problems, like the Americans and the British, with double-digit deficits and 80 or 100 per cent GDP ratios for debt.

Let us be clear: those opposite have been on the wrong boat for many months now. They made the wrong call to sit on their hands and wait and see—the famous Ms Bishop call. Since then they have dug themselves into a deeper and deeper hole. They were wrong about the need for the stimulus, they are wrong on the withdrawal of the stimulus and they continued to wallow around without alternative policies. (Time expired)

Asbestos Compensation

Senator XENOPHON (2.47 pm)—Mr President, my question is to the Minister representing the Prime Minister, Senator Evans, and is in relation to James Hardie’s asbestos victims. I should declare an interest in this matter as I am a patron of the Asbestos Victims Association (SA) Inc. I note the Prime Minister’s strong advocacy for asbestos victims in the past. I refer to recent reports that James Hardie’s asbestos compensation fund is running out of money. According to the Asbestos Diseases Foundation of Australia there will not be enough funds to pay victims this financial year based on current projections. Given the NHMRC estimates that more than 25,000 Australians will die from asbestos related diseases over the coming
decades, a figure that many consider conservative, will the government take steps to ensure the company makes appropriate funds available to ensure that no victim of James Hardie Asbestos is left without adequate compensation?

Senator CHRIS EVANS—Mr President, I thank Senator Xenophon for the question. I acknowledge his interest in the matter and I think all senators share concerns for the victims of asbestos disease. We are very determined to ensure James Hardie meets its moral and legal obligations to asbestos victims. The government has been encouraging all parties to the funding agreement to work quickly to deliver an outcome that recognises the hardship experienced by asbestos victims.

I am advised that in the past week the Minister for Financial Services, Superannuation and Corporate Law, Mr Bowen, has been meeting with stakeholders, including the New South Wales Treasurer and the ACTU. I understand these discussions have been constructive and cooperative, and the Commonwealth continues to explore the ways in which it can assist. Further discussions are expected to take place over coming weeks. In the meantime the Commonwealth has offered the fund the assistance of the Australian Government Actuary. While continuing to explore additional ways it can help, the Commonwealth has already—as you know, Senator and Mr President—provided a great range of assistance to asbestos victims and the Prime Minister has continued to advocate on their behalf. We have listed Alimta on the Pharmaceutical Benefits Scheme for the treatment of mesothelioma, and $5 billion has been awarded towards the costs of the Bernie Banton centre at the Concord Hospital in Sydney. We have invested in a number of research projects. We are keeping a very close eye on and engagement with these issues. I understand the concerns about a potential shortfall in compensation. We are looking very much to engage with the major players to ensure that James Hardie does meet its moral and legal obligations to asbestos victims.

Senator XENOPHON—Mr President, I ask a supplementary question. In addition to the matters outlined by the minister, are any other further steps proposed to ensure that James Hardie’s books are forensically analysed to ensure that James Hardie meets its obligations and it is not withholding any funds, as it has been alleged to have done in the past, given its move a number of years ago to the Netherlands?

Senator CHRIS EVANS—As I said, we have made available the government actuary to assist. As the senator would know, the fund was established in November 2007, following the amended and restated final funding agreement entered into by James Hardie, the fund and the New South Wales government. The obligation on James Hardie to pay moneys into the compensation fund is governed by the funding agreement and New South Wales legislation. That agreement requires the company to deposit into the fund an amount equal to 35 per cent of its free cash flow or an annual contribution based on periodic actuarial assessment, whichever is the lesser amount. I have been advised that approximately 85 per cent of James Hardie revenue is dependent on the US housing market, which has been in considerable difficulty. But there are signs of that market recovering and James Hardie announced in August a first quarter net operating profit—(Time expired)

Senator XENOPHON—Mr President, I ask a further supplementary question—and I would appreciate it if the minister could elaborate. Given the widespread knowledge of the devastating harm caused by asbestos for well over 50 years and the fact that state,
territory and federal governments allowed James Hardie to continue to manufacture and market its product well after the dangers were known, will the government consider stepping in and filling any shortfall in funding for victims should the need arise?

Senator CHRIS EVANS—The government has made clear that it is very much engaged with the issue and very much committed to making sure that James Hardie meets its obligations. I lost a close friend a couple of years ago who worked at Wittenoom for a couple of years. I think many of us here have personal connections with people who have suffered. We are very determined to make sure James Hardie meets its obligations, and the Minister for Financial Services, Superannuation and Corporate Law, Mr Bowen, is meeting with key stakeholders. He is engaged in trying to ensure that we get a really good result. He advises me that discussions have been constructive and cooperative, and we will continue to apply any pressure or provide any assistance the Commonwealth can provide to make sure that we get a good result and that we ensure proper care for those victims of James Hardie and the asbestos that it produced.

National School Chaplaincy Program

Senator MASON (2.52 pm)—My question is to Senator Carr, the Minister representing the Minister for Education. Given that the Rudd government refuses to commit to continuing the School Chaplaincy Program and given that local school communities are being forced to raise the funds required to retain their school chaplains, will the Labor government now recognise the vital role chaplains play in the school community and, if so, commit to funding beyond 2010?

Senator CARR—I thank the senator for his question. As the senator is aware, the School Chaplaincy Program was introduced by the previous government with a funding commitment of $165 million over three years. Across Australia, some 2,700 schools have received funding under the program. As the senator is only too well aware, the program was designed and announced as a three-year program, with the initial agreements concluding in July 2010. All 2,700 agreements will be concluded by December 2011. While no further funding rounds are planned at this stage, the government may consider funding in the context of future budget processes. The minister has received terrific feedback from local members of parliament and a number of schools and parents organisations about the value of the program.

Senator Abetz—You are cancelling it.

Senator CARR—It is not being cancelled, Senator, as you are only too well aware. The previous Howard government introduced this three-year program, and it was announced at the time as a three-year program.

Opposition senators interjecting—

The PRESIDENT—Order! If people wish to debate this question, the time to debate it is at the end of question time.

Senator CARR—The government are determined to ensure schools are supported in ensuring the wellbeing of their students, and we will continue to do just that.

Senator MASON—Mr President, I ask a supplementary question. I refer the minister to the comments of Gayle Walters, school president of Patricks Road State School in Brisbane’s north, who said chaplains services were ‘vital’ because:

It’s someone they can trust ... it relieves the pressure for the teachers and other students.

Why is the Rudd government determined to see the death of a program that is so vital, particularly to our most vulnerable children?
Senator CARR—Senator Mason has sat through many hours of estimates on these issues, so he knows that what he is saying to the Senate is a gross misrepresentation. I would have thought that Senator Mason should actually be on his feet making a personal explanation at this point for wilfully misleading the Senate as to what he understands to be the situation with regard to the National School Chaplaincy Program.

Senator Brandis—You are playing the man.

Senator CARR—I am not playing the man. It is a fact of life that Senator Mason has some understanding of these issues, unlike you, Senator Brandis.

Senator Parry—Mr President, I rise on a point of order. Minister Carr is not answering the question. He is not being directly relevant. That is the first point. Secondly, the point of order relates to the way he was reflecting on Senator Mason. Senator Mason asked a very specific question. Mr President, can I also direct you to a definition of ‘directly relevant’. For ‘directly’, the Macquarie Dictionary says, ‘in a direct manner, straight, without delay, immediately’. Senator Carr has gone on for 40-odd seconds without even attempting to answer the question and he only has 22 seconds left. ‘Relevant’ means in a state of fact or fact of being relative. Mr President, can I ask you to direct the minister to answer the question directly, to be relevant and not to be disparaging against Senator Mason.

The PRESIDENT—Order! Minister, you have 22 seconds remaining to answer the question.

Senator CARR—I understand that Senator Mason—

Senator Abetz—Mr President, I rise on a point of order. It is to reflect on a senator to assert that they are ‘wilfully misleading the Senate’. They were the words spoken by Senator Carr and they need to be withdrawn, and I invite you to require him to do so.

The PRESIDENT—Minister, if you have used those words, you will need to withdraw them.

Senator CARR—I withdraw. Senator Mason understands the nature of this program. He understands that it is a gross misrepresentation of the government’s position. He knows a great deal more about this than Senator Abetz. He understands that it was a terminating program announced by the previous government. A three-year program—

(Time expired)

Senator MASON—Mr President, I ask a further supplementary question. Given that recent research has shown that over 97 per cent of school principals believe the chaplaincy program is effective and important, and in a Senate estimates just last week the department recognised the feedback on the program had been resoundingly positive, will the minister explain to school communities why the government can find billions of dollars to cover blow-outs in its education programs and the building of school halls, and $2.6 billion for pink batts, but cannot find the money to fund this worthwhile program and make that commitment?

Senator CARR—I will strenuously defend the government’s commitment to schools and education. The fact is we are supporting 10,000 schools across the Commonwealth in a manner in which the previous government failed to do. I will also assert to you, Senator, that we are in the business—

Opposition senators interjecting—

The PRESIDENT—Order! I know people are getting excited but I need to hear Senator Carr.

Senator CARR—Once again, Mr President, I would seek advice from the Liberal
Party as to which schools they do not want to fund. Which programs do you wish to cut back? Which groups of students do you wish to deprive of public support, which is what is being argued at this point? You are suggesting that we should not support school communities in the manner in which—

Opposition senators interjecting—

The PRESIDENT—Order! Shouting across the chamber is disorderly. Senator Carr, your comments should be addressed to the chair and not across the chamber.

Senator CARR—Mr President, through the chair, I would like to know which schools the Liberal Party do not support. Which schools do they wish to undermine by their vicious assault upon education in this country?

Senator Ian Macdonald—Mr President, on a point of order: would you explain to the minister that question time is for him to answer questions not for him to ask questions.

The PRESIDENT—There is no point of order. Senator Carr, you have 10 seconds remaining.

Senator CARR—This government is proud of the support it has provided to students of this country. It is proud of the support it has provided to education in this country. (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Health: Dental Prosthetics

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.01 pm)—Senator Fielding on 28 October 2009 asked me a question in relation to the Therapeutic Goods Administration. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

SENIOR FIELDMING asked the Minister representing the Minister for Health and Ageing, upon notice, on 28 October 2009:

I refer to an article in the *Age* on 22 August 2009 which revealed that an increasing number of unsuspecting Australians are having their mouths filled with cheap dental prosthetics from overseas laboratories which contain toxic heavy metals. Is the minister aware of these serious allegations and what is being done by the government to protect Australians from this dangerous practice? Isn’t it true that the Therapeutic Goods Administration has banned the use of heavy metals such as lead and nickel in the manufacture of dental prosthetics made in Australia but it is still perfectly legal to import cheap products from overseas that contain these dangerous metals? And don’t these imported dental products end up in the same place as Australian made products—that is, in the patient’s mouth? What is the government going to do to close this dangerous and dodgy loophole?

Given that there is no law to stop dentists using dangerous toxic dental prosthetics from overseas, such as crowns, bridges and dentures, how can it be said that a patient is giving their informed consent when agreeing to have a prosthetic put in their mouth if they do not know what it is made out of or where it was manufactured? Will the government tighten disclosure requirements so that unsuspecting Australians are made aware that their prosthetic may contain dangerous, toxic materials?

SENIOR LUDWIG—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Dental prostheses are regarded as therapeutic goods and are regulated by the Therapeutic Goods Administration (TGA) via a robust international regulatory framework.

However, under this framework some dental prostheses, such as crowns and bridgetwork prepared for an individual under the direction of a dental professional, are regarded as custom-made medical devices. These products are not required to be
included in the Australian Register of Therapeutic Goods.

The TGA is unable to mandate the source of products or materials used by Australian dentists in these devices.

Dentists and others who import such products are, by definition, the ‘sponsors’ of these medical devices and are therefore fully responsible for ensuring the products meet the appropriate standards.

The TGA has worked with the peak dental industry bodies over a number of years to ensure dentists are aware of their responsibilities. However matters relating to professional practice standards are matters for state and territory health authorities.

The TGA has not ‘banned’ the use of heavy metals such as lead and nickel in the manufacture of dental prosthetics made in Australia. Metals such as lead and nickel are invariably present at low levels in dental materials such as porcelain and cannot be completely eliminated.

As a result of discussions with industry associations, the TGA recently initiated a public consultation process in relation to the regulation of custom made medical devices. Comments were invited from all interested parties and the TGA received a number of submissions, including from the professional associations. This work is still under way and the TGA has begun discussions with industry representatives in relation to the comments received to determine the best way to move forward.

Consumers or professionals within the dental industry who have concerns about the quality, safety or performance of specific products are encouraged to report any incidents to the TGA via its Incident Reporting and Investigation Scheme (IRIS). Such reports enable the TGA to investigate and test the materials used in the construction of the devices.

In addition, given the nature of these products it is unlikely that consumers will have an opportunity to review the product labelling. In these circumstances consumers should seek this information from their treating dentist before consenting to undergo any treatment.

Breast Cancer

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.01 pm)—I have the answer to a question from Senator Adams on 26 October 2009, which related to digital mammography machines. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

SENIOR ADAMS asked the Minister representing the Minister for Health and Ageing, during Senate Question Time on 26 October 2009:

The first $10 million of the $120 million that has been allocated for new digital mammography machines is due to be expended this financial year. Has any of this money yet been spent on new machines? If no, when is this going to start?

SENIOR LUDWIG—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

$10m is allocated in 2009-10 for the digital mammography initiative. The Department has been working with states and territories to determine need and equipment and software requirements. Priority for funding will be given to services with the greatest need, or with the greatest preparedness to put digital mammography in place. It is anticipated that the entire $10m allocated this year will be fully expended by the end of the financial year. The first machines are expected to be in place in the first quarter of 2010. The major rollout will commence in 2010-11 with $40m in funding.

QUESTIONS WITHOUT NOTICE:

TAKE NOTE OF ANSWERS
Economy

Senator FIFIELD (Victoria) (3.01 pm)—I move:

That the Senate take note of the answers given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to questions without notice asked by Senator Fifield and the Leader of The Nationals in the Senate (Senator Joyce) today relating to the economy.
This government is truly blessed—truly blessed because nothing is ever its fault. More people-smuggler boats? It is not due to any change in policy; it is all because of push factors, apparently. The AMA releases a report slamming the performance of public hospitals? It is not the government’s fault. Just ignore the PM’s promise to fix hospitals or take them over—it is not this government’s fault. Record deficits and ballooning debt? It is all the fault of the GFC. It is nothing to do with the government, nothing to do with cash splashes, nothing to do with reckless political spending, nothing to do with their outrageous pork-barrelling, nothing to do with the money they have wasted on bicycle paths, nothing to do with the money they have wasted on pink batts—no, absolutely nothing to do with this government. Rising inflation and rising interest rates: are they the fault of this government? Not on your life. Again, nothing to do with this government. Rising inflation is apparently all the fault of electricity retailers increasing prices in some states.

But there is a real problem. I cite Mr Michael Stutchbury, the Economics Editor of the Australian if you do not take my word for it. I almost hesitate to do this because I know how much the government likes the Australian. It would be fair to say that the government has declared something of a jihad against the Australian newspaper and possibly even a fatwa against some of its journalists, but I shall persist despite that. In the Australian today Mr Stutchbury said:

At 3.5 per cent, core inflation remains above the Reserve Bank’s 2-3 per cent target, partly because of domestic price pressures that will be intensified by the looming emissions trading scheme—

That is an interesting one.

On this basis, inflation is not “subdued”, as Wayne Swan suggested yesterday, even though headline inflation has slipped to 1.5 per cent. Backing his budget stimulus, the Treasurer again preferred to emphasise the economy’s negatives.

Once upon a time, treasurers used to focus on the strength of the Australian economy, on our economic fundamentals. But not this Treasurer. He always prefers to focus on the negatives.

You may recall that this government once upon a time talked a little bit more about inflation. They used to talk about inflation genies escaping bottles and things of that sort. So concerned were they that they once had a five-point plan to tackle inflation. The first point was to run strong budget surpluses. Fail! That is no longer part of this government’s strategy. The second was to encourage private savings. I am not too sure there has been massive success there. Another was to fix chronic skills shortages. I guess when an economy takes a bit of a dip they tend to sort themselves out. Infrastructure bottlenecks? We know, courtesy of the BCA, that only 14 per cent of this massive stimulus spending is actually going on serious economic infrastructure. The other thing was to lift workforce participation, which is a funny thing to do when you are reregulating the labour market.

There is a bit of a problem with inflation and a bit of a problem with upward pressure on interest rates. On 7 October this year interest rates went up from three per cent to 3.25 per cent. Possibly on Cup Day we may see another increase in interest rates. We certainly hope that we do not. Clearly, this government needs to re-examine the balance of its stimulus spending. Professor Tony Makin of Griffith University tells us what we know, which is:

… economics textbooks also tell us is that continued fiscal expansion will limit the extent to which interest rates can be lowered in the future.

And that is what we are seeing. But do not take my word for it; take the word of Prime
Minister Rudd, who in his five-point plan said:
Fiscal policy should not complicate the task of monetary policy. It should make the job of the Reserve Bank easier, not harder.
I think they are very wise words. They should be followed and this stimulus spending should be wound back. There is a way to take pressure off interest rates. It is to wind back the stimulus spending now.

Senator HURLEY (South Australia) (3.07 pm)—I also rise to speak to the motion to take note of answers. Question time and take note of answers has, again, targeted the economic stimulus. After the report of the Senate Economics References Committee on the economic stimulus package, you would have thought that the Liberal Party would have learnt their lesson. They fronted up day after day to that inquiry to be told that they were wrong. They were told that they were wrong by senior officials in Treasury, they were told they were wrong by the Governor of the Reserve Bank of Australia and they were told that the stimulus package was appropriate, that it was targeted and that it would wind down over time in an appropriate fashion. The only recourse the opposition have is to shut their ears to all of that advice and steamroll ahead on a policy that they have, because they have nowhere else to go. They have got no policy on this matter, they have no credibility on it; all they can do is power ahead on the tram track they have created for themselves.

We have people from the Liberal Party on the economics committee deliberately not listening to answers because they are the answers that they do not want to hear. We have had not only the Treasury and the Reserve Bank of Australia saying that Australia was on the right track and had done well but also the IMF and the OECD. We do not need economics writers in the Australian or from overseas to comment on this matter, because the answer is in our figures; the figures that Australia is producing—the growth, the jobs and the interest rate figures show that Australia has been doing well, compared to every other developed country. So we do not need to argue against the opposition because the figures and facts speak for themselves.

The only way the opposition develops an argument is to ignore the facts. Senator Joyce, for example, will probably carry on about arbitrage between US interest rates and Australian interest rates, despite the fact that he asked these kinds of questions in the economics committee of the AOFM and of Treasury and was told that there is no evidence of arbitrage between interest rates, that anyone who did indulge in that practice would run a risk with hedging and the difference between currencies, and that it had been done previously and showed the risks of that. But Senator Joyce, not deterred, will carry on with that kind of argument. The opposition has nowhere to go on the economy and that is now reflected in the general polling that we are seeing. The Australian public understands that the Labor government has got this matter right. It introduced an immediate stimulus to counteract the problems of the global financial crisis; it had an intermediate stimulus, which is now being put through; and it has a long-term stimulus with infrastructure, which is badly needed by this country after more than a decade of neglect by the previous Howard government.

People understand that very clearly because it is simple, it is direct and it is the appropriate response to what has happened globally. That is recognised, it seems, by everyone but the opposition. To seize on inflation figures, as Senator Fifield has done, is to seize on an issue which the opposition have no credibility on. The Rudd Labor government developed the five-point plan as a result of the failed economic policies in the
latter years of the Howard government. I almost feel sorry for the opposition. They continue to try to bolster their economic credentials, with very few feathers to fly. I do not wish them any further luck.

Senator WILLIAMS (New South Wales) (3.12 pm)—I rise to make comments on the questions asked by my colleagues Senator Fifield and Senator Joyce. On 24 June, in the Senate, I said, ‘If the government continues on its spending spree it will put upward pressure on interest rates.’ That is exactly what is happening. It is a simple situation. There are two levers on the economy. One is fiscal policy, which we know as government spending, and the other is interest rates—or monetary policy, as the so-called experts call it.

When the global financial crisis hit 12 months ago both levers were put on fast forward. We saw a 4.25 per cent reduction in official interest rates from 15 September last year by the Reserve Bank and we saw this huge spending spree that Treasurer Swan and Mr Rudd took this country on. Both levers were put on fast forward. Now it is clear that the Australian economy is in far better shape than what the economic experts and Treasury forecasters believed. And it is in good shape because of the way we went into this financial crisis. The coalition left the federal government in a debt-free position, with billions in the bank and with low unemployment, at around four per cent. Australia was unique. No other country in the world was going into this global recession debt free, but Australia was. What has happened? The spending has continued and now the economic indicators are clear. Just a few weeks ago, there was a 0.25 per cent interest rate rise by the Reserve Bank, taking it to 3.25 per cent. And now the bookmakers are setting the price for next Tuesday’s Melbourne Cup on interest rates. Will it be a quarter of a per cent or will it be half a per cent?

My younger son, Thomas, is currently looking at buying a house. Interest rates are around 5½ per cent for home loans. I said to him, ‘Run your cash flow at an eight per cent interest rate, because that’s what you could be facing if this government keeps spending the way it is.’ My advice to my young fellow just last week was, ‘Do your figures at eight per cent; that’s what you could be facing.’

But there is another part of this interest rate situation that people have not really focused on, and that is a rising Australian dollar. Senator Joyce asked a question today: what are the interest rates in America? They are one per cent. There are no rising interest rates in America, Europe or around the world—only in Australia. The further the interest rate gap grows between the United States and Australia, the more investment in Australia as those investors chase a higher return on their money and the Australian dollar goes up and up and up. The ramification of that is simple: the nation’s income is reduced. Whether exporting gold, iron ore, coal, beef or wheat, it means fewer dollars coming into our nation. So, in effect, what we are doing is reducing our nation’s income.

This has been brought about by higher interest rates and by the federal government’s spending—which is assisting and promoting higher interest rates. And it is regional Australia that has a negative effect on, because the dollars are not coming into those communities where the exports are derived from and those regional communities are missing out on the money. That is the effect. It might suit many people in the city areas who buy a lot of imported products. Of course, we import a lot of products. As I have said before, trade is about exporting and importing. It makes imported products cheaper, but it also certainly makes exports cheaper, and we are losing income. That is a problem when the interest rates are going to
keep rising in Australia. There is no talk about that stabilising. It is our exporters who will suffer the most.

Let us look back at what Prime Minister Rudd said. He said he was a fiscal conservative—yeah, right! He inherited a debt-free nation with billions in the bank and, all of a sudden, we are running an annual budget of $58 billion in the red. He also said that he would put downward pressure on grocery prices, that he would put downward pressure on fuel prices and that he would fix our hospitals—that the buck would stop with him if they were not fixed by the middle of 2009. But yesterday the Senate had to face a situation with respect to hospitals where the government was trying to do away with any sort of cataract surgery, to remove the incentive for people to carry out their operations—putting more pressure on our public health system. We know that Mr Rudd has not delivered on any of the promises he made prior to the 2007 election. What I find so frustrating about his spending spree is that all he is doing is filling a gap for the state governments. Buildings in schools and those sorts of capital works are not going to improve our economy or lead us to earning more income.

Senator PRATT (Western Australia) (3.17 pm)—It seems to me that senators opposite actually wish that we were in recession—that Australia was facing recession right now—because, without the fiscal stimulus, Australia would be in recession right now and hundreds and thousands more Australians would be out of work. For interest rates to be where those opposite would like them to be could only mean one thing: recession. The RBA has flagged more interest rate rises to come, but we should not forget that those interest rates are four percentage points below their peak last year and are still providing a substantial boost to household budgets. It is a good thing that the Australian economy is out-performing other advanced economies. Many economists will see the interest rate rises as the inevitable consequences of our recovery. At the Senate inquiry into the stimulus package, the Reserve Bank Governor, Treasury business economists and business groups all said that our stimulus was the right course of action and that it has helped keep Australia out of recession.

Why is this so important? You talk about interest rate rises and the pressure that that puts on people, but what I want to talk to you about is unemployment. When we are in recession, it means greater levels of unemployment. We have already seen a huge spike in unemployment here in Australia, and it has risen very rapidly in Western Australia. Unemployment in WA stood at 2.7 per cent last year. It has risen every month, including last month. That means that there are more than 70,000 unemployed in WA—which is more than double what it was a year ago. That figure would be much, much higher without the stimulus. So I ask you about the pressure of paying a mortgage and how you pay your mortgage if you are out of work—because that is what the stimulus debate is really about. Unemployment can scar the lives of individuals permanently. They lose skills, they lose the opportunity to gain experience, they lose confidence and they lose hope. We have young people in Australia who are suffering severe unemployment at the moment, and that impact on them is severely pronounced. It has a profound impact on people’s working lives—and that has been the major reason that the Rudd government has supported the stimulus package. That is what senators opposite fail to appreciate.

Every Australian knows that interest rates went up 10 times under the Liberals, despite their promise to keep them at record lows. You ignored 20 warnings from the RBA on the need to invest in critical infrastructure.
and skills—critical infrastructure and skills that Australia now so desperately needs in order to build up its economy. Under your management, inflation rose to a 16-year high and interest rates went up 10 times. We need a dose of reality in this interest rate debate. You talk about not wanting to invest in stimulus and I talk about the need for a stimulus to avoid recession.

Senator Williams compared us and our interest rates to overseas countries that are all in recession. Australia’s response to the global financial crisis has been declared the global success story. It is the kind of approach that other countries are now wishing they had taken. Last week we saw a great example of how foolish the scare campaign of those senators opposite is. The opposition claimed that there was evidence that a Labor government meant high interest rates. But where are interest rates now? They are 350 basis points lower than their peak under the Liberals—lower, not higher. (Time expired)

Senator TROETH (Victoria) (3.22 pm)—I rise to speak on the motion to take note of the answers given in question time today by Senator Conroy, particularly about interest rates. I would like to point out to Senator Pratt that Australia is the first G20 country to resume increasing interest rates following the global financial crisis. Interest rates which have been low are now on the march again due almost entirely to Mr Rudd’s and Labor’s mismanagement of the economy. We need look no further than Mr Rudd’s five-point plan to fight inflation to see why rates are on the rise and how he has failed not just the opposition’s test or the financial market’s test but his own test.

Point 1 of the plan is a target surplus of 1.5 per cent of GDP. That is a fail. From inheriting a surplus of over $20 billion, Mr Rudd recklessly drove this country into a record deficit of $43 billion to splash out on school halls and everyone’s plasma TVs—made overseas, of course.

Point 2 is:

… a range of policy options concerning, how do we boost national savings and how do we encourage a broader national savings culture in Australia.

I regret to say that this is another fail. National savings have been decimated, with a record government debt level of $300 billion. That is a record deficit. Mr Rudd may want to look at his own government’s culture before he starts lecturing people about their spending habits. There has been a complete lack of financial discipline and rigour, with reckless projects such as the National Broadband Network, the so-called schools stimulus, the GROCERYchoice website and the 2020 Summit, not to mention four classrooms that are being knocked down to be replaced by the same four classrooms because the school has no use for the money. Things like that are putting enormous upward pressure on interest rates.

Point 3 is:

… to act decisively and effectively on the skills crisis.

That is presumably to be done by closing Australian technical colleges. That is an obvious fail. It is another sop to the union movement that costs young Australians the opportunity to learn a trade and secure a job.

Point 4 is:

… to deal effectively—

these are Mr Rudd’s own words—with a challenge of public infrastructure and infrastructure bottlenecks which exist across the economy and are creating capacity constraints.

With the Minister for Infrastructure, Transport, Regional Development and Local Government coming from New South Wales Labor, we do not have high hopes. Let us face it: Labor’s record on infrastructure falls over
faster than New South Wales Labor premiers, and this minister seems more concerned with what John Howard is doing with rugby in his retirement than anything to do with his own portfolio. Talk about being obsessed with the wrong priorities. Water, power, roads and tolls have all proven too difficult for state Labor governments to deal with, and our cities are parched and gridlocked as a result. We will give them only a partial fail on this point because the federal government have not actually done anything yet, apart from building some apparently desperately needed school halls in schools that were to be demolished anyway. But the signs are not good.

His last point, point 5, is:

… to act also with a clear pathway to the future on how do we boost, effectively, workforce participation.

In other words, how do they put more people into jobs in the future? To that I say, ‘If you want more people in jobs in the future, don’t vote red in 2010.’

Question agreed to.

COMMITTEES

Reports: Government Responses

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (3.26 pm)—I present two government responses to committee reports as listed at item 13 on today’s Order of Business. In accordance with the usual practice, I seek leave to have the documents incorporated in Hansard.

Leave granted.

The documents read as follows—
GOVERNMENT RESPONSE TO THE SENATE COMMUNITY AFFAIRS LEGISLATION COMMITTEE REPORT ON COMPLIANCE AUDITS ON MEDICARE BENEFITS

Government Response to the Senate Community Affairs Legislation Committee Report on Compliance audits on Medicare Benefits

Government Response

Recommendation 1

The committee recommends that the Department of Health and Ageing and Medicare ensure that as part of the Medicare compliance audit process, specific measures are detailed in the regulations to ensure that patient clinical records are only required to be accessed where necessary

Accepted

The Bill has been amended to make clear that:

- practitioners should only provide clinical records if they are necessary to substantiate the service; and
- if clinical records are provided, they may be provided to a Medicare Australia medical adviser (an employee of Medicare Australia who is a medical practitioner). Medicare Australia will have qualified medical practitioners available to receive documents in all audits.

Medicare Australia is also working with relevant stakeholders, including the Australian Medical Association, to develop guidelines for practitioners on the kind of information that will substantiate particular services or groups of services. These guidelines will be publicly available and will emphasise that clinical information is not to be provided unless it is absolutely necessary to substantiate the claim. The commencement date of the Bill will be 1 January 2010 to allow time for these guidelines to be developed.

Coalition Senators’ Minority Recommendations

Coalition Senators do not agree with the Majority Report recommendation.

Recommendation 1

The Government conduct a review of the Medicare Benefits Schedule with the view to rationalising or simplifying individual schedule items.

Government Response

A Review of the MBS primary care items was announced on 9 December 2008. Key stakeholders including general practitioners were con-
sulted during the course of the Review. In addition to individual meetings, an all day GP Working Party meeting comprising the major GP organisations took place in Melbourne on 21 January 2009.

The aim of the Review is to reduce red tape for GPs, encourage prevention and simplify the primary care items in the Schedule. Specific areas of focus for the Review include:

- general practice attendance items;
- after hours attendance items;
- out of surgery attendance items;
- health assessment items;
- chronic disease management items;
- GP multidisciplinary case conference items; and
- emergency attendance items.

The Government has already simplified requirements for chronic disease care planning items by removing the requirement from 1 January 2009 for a rebate for a care plan to be claimed before the rebate for allied health services may be paid.

Further outcomes from the Review are currently being considered by the Government.

Recommendation 2
The Government develop a training/information program in consultation with relevant professional associations to improve the accuracy of Medicare billing practices among health care professionals.

Accepted
Medicare Australia will continue to conduct education and training to improve billing practices among healthcare professionals. The education and training resources will be updated to address issues that arise during compliance audits. These resources will continue to be developed in consultation with key stakeholders. At present more than 30% cent of practitioners receive some form of targeted information, educational or training support from Medicare Australia each year.

Recommendation 3
If the Medicare CEO remains unsatisfied with the responses of the medical provider or has further questions that the CEO believes may only be resolved through reviewing a patient’s record, then the matter should be referred to the Professional Services Review Board to be reviewed by a committee of the Practitioner’s peers.

A report prepared by the PSRB could then be submitted to the Medicare CEO for consideration.

Accepted in substance
The key issue here is the involvement of a medical practitioner when clinical records are produced to substantiate a service.

The Bill has been amended to make clear that:

- before a notice to produce documents may be issued, the CEO must take into account advice from a medical adviser (an employee of Medicare Australia who is a medical practitioner) on the kind of documents that a person may need to provide to substantiate a service;
- a practitioner should only provide clinical records if they are necessary to substantiate the service; and
- if clinical records are provided, they may be provided to an employee of Medicare Australia who is a medical practitioner. Medicare Australia will have qualified medical practitioners available to receive documents in all audits.

These changes have been made because the PSR scheme is a peer review process designed to manage inappropriate practice. It was not constructed to manage a large volume of matters. Implementing this recommendation would require significant revision of the PSR provisions of the Health Insurance Act 1973. It risks shifting the focus of PSR to the detriment of the management of inappropriate practice.

The compliance audit process is designed to be a simple, administrative mechanism to manage incorrect payments. Involving PSR in the compliance audit process would be likely to significantly increase the time required to complete a compliance audit. It could also considerably increase the cost of the process for the practitioners who are audited and taxpayers.

At present information produced as a result of a notice to produce documents under the Bill, may not be used to refer a practitioner to PSR for in-
vestigation of inappropriate practice. This protection would need to be removed if PSR was made responsible for the assessment of some or all of the documents produced.

**Recommendation 4**
The Office of the Privacy Commissioner should be consulted to develop protocols and guidelines for the protection of patient history record confidentiality during any Medicare compliance audit activity.

**Accepted**
The Privacy Guidelines for the Medicare Benefits and Pharmaceutical Benefits Programs issued by the Privacy Commissioner under section 135AA of the National Health Act 1953 will apply to documents containing clinical details about an individual provided to Medicare Australia during a compliance audit.

In addition Medicare Australia will work with the Office of the Privacy Commissioner to develop further administrative guidelines to ensure patient confidentiality during Medicare compliance audit activities.

**Australian Green Senators’ Additional Comments**
The Australian Greens support the Committee recommendation that further measures are adopted to ensure that patient clinical records are only required to be accessed where necessary.

**Comment 1**
Medical Advisors have oversight of all audits involving clinical information.

**Accepted in substance**
The Bill has been amended to make clear that:

- before a notice to produce documents may be issued, the CEO must take into account advice from a medical adviser (an employee of Medicare Australia who is a medical practitioner) on the kind of documents that a person may need to provide to substantiate a service;
- practitioners should only provide clinical records if they are necessary to substantiate the service; and
- if clinical records are provided, they may be provided to an employee of Medicare Australia who is a medical practitioner. Medicare Australia will have qualified medical practitioners available to receive documents in all audits.

**Comment 2**
Provision of a clear definition of what constitutes ‘a reasonable concern’ to conduct a review of the health provider against which a determination is made

**Not accepted**
It is not feasible to further define ‘reasonable concern’ in legislation. The Medical Benefits Schedule changes constantly to keep up with clinical practice and medical technology so ‘fixing’ the definition of reasonable concern could unacceptably limit the ability to protect the integrity of the Medicare scheme from emerging compliance risks. However the Department of Health and Ageing and Medicare Australia will investigate the possibility of developing further guidance for practitioners on what constitutes a ‘reasonable concern’. It may be possible to distribute any such guidance each year when Medicare Australia publishes the National Compliance Program.

**Comment 3**
The decision to investigate patient records is made by senior officers delegated by the Medicare CEO, with oversight by Medical Advisors.

**Accepted in substance**
The Bill requires the decision to issue a notice to produce documents to be made by the CEO or the CEO’s delegate.

Medicare Australia will not be requesting clinical records from practitioners. Medicare Australia will outline the reasonable concern in relation to a service and ask the person to provide documents to substantiate the service. It will be up to the person who receives the notice to decide what documents they have which substantiate the service.

However the Bill has been amended to make clear that:

- before a notice to produce documents may be issued, the CEO must take into account advice from a medical adviser (an employee of Medicare Australia who is a medical practi-
tioner) on the kind of documents that a person may need to provide to substantiate a service; and

- practitioners should only provide clinical records if they are necessary to substantiate the service; and

- if clinical records are provided, they may be provided to an employee of Medicare Australia who is a medical practitioner. Medicare Australia will have qualified medical practitioners available to receive documents in all audits.

Comment 4
If it is decided 'reasonable concern' exists, a Privacy Impact Assessment (PIA) is made to justify accessing patient records including that there is no other way to obtain the necessary information and that the investigation is in the public interest.

Not accepted
This is not the function of a Privacy Impact Assessment (PIA). A PIA is an assessment tool to allow agencies to identify and analyse privacy impacts during a project’s design phase. In addition, Medicare Australia will not be requesting clinical records from practitioners. Medicare Australia will outline the reasonable concern in relation to a service and ask the person to provide documents to substantiate the service. It will be up to the person who receives the notice to decide what documents they have which substantiate the service. However, in determining that there is a reasonable concern, and asking the person to respond, Medicare Australia will provide the person with assistance and guidance to ensure that only information necessary to substantiate the service is collected.

Comment 5
The PIA will include assessment of whether the necessary information can be gained by de-identified records without undermining the integrity of the audit process.

Not accepted
It is not possible to de-identify records without undermining the integrity of the audit process. The audit will be conducted on specified Medicare services provided by a particular practitioner to a particular patient. Wherever possible the identity of a person will occur through a Medicare number (rather than name) and the medical service will be explained by reference to the Medicare item (rather than a detailed description of the service).

Comment 6
The patients, or their authorised decision maker, should be advised that their personal health record is to be accessed for the purpose of a compliance audit.

Not accepted
The are significant disadvantages to individual patient notification including risks that notification may:

- compromise the patient’s privacy;
- unreasonably disrupt the therapeutic relationship (a patient may lose confidence in the practitioner); and
- cause unnecessary anxiety to some patients (a patient may think that the medical care their practitioner is providing is not appropriate);

However Medicare Australia has accepted recommendation 2 of the PIA and will:

- conduct a broader information campaign for patients to raise awareness that excerpts of their medical records may potentially be provided to Medicare Australia during a compliance audit; and/or
- provide information on assignment of benefit forms and patient receipts; and/or
- work with stakeholders to provide practitioners with notices to put up in their medical practices.

Comment 7
That if the patient or their authorised decision maker objects to the use of their personal medical record and provides reasons, the decision to access information is subject to an internal review and the patient is provided with written reasons for the decision.

Not accepted
This would undermine the integrity of the compliance audit program because an "opt out" provision would mean that some services for which there is a compliance risk could not be audited. It
may also lead to situations where access to the necessary information could be prevented by a practitioner who is able to convince patients to withhold their consent.

JOINT STANDING COMMITTEE ON TREATIES
REPORT 95: REVIEW INTO TREATIES
TABLED ON 4 JUNE, 25 JUNE AND 26 AUGUST 2008
GOVERNMENT RESPONSE

Recommendation 6
The Committee recommends that in any specific arrangement concerning the exchange of Defence personnel, the Australian Government seeks to ensure that Australian personnel are protected from corporal and capital punishment under United Arab Emirates law.

Response:
The Government agrees in principle. It is the United Arab Emirates Government’s strongly held view that its laws are a matter of national sovereignty. Within this context, the Australian Government would seek for Australian personnel to be protected from corporal and capital punishment.

Recommendation 7
The Committee supports the Agreement between the Government of the United Arab Emirates and the Government of Australia on Defence Cooperation and recommends that the binding treaty action be taken.

Response:
The Government agrees that the recommendation is appropriate, and notes that binding treaty action has been taken.

Recommendation 11
The Committee supports the Agreement with the French Republic Regarding Defence Cooperation and Status of Forces and recommends that binding treaty action has been taken.

Response:
The Government agrees with the recommendation and supports the Agreement with the French Republic Regarding Defence Cooperation and Status of Force.

On 6 January 2009, an Exchange of Notes was sent to the Embassy of the French Republic advising that the Government of Australia has concluded all domestic procedures necessary for entry into force of the Agreement pursuant to Article 11, paragraph 1.

On 15 May 2009, the French Parliament ratified the Defence Cooperation Agreement. The Agreement will enter into force on the date that the French side notifies the Australian Government in writing, through diplomatic channels, that all its domestic procedures necessary for the entry into force have been concluded.

AUDITOR-GENERAL’S REPORTS
Report No. 8 of 2009-10

The DEPUTY PRESIDENT—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 8 of 2009-10: The Australian Taxation Office’s implementation of the Change Program: a strategic overview.

COMMITTEES
Selection of Bills Committee
Report

Senator McEWEN (South Australia) (3.27 pm)—At the request of Senator O’Brien, I present the 16th report of 2009 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator McEWEN—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 16 OF 2009
1. The committee met in private session on Wednesday, 28 October 2009 at 7.16 pm.
2. The committee resolved to recommend—
   (a) the provisions of the Bankruptcy Legislation Amendment Bill 2009 be referred immediately to the Legal and Constitu-
tional Affairs Legislation Committee for inquiry and report by 2 February 2010 (see appendix I for a statement of reasons for referral);

(b) the provisions of the Fair Work Amendment (State Referrals and Other Measures) Bill 2009 be referred immediately to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 16 November 2009 (see appendix 2 for a statement of reasons for referral);

(c) the provisions of the Native Title Amendment Bill (No. 2) 2009 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 2 February 2010 (see appendix 3 for a statement of reasons for referral);

(d) the provisions of the Personal Property Securities (Consequential Amendments) Bill 2009 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 16 November 2009 (see appendix 4 for a statement of reasons for referral); and

(e) the provisions of the Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009 and the Income Tax (TFN Withholding Tax (ESS)) Bill 2009 be referred immediately to the Economics Legislation Committee for inquiry and report by 16 November 2009 (see appendix 5 for a statement of reasons for referral).

3. The committee resolved to recommend—that the following bills not be referred to committees:

- Australian Climate Change Regulatory Authority Bill 2009 [No. 2]
- Carbon Pollution Reduction Scheme (Charges—Customs) Bill 2009 [No. 2]
- Carbon Pollution Reduction Scheme (Charges—Excise) Bill 2009 [No. 2]
- Carbon Pollution Reduction Scheme (Charges—General) Bill 2009 [No. 2]
- Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 [No. 2]
- Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2]
- Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2]
- Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2]
- Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2]
- Customs Tariff Amendment (Incorporation of Proposals) Bill 2009
- Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2]
- Health Insurance Amendment (New Zealand Overseas Trained Doctors) Bill 2009
- Health Insurance Amendment (Revival of Table Items) Bill 2009
- Safety, Rehabilitation and Compensation Amendment Bill 2009

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:

- Britt Lapthorne Bill 2009
- Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009
- Plain Tobacco Packaging (Removing Branding from Cigarette Packs) Bill 2009
- Protecting Problem Gamblers Bill 2009.

(Kerry O’Brien)
Chair
29 October 2009
APPENDIX 1
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill: Bankruptcy Legislation Amendment Bill 2009
Reasons for referral/principal issues for consideration:
• To consider:
  • The potential effects on business of the proposed increase in the bankruptcy threshold and the extension of the stay period;
• The practical effect of the amendments on the effectiveness of debt agreements;
• The effect of the amendments on the operations and resources of Insolvency and Trustee Services Australia (ITSA);
Possible submissions or evidence from:
Trustee Corporations Association of Australia
ITSA
Insolvency Practitioners Association of Australia
COSBOA
Banks, Credit Unions and Financial Institutions
Committee to which bill is to be referred:
Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
Throughout summer sitting break.
Possible reporting date:
2 February 2010
Whip/Selection of Bills Committee member
(signed)
Stephen Parry

APPENDIX 2
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill: The provisions of ‘Fair Work
Fair Work Amendment (State Referrals And Other Measures) Bill 2009
Reasons for referral/principal issues for consideration:
Committee consideration of the Technical aspects of the Bill
Possible submissions or evidence from:
SA govt, ACCI, AIG, ACTU
Committee to which bill is to be referred:
Education Employment and Workplace Relations Legislation Committee
Possible hearing date(s):
Possible reporting date:
16 November 2009
Whip/Selection of Bills Committee member
(signed)
Kerry O’Brien

APPENDIX 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill: Native Title Amendment Bill (No.2) 2009
Reasons for referral/principal issues for consideration:
Substantial concerns were voiced in response to the discussion paper that these changes substantially erode Native Title rights
Possible submissions or evidence from:
NNTC, Land Councils, NTRBs, NNTT, CAEPR... and others
Committee to which bill is to be referred:
Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
Possible reporting date:
2 February 2010
Whip/Selection of Bills Committee member
(signed)
Rachel Siewert
APPENDIX 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Personal Property Securities (Consequential Amendments) Bill 2009
Reasons for referral/principal issues for consideration:
Significant reforms to state, territory and federal legislation
Possible submissions or evidence from:
Attorney-General’s Department
The Institute for Factors and Discounters of Australia and New Zealand
Australian Bankers Association
Australian Finance Conference
Committee to which bill is to be referred:
Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
Weeks of either 2 November or 9 November
Possible reporting date:
16 November 2009
Whip/ Selection of Bills Committee member
(signed)
Stephen Parry

APPENDIX 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009
Income Tax (TEN Withholding Tax (ESS)) Bill 2009
(introduced in the House of Representatives 21 October 2009)
Reasons for referral/principal issues for consideration:
After introduction in the Reps a briefing was given to the Opposition and they have indicated they would like one measure of this bill referred to Economics Committee to ensure constituency views are considered prior to debate in the Senate.
The Government is supportive of the Opposition’s request and both Government and Opposition have agreed that only Schedule 2 - the Non-Commercial losses measure of this Bill be referred to committee, Schedule 1 - Employee Share scheme and Schedule 3 - Lost Super measures need not be referred. Schedule 1 has already been extensively examined by the Senate Economics References Committee which gave its report on 17 August 2009 and schedule 3 is not seen as contentious in any way.
Possible submissions or evidence from:
Treasury, ACTU and NFF (National Farmers Federation)
Committee to which bill is to be referred:
Senate Economics Committee
Possible hearing date(s):
Possible reporting date:
16 November 2009
Whip/ Selection of Bills Committee member
(signed)
Kerry O’Brien

Privileges Committee
Report
Senator BRANDIS (Queensland) (3.28 pm)—I present the 140th report of the Senate Standing Committee of Privileges, entitled Persons referred to in the Senate: Mr Richard Stanton.
Ordered that the report be printed.
Senator BRANDIS—by leave—I move:
That the report be adopted.
This report is the 57th in a series of reports recommending that a right of reply be afforded to persons who claim to have been adversely affected by being referred to, either by name or in such a way as to be readily identified, in the Senate.
On 8 October 2009, the President received a submission from Mr Richard Stanton relat-
ing to comments made by Senator Milne in the Senate on 10 September 2009 during debate on the Tax Laws Amendment (2009 Measures No.4) Bill 2009. The President referred it to the Privileges Committee, which considered the submission on 22 October 2009. The committee recommends that the proposed response be incorporated in Hansard.

The committee reminds the Senate that in matters of this nature it does not judge the truth or otherwise of statements made by honourable senators or the persons referred to. Rather, it ensures that these persons’ submissions, and ultimately the responses they recommend, accord with the criteria set out in privilege resolution 5. I commend the motion to the Senate.

The response read as follows—

Appendix One
Response by Mr Richard Stanton
Pursuant to Resolution 5(7)(b) of the Senate of 25 February 1988
In accordance with Standing Order of the Senate 5(1) I wish to claim that I have been adversely affected in reputation as a result of being referred to by name in the Senate on 10th September 2009.

Senator Milne made reference to myself and others and repeated views expressed by Dr Judith Adjani in a submission to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into Agribusiness Managed Investment Schemes. Senator Milne implied that I have engaged in inappropriate, unprofessional or even corrupt activity or have somehow misused my position in some way.

I reject any such implication and request that the Senate take the appropriate action to correct the record.

I have worked in the forestry sector for some 20 years. I have always worked with the broad objective of furthering the interests of Australian forestry and the forest products industry to the benefit of the Australian environment, economy and the well being of those who depend on the forests and the industry. I have never in anyway concealed the nature of my employment, my role or my objectives. I have behaved appropriately and professionally in my role as a public servant (from 1990-1998 with the Forestry Commission of NSW) and as an industry association executive (from 1998 to the present).

I hold a Bachelor of Science (Forestry) Honours degree from the Australian National University and a Master of Business Administration from the University of Technology Sydney.


I have also worked in a number of policy development roles with the Commonwealth and NSW Governments including: Executive Officer to the Managing Director State Forests of NSW (1994-1996), policy officer with the Forests Division, Commonwealth Department of Primary Industries and Energy (1997) and Research Officer and Community Liaison Forester with the Forestry Commission of NSW (1990-1994).

Question agreed to.

Foreign Affairs, Defence and Trade Committee: Joint Report

Senator McEWEN (South Australia) (3.30 pm)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report of the committee Review of the Defence annual report 2007-08 and seek leave to move a motion in relation to the report.
 Leave granted.

Senator McEWEN—I move:

That the Senate take note of the report.
I seek leave to incorporate the tabling statement in Hansard.
Leave granted.

_The statement read as follows—_
REVIEW OF THE DEFENCE ANNUAL REPORT 2007-2008
29 OCTOBER 2009
Mr President,

This review of the Defence Annual Report 2007-2008 focuses on the activities, achievements and undertakings of the Australian Defence Force (ADF) and the Department of Defence from July 2007 to June 2008. During this period ADF personnel remained heavily engaged in a wide variety of operational deployments world-wide, with the withdrawal of troops from Iraq balanced by an increased commitment to Afghanistan marked by the tragic death of four ADF members and the wounding of a number of others.

During the 2007-2008 reporting period, in addition to the significant operational tempo, Defence also maintained a focus on reform following a number of recent reviews, inquiries and investigations, as well as the development of a new White Paper.

The review of the Defence Annual Report is an important opportunity for the Defence Sub-Committee to inquire into a broad range of Defence issues as part of the process of accountability of Government agencies to Parliament. I know that both the Defence Sub-Committee, and the wider committee, take this responsibility very seriously. I would like to thank the Chair of the Defence Sub-Committee, Arch Bevis, the Committee members, and the Secretariat staff for their fine efforts.

This year, the Defence Sub-Committee selected a broad range of issues for examination at public hearings held in Canberra on 16 April, 19 June, and 21 August 2009. This extended timeline for the hearings was required to accommodate commitments of relevant Department of Defence personnel.

The major topics included joint/air/land capability and procurement, personnel issues, energy and the environment, and several other issues of interest.

The Committee has noted that, in the field of procurement, Defence must demonstrate that the post-Kinnaird reforms are sufficient and well-implemented delivering projects on time, on budget, and with required levels of capability.

The Committee also examined the ADF’s air capability and procurement noting an unprecedented changeover of platforms that Defence is managing across its air capability and elsewhere, including the Wedgetail Airborne Early Warning and Control platform, the Tiger Armed Reconnaissance Helicopter, and the Joint Strike Fighter (JSF).

The report acknowledges that the JSF will be the most expensive single acquisition in Defence’s history. As our sole or principal air fighting platform it will be, arguably, our most important defence acquisition.

In addition, maritime assets will comprise a large part of the Defence procurement program for the next decade or more. The failure of the Seasprite project—a ship-based helicopter capability for the Royal Australian Navy—is a powerful indicator of the importance of improved acquisition procedures. The true cost of the project’s failure is not only to be counted in dollar terms; it is also to be counted in terms of lost capability where it may in fact be needed.

Mr President, recruiting and maintaining personnel continue to be significant challenges for the ADF. The Committee recognises that Defence has taken considerable effort to develop a sufficient and sustainable cohort of skilled personnel, capable of satisfying the increasingly technical requirements of modern Defence forces.

In particular, the Committee welcomes the move by Defence to adopt a more flexible pay structure so that it is better placed to attract, develop and retain skilled personnel. However, there is emerging evidence of weakening in the current pay process and the Committee has therefore recommended that Defence place a high priority on developing a more agile and responsive system.

The Committee has also inquired into external constraints facing Defence such as climate change and the steps Defence had taken to prepare for oil depletion and oil shocks.
Mr President, the Committee would like to thank all of the individuals and organisations that participated in this Review of the Defence Annual Report 2007-2008. We would also like to express our ongoing appreciation to the men and women of the ADF for the outstanding work that they continue to do in Australia and around the world.

Finally, Mr President, the Committee would also like to acknowledge the families of the Australian Defence Force for the support they provide and the sacrifices they endure, to enable our Service men and women to contribute to Australia’s security.

Question agreed to.

Membership

The DEPUTY PRESIDENT—Mr President has received a letter from a party leader requesting changes in the membership of committees.

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (3.31 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Education, Employment and Workplace Relations Legislation Committee—
Appointed—
Substitute member: Senator Siewert to replace Senator Hanson-Young for the committee’s inquiry into the provisions of the Fair Work Amendment (State Referrals and Other Measures) Bill 2009
Participating member: Senator Hanson-Young

Environment, Communications and the Arts References Committee—
Appointed—
Substitute member: Senator Siewert to replace Senator Ludlam for the committee’s inquiry into Australia Post’s treatment of injured and ill workers
Participating member: Senator Ludlam

Legal and Constitutional Affairs Legislation Committee—
Appointed—
Substitute member: Senator Siewert to replace Senator Ludlam for the committee’s inquiry into the provisions of the Native Title Amendment Bill (No. 2) 2009
Participating member: Senator Ludlam.

Question agreed to.

CORPORATIONS AMENDMENT (IMPROVING ACCOUNTABILITY ON TERMINATION PAYMENTS) BILL 2009
Consideration of House of Representatives Message

Message received from the House of Representatives returning the bill, informing the Senate that the House has disagreed to the amendment made by the Senate and desiring the reconsideration of the amendment.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for the next day of sitting.

BORDER PROTECTION

Senator SCULLION (Northern Territory) (3.33 pm)—At the request of Senator Parry, I move:

That the Senate notes that the Rudd Government’s policies have seriously compromised the integrity of Australia’s borders with far reaching consequences, including:

(a) the increased activity of illegal people smuggling in Australia’s region;
(b) an increased number of unlawful arrivals taking perilous journeys;
(c) the diversion of border protection agencies and resources; and
(d) heightened security and biosecurity risks.

The issue of border protection is being rightly debated and thought about in the wider Australian community. Most people in the Australian community are actually wondering exactly why this government is in complete and utter denial. As the Minister
for Immigration and Citizenship would agree, immigration policy is a very complex area that requires more than cursory attention and adjustment from time to time for some political or populous purpose. Before the election, Labor made very loud and very specific promises. They said that they would ensure that we had a more humanitarian program. The previous Howard government, as you would remember, Mr Deputy President, had a humanitarian program that worked. At a time when illegal boat arrivals were effectively stopped, those who had arrived by boat had been processed and the pressures on our borders were completely gone. We were seen by the world, particularly by Europe, as having policies that were part of a fundamental answer to the movement of those people seeking a migration and a refugee outcome.

The Labor Party and the Labor government—those on the other side—decided that they would put in place a couple of changes. In that environment, because nobody was coming to Australia’s borders and there was no pressure from vessels mounting up as the people left from the Middle East or Sri Lanka, they said, ‘Oh, we will just implement it; it won’t make any difference.’ It was a very simplistic position to take to say that we should end tough and very difficult policies such as the Pacific solution, mandatory detention until claims were finalised and temporary protection visas. Generally, the Labor Party sought to soften border protection. They will tell us, ‘No, that wasn’t the case; we’re not trying to soften border protection at all,’ but in fact the removal of those strong policies that were hammer forged in a furnace of pressure on our borders were watered down and, of course, we are now looking at the consequences.

These policies were put in place by the Howard government because of the huge surge in illegal arrivals that threatened the integrity of our humanitarian program. When somebody arrived on a vessel the UNHCR priority program was set aside for those particular arrivals. We had a proud history in assisting people in need and providing safety to the most vulnerable in the world. The number of refugees that we can help is essentially set by the number of people that we can provide services to—whether it is for torture and trauma, housing, counselling services, health checks, welfare assistance or finding work. Our humanitarian program is framed around our capacity to help about 13,000 people. We all hope it shifts a little bit in that area. But the reality is that the availability of these services is not unlimited—we just do not have unlimited services. We need to understand quite clearly that we can only assist the number of people we indicate. We are never going to be in a position to assist all of the 15 million refugees that require help.

When the previous government faced serious increases in the number of people arriving in Australia through the passage that was sold to them by these traffickers in human misery, our orderly and effective refugee settlement program faced serious threats. It was not under pressure because the number of people arriving was no longer managed to suit the programs that we had available. The number of people arriving was completely unknown and we had absolutely no way to budget for the capacity to assist the refugees upon arrival. It also meant that the number of people we could assist to leave refugee camps around the world to meet the desired commitment to the UNHCR resettlement program was significantly under threat. As a result, hard decisions had to be made, and the previous government moved to change our policy to make those decisions—not just in the interests of Australians but in the interests of all refugees around the world who desperately need our help and a sense of priority.
What was never acknowledged by the Labor Party when they were attacking the previous government was that refugees continued to arrive under our humanitarian program, and those refugees continued to be assisted by the humanitarian program attached to the refugee program, which ensured that their families, who may have been displaced, could join them in Australia and also contribute to the Australian community.

Our policies returned our humanitarian program to Australian control. It was not under the control of people smugglers, who were not and never have been interested in the welfare of their cargo but rather only in money. Tragically, what has happened now is that our refugee program has been handed over to international criminals, because they make the decision about who comes here. If you have $15,000 for everybody in your family, you can come to Australia. That is how you get here, and I think it is an absolute shame that people cannot see that. The government has showed complete inaction and complete denial on this matter. That is not a compassionate and humanitarian approach to the refugee challenge.

We saw the boats had stopped and we made some changes. They said the coalition was heartless. They have taken our deterrent measures away. What is the result? Clearly, the boats have started to come again. But of course those opposite have said they now blame everybody else. The surge in the number of boats is due to some spurious activity or a change in activity somewhere. They say, ‘That’s part of the normal ebb and flow of refugees—haven’t you looked at the statistics?’ I do not need to look at the statistics. All you have to do is listen to the media and look at the people they are interviewing, from smugglers themselves to those people seeking an asylum outcome in a forum of their choosing.

Talk to the people who are employed in or in fact run the UNHCR program in Indonesia. They all tell us the reason for the influx into Australia as a targeted forum is the change in those policies. But those opposite, tragically, are not listening. Their position would be laughable, given that the AFP and others have now come out with what we know to be the truth, except that it is causing tragedy. These policies are causing people to put their lives and the lives of their families at risk and, without a doubt, are putting at serious and significant risk the lives of those people who are currently unlucky enough to dwell in some of the camps we see around the world.

There are reports that people smugglers who set sail deliberately disable the boat on the high seas before jumping into another boat, leaving their passengers to the elements, and, hopefully, rescue. This should strike fear into the hearts of all Australians, because people who behave like that have no care for humanity. They have no care for the welfare of people who should be in their trust and their care—after all, they have just paid $15,000 per person to go on this trip.

But the most important aspect of this is not only the tragic circumstances in which these individuals find themselves; it is the fact that Labor remain in denial that their policies have directly contributed to the situation that these people find themselves in. Kevin Rudd is going to have to make some pretty hard decisions, for the safety of those contemplating setting sail as well as those who are currently in refugee camps around the world. The government need to put in place long-term deterrent policies. It takes a lot of thought to put these deterrent policies in place, and they are often not popular; but one of the things they have to be is effective. An effective policy is not a haphazard, slipshod or reactive policy of the
kind they have been rolling out to date, wrapped in spin.

The first step is to say that they have a problem, and it is a serious problem. If you have a problem, often just coming out of the denial phase is, I think, a very important first step. Perhaps saying something like, ‘Hello, my name is Kevin Rudd and I have a problem,’ would be a pretty good start, because once you understand that you have a problem and your policies are clearly not working at least people will say: ‘Let’s try something else. Let’s move to amend this terrible tragedy that has befallen refugees and Australians, our reputation and our ability to effectively control our borders.’

I am not sure what stage we are going to have to get to, but if they continue to be in denial then a whole range of very tragic things may happen in Australia. We have heard of SIEVX and we have gone through a whole range of investigations. It simply reflects to me the types of vessels, the seas which people have to move across and the numbers of people required to make these vessels economical. SIEVX had over 300 people, as I understand it. Let me tell you, having some knowledge about these vessels, it was never designed to take that many people. So it is not only about leaky boats; it is all about packing people in like sardines in hellish circumstances and then setting off. Those are circumstances that can only end in tragedy. It is only a matter of time.

We heard the minister in this place today saying: ‘Look, you’re all confused. The 78 people in Indonesia—that’s an AMSA problem. That’s a safety at sea problem.’ He has his head in a hole. You cannot be in denial about that. This was not a case of people in innocent passage across the Indonesian ocean who got into strife and where we sent one of warships to help them out. That was not the case at all. This was a case where somebody had organised a vessel, had put 78 people from Sri Lanka on it and had taken money off them and headed them for Australia. There was a clear intent to make an asylum claim in Australia. They want to go to Australia instead of much closer and safer destinations like India, with its very large Tamil population, and the reason they want to do this, we are told by those on the vessels and by those who have a great deal of expertise on this matter, is that they know they will get something here they cannot get under the UN Convention and they cannot get anywhere else in the world. They know they have a rock solid guarantee that, as long as they get to Christmas Island, it is simply a matter of waiting 90 days and then they will have, in effect, a permanent residency outcome. And, given the fact that it is only offered in Australia, I can understand how compelling that must be.

There are a number of other issues for me, as a Territorian, and for those people living in the places where those vessels can be expected to arrive such as Western Australia and Northern Queensland—although in the past they have come down as far as New South Wales and well down the Western Australian coast. Other circumstances that we need to consider carefully are the numbers of marine organisms that adhere to these vessels. We know they are on the vessels. They have arrived in Darwin Harbour and in Ashmore Reef. Divers have discovered both Congeria sallei and green Asian mussels. To give an indication of the problem, since 1986 to the present day, the Congeria group of species in the United States has, it is estimated, cost the US government about $600 million for amelioration and offset. And, of course, they are only maintaining it at the same level. It is there. It is endemic. It is like a thistle or a rabbit. They are not going to wipe it out. But this country has not got that species yet. To understand the enormity of
this, Idaho is trying to keep it out. That state is somehow trying to draw an invisible line because it thinks it would cost some $91 million a year just to manage the borders.

This little critter is not very frightening. It is about 2½ centimetres long but every four weeks it has 50,000 spat, and each one of those grows to 2½ centimetres long. This is like something out of Doctor Who. It grows very quickly and forms a very thick mat. Over four weeks, 50,000 spat weigh around about a hundred kilograms. If you have ever done any diving, you can imagine what the environment looks like. It is a bit like a moonscape—there is a nice, flowing, gentle carpet because there is nothing else there. In fact, it grows so quickly that the crayfish cannot even shed their shells between instars. The instar of a crayfish is, depending on how old they are, much longer than four weeks. They are so heavy that they simply cannot carry their weight around. I am not so sure about the impact on turtles. We have not had an outbreak here, because we have controlled our borders, but I can imagine animals like that perhaps being very negatively affected. In this place we also consider the economy. But not only do we need to consider what it will cost us—it costs $3 million just to get it out of the marinas that are in doubt; we also need to consider the jobs and the tourism. What about the Great Barrier Reef? We talk about that often enough in here. So people need to be aware that uncontrolled and porous borders, because of bad policies, have effects right across the board.

If you are not concerned about our economy and you are not concerned about our environment, you might well be concerned about our reputation in this country for having a fair go and being humanitarian and compassionate. Those people who criticised the Howard government, and who criticise those on this side of the chamber at the moment for criticising a softening of the borders, should think very carefully about that because it is indeed a compassionate government that protects the flow of those most in need. I have often mentioned the example of a woman in Somalia. She might be a single parent, and all her brothers and her father have been shot. She has five children that she has to feed. She has no money. She cannot afford $15,000 out of the sky to go where she likes. She probably has a further life expectancy of only six or eight months, because after a while of failing to thrive you cannot get over it and you die, quietly and slowly; and all your kids die with you. Or perhaps you even have the tragedy of watching one kid die every month. Your job apparently gets easier because there is one less mouth to feed. In my book, as an Australian, I think they are the people we need to be helping.

I do not blame people in the Middle East who seek to come to this great nation, but they must not come here seeking refugee status outside the terms of the UNHCR. The 1952 international convention of refugees does not confer on a refugee the right to pick where they come to live. What it does is try to sort out across the nations of the world a process whereby those most in need can come here. As I have already said, Australia cannot take the 15 million refugees in the world who are currently looking for a refugee outcome. We simply cannot do it. You can debate the number up and down. As I have said, 13,000 is about what Australia can handle. But it is not just about taking people. We are a humanitarian country. We take the people and we house them. These people are not selected for the best skills; they are selected because they have the most needs. So we house them and we provide them with torture and trauma counselling and refugee resource centres. We provide them with everything that they need so they can come to this country and make a special contribution.
We set about half of that number of 13,000 places aside in humanitarian visas. When they come here through the UNHCR their families are often, through fleeing war, a diaspora. If we find their families through the UNHCR, we reunite them. And that is why we use the other half of that demographic. It is, I believe, a highly compassionate and very decent approach. And so, when you weaken your borders, in effect you are saying, ‘We are not having a compassionate approach.’ We are simply saying, ‘I know who is going to be able to do for this for us. We’re not going to make the decision. We’re not going to let UNHCR make the decision about who comes to this country. We are going to let international criminals take $15,000 or so’—whatever it is, it is lots of money—’for every man, woman and child that gets on their slave ship.’ They are blackbirders, and we are allowing blackbirders make the decision as to who comes to this country.

Whilst those opposite remain in complete denial about how their change in policies has genuinely and directly affected the decisions of these blackbirders—and that they are—we will continue to see people putting their children, wives, brothers, lovers and families on boats that are dangerous. That they are putting those lives in danger is, I think, a great sadness and a great tragedy for this country. There was somebody who I always thought was very compassionate and we remember the words:

We will decide who comes to this country and the circumstances in which they come.

Those are the words of a compassionate man making a compassionate statement. Australians should look very carefully at those opposite who are in complete denial that it is their actions which have placed all of these people, and all of these programs which we are signatories to, at the very greatest risk. They need to get out of the denial program and Kevin Rudd needs to stand up and say, ‘My name is Kevin Rudd and I have a problem.’ (Time expired)

Senator McEWEN (South Australia) (3.53 pm)—I appreciate the opportunity to speak to this motion this afternoon, but I do wish that the Senate’s time was being used to debate government policy or legislation that will take the nation forward. Instead, we are going to spend the afternoon debating a motion that returns us to those dark, dark days of the Howard era—an era when refugees and asylum seekers were demonised and used by the then government for political gain.

All week we have seen the opposition displaying their total incapacity to present themselves as a viable alternative government. Instead of policy or sensible debate about things that will take the nation forward—including, perhaps, telecommunications infrastructure or health initiatives—we have had question time, taking note and MPIs taken up by shameful attempts, once again, to demonise people who have chosen to leave their own countries in an attempt to forge a better life. I point out, so that people know how much time we have yet again wasted on this issue: on Monday, the MPI in the Senate was about border protection and the debate in question time was about what the opposition called ‘border protection’, but we know is all about belting asylum seekers; on Tuesday, it was question time issue again; on Wednesday, the MPI was again about the issue. Here we are on Thursday, debating it yet again. I urge the Senate, when it returns to sit next month, to please move on from this issue to something that is truly important to the whole of the nation.

The debate is about asylum seekers and people who seek refugee status in other countries. I have to ask, as I have asked many times in this parliament: what is wrong
with the motivation of people to leave their homeland, where they may be suffering from persecution, war or poverty? What is wrong with the objective of trying to find a better life for yourself and your children? It is something that motivates all of us and just because you do it, you should not be persecuted and demonised for it.

As we know, across the world there are some 42 million displaced persons who, for one reason or another, are unable to live in their own country or in their own region. Of those 42 million people, 15.2 million are refugees. A tiny proportion of that huge number of displaced persons in the world attempts to find their way to Australia—indeed, they may not even know that they are trying to find a way to Australia; they are just trying to find a country where their hopes for a better life can be realised. Most of the people who come to Australia as asylum seekers actually come by aeroplane. We know that. The other fact we know is that most of the people who come here seeking asylum are found to be genuine refugees. Indeed, most of the asylum seekers who have come to this country by boat have also been found to be refugees. That is true under this government and it was true under the previous government. Those people have become valuable members of this great nation of ours and have contributed to our prosperity and to our cultural wellbeing.

I would like to spend some of the time allotted for debating this motion setting out the facts about the government’s very comprehensive policies and legislative approaches to meet our international commitments and obligations to asylum seekers and refugees and about the government’s approach to border security. By doing that, I think I will contrast the measured approach of the government to that of the opposition, which persists, on this important issue, in using inflammatory language such as what we have just heard from the previous speaker—endless repetition of words like ‘illegal’ and ‘unlawful’. Indeed, I was horrified to see, in the motion before us today, that now asylum seekers are ‘biosecurity risks’. Frankly, I find that quite disgusting, but I am not surprised because, as we saw earlier this week, the lack of any sort of coherent policy from the opposition has been explained in the email communication that somehow escaped from the office of the Leader of the Opposition, in which it was clearly pointed out that the opposition does not want to talk about policy. It finds that while policy discussions are nice, dirt digging and scare campaigns are better. This is the mother of all scare campaigns.

As I have said before, I do not necessarily like reducing to numbers and statistics this debate about Australia’s obligations to people who come here looking for a better life; I think that distracts us from the fact that people who come here are people like us who need our support and assistance. But, because I have this opportunity, I will point out that under the former government some 13,660 people came here by boat and 20 boats per year was the average. So for all their huff and puff about how tough they were on border security and how tough they were on migration, people still came here perilously across the sea, because the motivation to find a better life is so great. We have to understand, whenever we are debating this issue, that no matter what laws we have, no matter how tough we are, people will always try to find a better life for themselves and their children wherever they are in the world. It is disingenuous of the opposition to try to pretend that you can somehow stop it. Indeed, my view is that we have to deal with it but accept that people will always be migrants or potential migrants in the world that we live in.

The current increase in asylum claims by Afghans, Sri Lankans and Iraqis has fol-
allowed the global trend. It is not just in Australia that the number of asylum seekers is on the rise; it is happening consistently across the globe, due to the crises in those countries. The Rudd Labor government acknowledge that those factors are out there and that people will try to escape countries where they are persecuted or in a war zone, and we are taking a humane approach to asylum seekers. We have maintained the strength of our nation’s borders while creating a fair and effective immigration detention system for those people who do seek refuge on our shores. I am proud to say that, as a government, we are committed to providing fair and certain outcomes for those refugees.

As of 9 October 2009, there were 1,271 people in immigration detention. The opposition are claiming that the government has softened its immigration policy and that we are allowing too many people to enter the country, but that is not correct. The number of people placed in immigration detention in Australia actually peaked in 1999-2000, when there were more than 8,000 people held in immigration detention. That was of course under the former government. In 2007-08 there were some 4,500 people held in immigration detention; so that is half the number of people who were in immigration detention under the former government. Of course, the current government has the view that immigration detention should be used for only the shortest period possible while health, security and identity checks are undertaken.

One of the first things the Rudd Labor government did upon taking office, which demonstrated our humane approach to asylum seekers, was to abolish the Pacific solution, where people were interred on Manus Island or Nauru. I was pleased to be part of the government that did this. The Pacific solution was neither a fair nor a humane system, and it was also ineffective and wasteful. One of the other major changes to immigration policy we made as government was to abolish temporary protection visas. It is difficult to get an opinion from the opposition, in their policy-free zone over there, about whether or not they are actually advocating a return to TPVs. TPVs were introduced by the former government to, it was hoped, lessen the number of unauthorised boat arrivals; but all the evidence shows that TPVs did not have any deterrent effect whatsoever. Actually, there was an increase in the number of women and children making the dangerous journey across the seas to Australia while TPVs were in existence. In the main, TPV holders were established to be genuine refugees.

The people who were living under temporary protection visas came to the attention of the Joint Standing Committee on Migration during our inquiries. I can say that I would never want the country to return to that system where people were in this country living with incredible uncertainty about what the future held for them, often for years and years and years. The Rudd Labor government did not want to prolong the uncertainty and insecurity for those people any longer; and we abolished TPVs altogether. The removal of that system speeded up resolution of asylum seekers’ cases and gave those people a greater sense of security and certainty. We know now that most of those people have now settled in Australia and are, as I said before, valuable, contributing citizens to our great nation.

Another initiative that the government has taken recently has been to announce the establishment of the Council for Immigration Services and Status Resolution. I acknowledge, as I have done in this chamber before, that as a nation we do need to do more to assist people who come here as refugees to settle into our community. That council, which was established by the Minister for
Immigration and Citizenship, will provide independent advice on immigration policy, services and programs to ensure that we are achieving timely, fair and effective resolution of immigration status for those people seeking asylum in Australia. The council met for the first time, I am pleased to say, just last week and has begun identifying priority immigration issues that need to be addressed over the next two years. If people want to make a positive contribution to the debate about how we assist asylum seekers and refugees, perhaps they could direct their attentions to a positive initiative like that.

I am pleased to say that Australia continues to be an international leader in refugee resettlement. In 2009-10, we welcomed 13,750 people under our humanitarian program. That was an increase of 250 places on last year, and it is the second year running in which that program has increased. Earlier in the year the Labor government announced seven detention values to underpin our immigration system. Those values committed to: a risk based approach to detention, to detention for the shortest practical time and to a rejection of the indefinite detention of asylum seekers.

In the 2009-10 budget there has been a total of $77.4 million over four years committed by the government to implement key immigration compliance and detention policy improvements. In addition to that, $186.3 million was committed to extensively redevelop our primary onshore detention centre, the Villawood Immigration Detention Centre. That welcome redevelopment of Villawood comes after 60 years. It was originally built, as we all know, as an immigration hostel back in the late 1940s. Those of us who have been there wondered if anything could improve Villawood, but clearly the government’s intention and large commitment of money will make it a better place for those people who are detained there while their immigration issues are resolved.

In terms of border control, the government announced last month that we will be providing extra funding to combat people smuggling. The government has condemned people smugglers, and the Prime Minister continues to do so. We join with everybody to point out the fact that profiteering from asylum seekers and refugees is an abhorrent system; but it goes on, and the government is committed to doing what it can and working cooperatively with other countries in the region to stop that practice. So the government has provided more than $18 million to the United Nations Office on Drugs and Crime and to the International Organisation for Migration to assist in managing irregular migration. We have also provided increased money for border security, which I will get to in a minute.

Finally, in the few minutes I have left, I want to spend some time mentioning the government’s legislation, which I think is really important in the context of asylum seekers. If an asylum seeker to Australia is not granted a protection visa because the reason for the persecution or harm on return to their country is not one of the specified reasons in the refugee convention, that bill establishes a new criteria under which a protection visa may still be granted in special circumstances. The example that is often used is that it is not certain that a girl who would face a real risk of genital mutilation would be covered by the refugee convention. The legislation the government has introduced will make it quite clear that that could be a criteria for seeking refugee status. Those sorts of legislative changes ensure that Australia will continue to meet our protection obligations under international human rights treaties and help vulnerable people who are most at risk of serious harm if they are returned to their home country. While we cur-
rently meet those obligations through reliance on personal ministerial intervention powers, those are not reviewable, transparent or subject to procedural fairness, so the proposal of legislative change will entrench those criteria in our laws.

Unfortunately I have run out of time to talk about border protection. But, in closing, I would like to reiterate that I find it incredibly frustrating as a senator in this chamber that we have chewed up so much time this week at the behest of the opposition, who are running a fear campaign, scaremongering again about asylum seekers and demonising asylum seekers. We are talking about a tiny proportion of people in the world who have a genuine right to seek a better life for themselves and their children. The nation has more important things to discuss, and you can only hope that the opposition will grow into its role as the alternative government and that when we return to this place next month we can concentrate on important policy issues and not just carry on in the gutter, where the opposition has been pretty much all of this week.

Senator McGauran (Victoria) (4.13 pm)—I do not normally stay quiet during Senator McEwen’s speeches—I throw in the odd interjection—but such was her agony that I actually felt sorry for her. After 19 minutes of a 20-minute speech, she got to the crunch point and said, ‘Well, I have run out of time to talk about border security.’ This is what this whole debate is about. It is yet another indication that the other side has no concept of the crisis they have plunged this country into, let alone the human cargo. This is a national crisis, and the previous speaker has no understanding at all. But, as I said, I felt for her in her anguish, because, just before she was about to stand up and speak, Minister Evans—who oversees this portfolio and who is up to his neck in this national crisis—gave her a handful of notes and walked out. He simply walked out of the chamber. He was not going to stand here and put his case and debate the issue—and he hasn’t all week.

Where has this minister been? He has gone missing! If he does not want to be present for Thursday afternoon general business, then where has he been for taking note of the answers on this critical issue? It has been the lead story of every news bulletin all week, and in this chamber and in the other place. Where was the minister when we raised this issue as a matter of public importance? He has not led the debate once—not once this week. What is more, he scuttled out just as the debate was about to start. He has gone missing. The only time we cornered the minister was in question time. He cannot escape that, although no doubt he was looking to go on an overseas delegation during this matter, but we cornered him. What a clueless week he has had. It is quite obvious this minister, who changed the laws that brought about this crisis, has been shunted aside.

Senator McEwen—He’s not going overseas, he’s going to Shepparton—in Victoria!

Senator McGauran—Senator McEwen dares to interject during all of this when I remained silent for her hopeless effort. I was being polite, I must admit, but I provoke, do I? It is quite obvious that Minister Evans has been shunted aside by his own leadership group. He has not been out there in the media. This role has been taken by others, like the Minister for Foreign Affairs and Trade—and what an effort he put on on SkyTV today! I will address that later. He was obviously squirming and at a loss to know what the Indonesian solution is, or for that matter, what the President of Indonesia’s intentions are. But at least he is willing to go on and answer questions. At least he is willing to get up in the other place and debate the issue, but the minister who is in charge of
this national crisis—with human beings in the grip of crisis—has gone missing.

I have always thought there was enough fodder, enough material, in this chamber to single out incompetent ministers. Senator Conroy is one, for example, with his $43 billion. We all like Steve because he is not serious about anything, least of all his portfolio. He is sloshing around $43 billion. He knows very well it is going to collapse. He just hopes an election comes before he has to make that final decision. He will make it on the other side of the election if he is still minister. That is Steve Conroy. Another is Senator Wong, the Minister for Climate Change and Water, the great extremist who is about to drop a $50 billion new tax on the economy. That is financial incompetence by both of them.

But we have a minister who takes the cake, and what is more he leads the government in the Senate. I bet you are all disappointed now as when the heat was on he was not quite the man you thought he was, not quite the leader you thought he was, and he has gone missing on this issue when his own leadership has shunted him aside. I know Prime Minister Kevin Rudd does that frequently, but I would have thought he would push the minister to the centre to take the heat. But he cannot take the heat. You hear the answers at question time, you see it in his eyes, he is not briefed, he does not know what is happening and he is scared, like a rabbit in the headlights. Who would have thought that of Senator Evans—I am a bit surprised, but this is what happens when you are in government. Sooner or later reality hits and you have to start making serious, hard decisions. This had not happened to Senator Evans until now and now that it has, now he is accountable and has a difficult problem on his hands, he has been found wanting. He now goes to the top of the tree as the most incompetent minister, and seriously incompetent too on this issue.

He has been happy to stand there in the last 12 months railing against this side of the chamber in regard to our tough but successful—although he called them tough—laws in regard to border protection. I would have thought it a fundamental requirement of any government of any colour to secure our borders. He even called Christmas Island a white elephant. I believe he even said he would never use Christmas Island. Well, it is bursting at the seams and now they have had to ship in more beds. That is called egg on your face. He was happy to take the early plaudits when policy was changed because it was easy; he did not have to make a tough decision. Now that he can see and witness the failure of those policies he has not been here to debate it at any point this week other than question time, when he knows he has to walk in. He will not even step out into the media.

This minister it is the most incompetent, most culpable minister to date. As I said, that is really saying something in the Rudd government because—it has really been quite a bad week for the Labor Party—all their incompetence is now starting to seep through every part of society for the public to see, whether it is Julia Gillard’s wasteful and wicked expenditure on school halls or Peter Garrett’s still bewildering $3.9 billion on Pink Batts, Senator Conroy or Senator Wong. This minister is the most—

Senator O’Brien—I rise in a point of order, Mr Acting Deputy President. I wonder if you could remind the senator to refer to people from the other place by the correct title.

The ACTING DEPUTY PRESIDENT (Senator Humphries)—Yes, I take that point. You should refer to them by their correct title, Senator McGauran.
Senator McGauran—Senator Evans ought to have the courage to come in here and debate the issue at some point during the week. I also make this observation in regard to the other side and their Indonesian solution. If ever I have seen a falling out, or increased tensions, coming around the corner it is in relation to Australia and Indonesia. Remember, this Prime Minister in an emergency, a panic ridden state, dashed across to Indonesia to meet the President. A phone call would have sufficed but, no, he had to pose before the Australian media.

I have observed President Yudhoyono of Indonesia over many years. He has built a genuine and worthy relationship with Australia over the years of his term. He is a fine President. In relation to this posed dash to Indonesia by the Prime Minister, I venture to say that the President would not have been impressed at all by Mr Rudd’s performance. Nor would he have been impressed by the airing of an Indonesian agreement as soon as Mr Rudd got back—an agreement about which the Prime Minister cannot give any details let alone the financial details. Having observed this President, I know he would not have been too impressed by that. Nor would the sorts of words used here have passed unnoticed by the President or by the Indonesian foreign affairs department, particularly the words used by Senator Evans. But Senator Evans is only mimicking the Prime Minister: ‘Indonesia must honour this agreement’—whatever it is—‘Indonesia have an agreement with us and they will fix it and they will sort it out.’ Rest assured, in the limited experience I have in foreign affairs, but as an observer of a relationship with Indonesia, that will not go down too well.

The Minister for Foreign Affairs was on Sky TV today repeating all that, saying that ‘Indonesia must and will honour this agreement.’ But he got the obvious question, ‘Why is it now 10 to 11 days?’ He answered with a condescending comment that will backfire in Jakarta. He said, ‘It takes some time for the President’s words to trickle down.’ That is condescending, it is undiplomatic and it is not true. It does not take a lot for the President’s words to trickle down at all. It will not take long for those words to shoot across to Jakarta. I can tell you that you if the President wants it, no local governor will get in his way. I say: watch that particular space. And Senator Evans, again, foolheartedly, unaware, ham-fisted, comes in here without any knowledge that words are bullets and thinks he can turn the heat up on Indonesia—saying that they ought to fix this chaos.

The previous speaker and others tried to nail us on our policy. As if we created any of this! There are three moral issues as to why this side of the House seek to bring the Rudd government to account here. Labor must address these three moral issues. The first concerns the people smugglers. Labor are giving succour to the people smugglers, these cruel operators who have absolutely no concern for the safety of women and children and who do not mind fleecing
them for every cent they can get. All it would take is a determined effort by Australia to choke off that trade, from this point of view: the law’s of this country and the actions taken by this country.

The second moral issue involved in this is the safety of the asylum seekers, who, though in the grip of the people smugglers, make the decision to sail across the seas because they are given the hope from these shores that they ought to take that perilous journey. The Australian laws are such that they believe they will gain permanent residency, virtually permanently. Of course, as we know only too well, some of them do not make it. When you are in government, you have a responsibility to appoint but you also have a responsibility to close off, as best you can, at least from this side, that sort of false hope. You have to stop them from making that perilous journey. We are only too aware of the tragic stories of sunken ships that never get here. The latest surge is all because of the changed laws and the softness of those laws. Clearly, the government have a responsibility to discourage those dangerous journeys, not incite them. We must do what we can. There will always be boats attempting to come across. We have a surge now and those opposite have buried their heads in the sand. They are in denial that the softness of their laws have had a direct effect.

The third issue in this matter is central to this debate and it concerns the thousands of people waiting to enter Australia legitimately. I know this has been said before, but it is true: it is about queue jumping. These people have been waiting with their families for years to be processed and allowed into Australia. Every person who comes across on a boat illegally—there is no other way or nicer way to say it than that—and makes that perilous journey in the hands of people smugglers bumps a legitimate refugee in a refugee camp who does not have the $15,000 to pay. Fairness is what we are talking about here.

The point I make is far from being just a debating point. This week I received a letter from my colleague the member for Fadden, Stuart Robert, who has just returned from Uganda. I am sure he will not mind me saying that he has, over many years, done a great deal of charity work in Uganda. He pointed out to me and to several other colleagues that the need over in those refugee camps is crucial and immediate, yet those people do not have a fair chance. That is a great Australian ethic, is it not: a fair chance? Every asylum seeker who comes by boat and gains refugee status will bump those in refugee camps. The concern of Stuart Robert is that it is not fair. And it is not just his concern; he goes on to say that those in the camps say it is not fair. They are only too aware of it.

So they are the three moral issues. Let us just recap on the morality of those opposite taking tough and realistic decisions, which is the responsibility of government. You have got away with not doing it for two years. It has all been so soft and easy dishing out the billions of dollars. But now you have hit the wall. It is crunch time. The minister has failed. The most incompetent minister in the Rudd government—what a claim to have.

It is not as if the minister was not told. Back in October 2008, just one month after the law changes in August, his own department briefed him to expect that these laws would be used by the people smugglers and to expect a surge of boats on the grounds that the laws had been softened. I am not making this up, by the way. This comes from freedom of information documents obtained by the Herald Sun.

In 2009 the Australian Federal Police sent the same signal out, saying the softening of the laws had created the perception that Aus-
Australia’s border security was soft and the people smugglers had started up their trade. They sent that brief out to all the departments—ASIO and the intelligence departments that operate in Indonesia to disrupt the people smugglers—but it seems that the Attorney-General did not receive it, did not read it and still has not. He does not want to know the truth. So you cannot tell me that the government was not aware that all this was coming. As I said, you cannot tell me, nor will anyone believe, that there is not a connection between strong and humane laws and the government’s change of laws in August 2008.

Labor have failed at every single level on this issue. They have failed administratively and morally. They have failed the Australian people by not providing proper and secure border protection. They have failed in their primary responsibility in not providing border protection. They are now reliant on another nation to carry out the crux of their policy, they have given succour to people smugglers, they have failed to discourage desperate asylum seekers from taking the perilous journey and they have let down the patient and legitimate refugees who sit in camps awaiting permission to come in. Labor’s policy is neither tough nor humane; it has failed.

Senator CAROL BROWN (Tasmania) (4.33 pm)—I wish I could say that in Senator McGauran’s contribution there was some style over substance, but sadly there was very little style and no substance at all. I think it is sad that so often I follow Senator McGauran’s contributions, because I can hardly take it in. He goes from one thing to another and makes, I believe, absolutely no sense at all. But what was quite interesting in his contribution today was that he decided to give some advice on diplomacy. No wonder the Liberal Party are in such disarray. We have Senator McGauran giving advice on diplomacy and we have Mr Ruddock giving advice on asylum seekers—and we all know his record of shame there. And we know what happened when they took advice from Mr Grech. The coalition are in disarray.

Here we go again. This is exactly what we have come to expect from those opposite. Time and time again they peddle negativity and falsehoods. Those opposite seem continually to take the low road with this issue. They are an opposition who persist with the same old tired point-scoring political line. Over the past few weeks we have heard some extraordinary claims from those opposite in relation to people smuggling. The comments coming from those opposite really are not helpful, especially when dealing with such a complex issue. As the Prime Minister has stated, people smuggling was a problem in the past, it is a problem today and it will be a problem in the future. Those opposite know this, and to pretend otherwise is just to create mischief.

A number of global factors certainly have contributed to the current spike in the number of refugees seeking asylum in foreign countries. In 2008, we saw an 85 per cent increase in the number of Afghan asylum seekers claiming protection in other countries. Between 2005 and 2008, the number of internally displaced people assisted by the United Nations High Commissioner for Refugees, UNHCR, jumped from 142,000 to over 230,000, an increase of over 60 per cent. We have also seen recently, with Sri Lanka emerging from decades of civil war, around 250,000 Tamils from the north of Sri Lanka in camps for internally displaced people. And between 2005 and 2008, the UNHCR saw the number of people they assist from Sri Lanka balloon from over 324,000 to 504,000, an increase of 55 per cent.
So it is indeed false, and a myth created as part of a sneaky scare campaign operated by those opposite, to claim that their policies saw a reduction in asylum seekers. In fact, whilst I am touching on the arrival of asylum seekers under the watch of those opposite, I cannot help but touch on the policies of those opposite which saw the inhumane treatment of refugees. After all, it was those opposite who implemented the Pacific solution, introduced temporary protection visas and also inflicted detention debt on asylum seekers—fundamental policies which, despite the myths and falsehoods peddled by those opposite, actually did nothing to reduce the influx of asylum seekers. In fact, all we got from those opposite were policies whereby asylum seekers inherited the costs of their detention, which we all know was unreasonable as the vast majority of asylum seekers coming to this country had little more than the clothes on their backs. We also got the temporary protection visa regime, which often left people languishing in detention for years and which actually resulted in nearly 90 per cent of the people who were initially granted TPVs gaining a visa allowing them to settle in Australia. Finally, the Pacific solution saw $289 million spent by those opposite on detention centres on Nauru and Manus Island to process asylum seekers—and for what? Certainly not a reduction in the number of asylum seekers, because we know that asylum seekers will continue to come to Australia, regardless of the government of the day.

This is a problem that will face every government. Indeed, we have found this out, because the events of recent days have been challenging for the Rudd Labor government; we know that. However, the government remains committed to working with other countries in our region to tackle this problem. In fact, the Rudd Labor government has decided, with the Indonesian government, to create a framework for cooperation on people smuggling. This framework will deliver a new, higher level of cooperation to tackle the challenges facing our region. And, despite what those opposite might say, the Rudd Labor government is committed to enforcing vigilant border security protection programs.

However, as it was for the previous government, this remains a challenge because, after all, Australia has one of the largest coastlines in the world, stretching over 59,000 kilometres. So we have implemented more aerial and surface assets to patrol our borders—more patrols, I might add, than under the previous government. This means that in 2008-09 the total number of flying hours and sea days undertaken by vessels and aircraft conducting surveillance in our northern waters under the control of Customs and Border Protection Command was more than the previous year. In fact, the number of sea days in 2008-09 was 5,921, which was over 16 per cent more than in 2007-08, 27 per cent more than in 2006-07 and over 25 per cent more than in 2005-06.

I hope these figures help to dispel the continual falsehoods those opposite like to peddle, that the Rudd Labor government has gone soft on border protection, because nothing could be further from the truth. The Rudd Labor government, like the previous government, will continue to process asylum seekers at the mandatory detention centre on Christmas Island, and we will continue, like the previous government, to conduct mandatory health checks, mandatory security checks and mandatory identity checks on asylum seekers.

But what do we get today from those opposite? The same old political grandstanding and scaremongering. In fact, we would not expect anything less from an opposition which is divided on immigration. That is right—they cannot even get a cohesive mes-
sage together. Perhaps those opposite should be more focused on getting their party united on immigration than on trying to score cheap political points. I think it is rather apparent that those opposite are more interested in playing politics with what is indeed a very serious and difficult issue. It would appear on the surface that those opposite are totally focused on and certainly much more interested in scoring cheap political headlines.

You would think, in the face of some border security challenges, that those opposite would be looking at a positive way to help tackle the problem. You would not think an opposition with serious alternative policies would come into this place and sling mud at the government. But this is what we are faced with—an opposition that really has no alternatives; an opposition with no alternative policies; an opposition which simply focuses on negatives; an opposition that has, unfortunately, gone to the fear-and-smear play-book. We know this, and Senator McEwen touched on this in her contribution. An article in the *Australian* advises all and sundry and the Australian people that:

MALCOLM Turnbull’s office has been … advising Coalition press secretaries to demonise special interest groups and attack public servants as fat cats.

So what we are seeing is that—as Senator McEwen said in her contribution—the modern Liberal Party’s core philosophy is that policy discussions are nice, but dirt-digging and scare campaigns are better. They have decided that that is going to be their policy.

Need I remind those opposite that the Rudd Labor government remains vigilant and committed to protecting Australia’s borders? Since being elected, the government has maintained one of the toughest and most comprehensive border security regimes in the world. Contrary to the false accusations from those opposite, the government firmly believes that the control and management of our borders is integral to the nation’s security. And, contrary to suggestions by those opposite that we have somehow gone soft on border protection, we have in fact built up previous measures by providing more funding and increasing the extensive patrols of our coastline. The falsehoods those opposite have been peddling—that the government has gone soft on border protection—are nothing but spin and a grab for headlines.

I might just highlight for the benefit of those opposite that the Rudd Labor government went to the last election with the commitment of maintaining a system of mandatory detention for all unauthorised boat arrivals—a commitment, contrary to what those opposite would try to have you believe, which has been honoured. Those opposite would be aware of this. We have also retained the excision of offshore islands and the offshore processing on Christmas Island for unauthorised arrivals. So for those opposite to claim that we have sent a signal to people smugglers that we are open for business, that we have waved the white flag, is really beyond belief. Nothing could be further from the truth.

As I have highlighted time and time again during my contribution, we have actually increased our measures to combat people smuggling and the arrival of unauthorised vessels in our waters. To suggest otherwise is just creating political mischief. I highlight for the benefit of those opposite that we have maintained and extended extensive air, land and sea patrols, put a priority on the prosecution of people smugglers and increased our strategic regional engagement. All of these measures are the actions of a government that is strongly committed to protecting our borders and reducing the number of unauthorised people arriving in our country.
Indeed, we have acted upon these commitments in the 2009-10 federal budget, when the Rudd Labor government committed more than $654 million to tackle people smuggling and improve our border protection—$654 million to implement a comprehensive, wide-ranging approach to help stop the arrival of unauthorised immigrants to Australia. Included as part of this wide-ranging investment in combating people smuggling were a number of commitments. Firstly, we committed $324 million of funding to increase maritime patrol and surveillance, which means additional maritime surveillance craft will be present in Australia’s northern waters and increased maritime surveillance time. We also delivered almost $63 million for a funding increase for aerial surveillance, which will mean two additional surveillance aircraft, and $93 million to strengthen our engagement with our regional neighbours and international organisations—and already this has begun.

On 15 September 2009 we saw Senator Evans announce that the Rudd Labor government would be providing $18 million to the United Nations Office on Drugs and Crime, UNODC, and the International Organisation for Migration, IOM, to combat people smuggling and manage irregular migration. Senator Evans said at the time of the announcement:

More than $10 million will be provided to the UNODC to fund three projects specifically to target transnational crime and people smuggling activity throughout Asia.

Part of the announcement was an $8 million commitment to IOM, which will enable the organisation to maintain its network of outreach offices in Indonesia over the next four years. This commitment is crucial as we continue our cooperation with the Indonesian authorities to combat people smuggling. Senator Evans reiterated this by stating as part of the announcement:

The IOM commitment will boost efforts between Australia and Indonesia to combat irregular migration and ensure the suitable treatment of irregular migrants. The funding will enable IOM to continue to assist Indonesian authorities to monitor and manage irregular migration flows and gather information on people smuggling activity.

Also as part of the budget announcement, we delivered $13.6 million to strengthen our legal and prosecution capacity and enhance regional cooperation on people-smuggling laws.

The Australian government has had some success prosecuting people smugglers. Since September 2008, 15 defendants have been convicted in eight people-smuggling prosecutions. Currently we have before the courts 38 defendants, relating to 14 matters involving captains and crew and three defendants in three matters involving organisations that facilitate this inhumane crime. These are good signs, and we will continue to work hard to bring people smugglers to justice. I think it is evident that the Rudd Labor government is committed to tackling the people-smuggling problem. We will continue to enforce tough border protection laws. The mischief created by those opposite is political grandstanding of the highest order.

I would also like to touch on the global context of what is a global problem. This is indeed a global problem. There are over 42 million displaced people around the globe. In recent years, global factors have continued to see an increase in the global number of refugees and asylum seekers. The United Nations Secretary-General noted in a recent report to the Security Council that ‘2008 ended as the most violent year in Afghanistan since 2001’. Just to restate my previous comments: in 2008, there was an 85 per cent increase in the number of Afghan asylum seekers claiming protection in industrialised countries worldwide. Between 2005 and 2008, the
number of internally displaced people assisted by the UNHCR in Afghanistan increased from around 142,000 to around 230,000. In Sri Lanka, for the same period, the number of internally displaced people assisted by the UNHCR in Sri Lanka increased from around 300,000 to 504,000—an increase of 55 per cent. Sri Lanka has just emerged from a decades-long civil war which cost tens of thousands of lives, uprooted hundreds of thousands of Sri Lankans and left an economic divide between north and south, east and west. As I said earlier, there are currently 250,000 Tamils from the north of Sri Lanka in camps for internally displaced people.

I also talked a bit earlier about the myths that have been created by the opposition. I just want to mention those in a bit more detail now. The opposition claim that the Pacific solution caused the reduction in the number of asylum seekers arriving in Australia between 2001 and 2003. The number of asylum seekers arriving in Australia after 2001 did significantly decrease, but these decreases were happening all around the world. Between 2001 and 2003, the number of Iraqis claiming asylum globally dropped from around 52,000 to approximately 27,000—a drop of 48 per cent. Between 2001 and 2003, the number of Afghans claiming asylum globally dropped 73 per cent. Between 2001 and 2003, the number of Sri Lankans claiming asylum globally dropped from around 14,500 to around 5,500—a 61 per cent drop. There are push factors that we have been talking about and which are at play that the coalition continue to deny. The Rudd Labor government have proven that we are more than capable of showing the leadership necessary to steer our country through the global economic crisis, and we have demonstrated the same leadership when it comes to border protection.

(Time expired)
It is interesting to go through the history on this. The stark history is what Labor said during the 11 years of the Howard government and their duplicity over it. It is correct that the coalition were confronted with a huge problem of people smuggling and, yes, there was a flood. Labor, including the now Deputy Prime Minister, rightly said that every boat that entered our waters was a policy failure. We were confronted with a huge problem, but we fixed it. Courtesy of the coalition, Labor had a solution to people smuggling but deliberately and wilfully unravelled it as a sop to those who now seem to have a very, very serious case of laryngitis. Remember Mr Burnside QC? He was on the TV every night ranting and raving against the inhumane Howard government. Sure, he has come out against the Rudd government—only because he was forced to—but he has come out against the Rudd government—only because he was forced to—but he has been very subdued, very quiet and without the degree of repetition and salivating he had during the term of the Howard government.

Allow me to refer to an Australian Financial Review commentator, who said this about the Howard policies on 1 September 2001:

John Howard has gone bottom fishing for the redneck vote ... And at what cost to morality and the national interest?

This was because of our policies on border protection. Interestingly enough, the same commentator on 27 October—just a few days ago—wrote this:

It is easy to criticise Kevin Rudd for pursuing what he calls “the most hardline measures necessary” to deal with asylum-seekers. But nobody seems to be offering practical political alternatives to Rudd’s still evolving solution.

What sick, sympathetic and, some might even say, sycophantic writing and what hypocrisy and duplicity. If Mr Howard does something that is hardline, he is after the redneck vote. But if Mr Rudd allegedly does it—and he is not doing it, I might add; he is just saying he is doing it—the same commentator comes out and says we have to be sympathetic and understanding of Mr Rudd’s position. We are told by this commentator that Mr Rudd has a solution but that it is an evolving solution. If so, it has been evolving for a long, long time. In fact, some would say it has been devolving.

I also recall Senator Faulkner’s pious additional comments to a Senate report in 2002 condemning our involvement with Indonesia in the battle against people smuggling. Senator Faulkner is now strangely quiet on the issue. But one thing Labor has done is to appoint an ambassador for people-smuggling issues. I have a high regard for the gentleman who holds that position. During Senate estimates recently I asked whether in his travels through the region our ambassador had asked the reason for the upsurge. Do you know what he answered? No, he had not. I do not blame him for not asking the question, because as the very well-trained individual that he is he knows not to ask questions to which you do not want certain answers.

I say to everybody in Australia: if you are serious about border protection and you are dealing with a flood of people coming into your country and you are trying to solve the problem, wouldn’t one of the first and fundamental questions be, ‘Why is it happening?’ If you do not know why it is happening, how can you develop a solution? But Labor wilfully go around the region saying, ‘We’re not sure what is causing the problem but chances are it is an international problem.’ This is Mr Rudd’s mantra. Each and every time there is a problem, it is never his problem; it is always an international problem or somebody else’s fault. Labor are too scared to ask what is causing the problem. They do not want to know the facts.
Why is Labor flip-flopping on this important issue of border protection? There are the views of the member for Melbourne Ports who says that we should be bringing the people on the *Oceanic Viking* to Australia. There are the views of the member for Fowler, there are the views of the member for Wills, there are the views of the National Secretary of Australian Workers Union—and the list goes on. Those people who are the reason and the cause for Labor’s soft border protection policy are now saying what all of us feared—that they aren’t soft on border protection and they want the mantra to be matched by action. Mr Rudd, being so poll driven as he is, knows that the Australian people do not want that to occur, so he is betwixt and between. He says he is taking a hard line whilst changing all the policies behind the scenes—which has now led to this flood of illegal entrants.

Let me talk about another example of the duplicity in this debate—the use of the term ‘illegal entrants’. When my good friend and colleague Senator Cash used the term ‘illegal entrants’ during question time, the Leader of the Government in the Senate, Senator Evans, frothed at the mouth condemning Senator Cash for using deliberately provocative language. When asked the next day whether any minister in the Labor government had used similar language, he refused to answer. Although the words of the Prime Minister as spoken on the Mark Colvin program on ABC radio on 20 October were quoted to Senator Evans, he was unable to bring himself to tell us whether he similarly condemned the use of that language when spoken by the Prime Minister.

Why do I raise this issue? Because I say to the journalists in this place, especially some of the female ones: just imagine if Mr Philip Ruddock attacked a female Labor back-bencher in that way for using language that Prime Minister Howard had adopted. You could see the keyboards rattling away with righteous indignation, with columns being written that the Liberal Party was full of misogynists, and how dare they—what duplicity! But, of course, when a left-wing leader of the ALP in this place like Senator Evans does that, it just goes through to the keeper; it is not worthy of mention in any of those columns. That is one of the great difficulties we have in this country.

While some journalists are not picking up on this duplicity, the Australian people are. Mr Rudd says he has never been a socialist but then says he is a Christian socialist. He is the man who says that he is an economic conservative but then condemns the markets. He is the man who is Mr Humane one nanosecond and then Mr Tough the next nanosecond, depending on what or whom he is talking to or about. One thing we have never accused Mr Rudd of being is Mr Consistency—unless you say inconsistency is his form of consistency. It is the sending of mixed messages, of trying to walk both sides of the street, that has caused this huge dilemma and has made Australia a laughing stock in Indonesia and, indeed, around the world. He is now realising that you cannot walk both sides of the street. The policies of Mr Ruddock that he condemned, and condemned so loudly, are now looking very good both from a border protection point of view and from a humane point of view.

But I always wondered why Mr Rudd was called Mr Rudd. I think I now know: because he is only half the name and half the man of Mr Ruddock. Mr Ruddock had the policies for this nation and I would invite Mr Rudd to adopt them.

*Senator McEwen interjecting—*

*Senator ABETZ—*He knows that the policies of Mr Ruddock worked. Senator McEwen foolishly interjects about throwing children overboard. Let’s just quickly revisit
that issue, because I am more than happy to do so. Were children in the water? Yes. Did they have to be saved by Australian naval personnel? Yes. How did they get into the water? Strangely silent. It would seem on the evidence that the boat was deliberately sunk out from underneath them. Can I ask you: if in 2004 we had gone to the election saying the children were not thrown into the water but the illegal entrants deliberately sunk the boat out from underneath the children, do you think that would have changed one single vote in this country? Absolutely not.

But what is even worse is deliberately changing the policy, Senator McEwen, in a way which gives comfort to the people smugglers. That is what has allowed them to ply their trade again. The people smugglers existed in the Hawke-Keating era, they existed during the Howard era and they exist in the Rudd era. The question is: why couldn’t the people smugglers ply their trade towards the latter years of the Howard government? There is a very simple reason.

Senator McEwen interjecting—

Senator ABETZ—Senator McEwen says they did. They did, but not to Australia, did they? They did not come to Australia. We stopped the boats. We stopped the criminal behaviour of the people smugglers, and how many people have suffered as a result of people smuggling? By saying, ‘We are not open for business to people smugglers,’ we saved, without doubt, many, many lives.

Can I also say that the illegal entrants who have come into Australia—and, courtesy of the changed Rudd policies, we have had over 2,000 of them in the last year—have displaced 2,000 people who Australia would have taken under the orderly United Nations refugee program. When these left-wing people try to tell me that there is no queue for refugees, I simply invite them to talk to the Sudanese who are in this country. They were processed and recognised by the United Nations as refugees. They waited for one year, two years, three years—some of them up to 15 years. Try and tell them there is no queue and that we should somehow give precedence to those that have the financial capacity to engage people smugglers. Where is the social justice in that? ‘Because you are stuck in Africa without a red cent to your name and you can’t afford a people smuggler, you can keep rotting in those refugee camps while people with the financial wherewithal are able to come to Australia courtesy of people smuggling.’ Is that justice? Is that fairness? Is that humane?

Indeed, this is the one area where the Labor Party does not seem to preach its politics of envy. All of a sudden, this is one area where they actually support the rich and those who can buy favours. Everywhere else they condemn it outright but in this unique little area, this little niche, they say, ‘If you’ve got the money, if you can buy criminals to do a favour for you, you will get precedence.’ We on the coalition side are very comfortable in saying that that is not justice; that it is inhumane. We on this side of the chamber will continue to have a very strong policy of protecting our borders.

The simple fact is that a signal is being sent out by the handling of this current boatload of illegal boat people, and it is this: that you do not now even have to reach Ashmore Reef, nor Christmas Island, to invoke the process of rescue by Australian authorities. It is now possible to contact advocates in Australia by satellite phone and claim a crisis in the zone in the expectation that Australian naval assets will come to the rescue. That is what the Labor Party are now presiding over.

Senator Ronaldson—What a disgrace.

Senator ABETZ—Senator Ronaldson, you are right. It is a disgrace, but you know what? We will not be allowed to say that in
our newsletters because of the Labor Party’s censorship laws. But, coming back to the issues at hand, Ms Gillard told us that every boat that came into Australian waters was a policy failure. As I said earlier, she was right. Labor now have not one or two boats but 45 boats to their name. If one boat is a policy failure, what is 45? A policy success, no doubt! It is policy failure personified—personified in Mr Rudd, who is presiding over this debacle. Labor stands condemned, and we will continue to support strong border protection policies. (Time expired)

Senator FURNER (Queensland) (5.14 pm)—I rise today to speak about this outrageous motion presented by Senator Parry. First of all, may I say that people smuggling is not just a problem for the nation of Australia. Despite Senator Abetz’s view that it is something attuned to or associated with Australia only, it is a global problem. To blame a government for increased levels of people smuggling is ridiculous when it is clearly global issues that bring these people to our borders. Regardless of the policies of Australian governments, Liberal and Labor, asylum seekers will continue to seek refuge here, just as they have each and every one of the past 20-plus years. Let us not forget that Australia has one of the largest sea surrounds in the world, with a coastline of 59,736 kilometres. I would also like to point out from the onset that the Rudd government takes border security very seriously, and for the opposition to question that is nothing but political sabotage—not to mention the fact that the opposition have not yet suggested one, single alternative course of action. It is interesting to note that the opposition have been arguing with the government for weeks on this issue and have criticised the government in this house in the media. Now we have this motion from Senator Parry which reinforces what we already know—that the opposition have no policy and so will use any means to discredit the government to hide that fact.

Let me first refer to the Sky News interview with Mr Ruddock on 23 October 2009. The journalist asked, ‘What would the opposition do differently to change the nature of things at the moment?’ Ruddock said, ‘I’ve advised all my colleagues that that’s the question they shouldn’t answer.’ The journalist then said, ‘But why not?’ And Ruddock answered, ‘Because we’re not the government.’

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Senator Furner, you need to refer to members in the other place by their full name.

Senator FURNER—Okay. Mr Ruddock.

Senator Ferguson—The Member for Berowra.

The ACTING DEPUTY PRESIDENT—Mr Ruddock is fine, thank you.

Senator FURNER—So, because the opposition are not in power, they should not indicate what they would do differently. And because the opposition are not in power they should not bring forward their own policies or alternative solutions. Why did he answer like that? Because they have no policy. It is my understanding that political parties generally stand for something and have policy to back up their beliefs. Is the coalition afraid the government will steal their policy? No. I believe the real reason the coalition have not come up with one, single alternative is that they simply do not have one.

Here is another interesting comment, from a doorstep interview on 22 October. When asked, ‘What would you actually do?’ Mr Turnbull simply answered, ‘Well, what I would do is not have a policy that has comprehensively failed.’ It makes me wonder whether, when asked at the next election...
what the coalition’s policy on border protection is, the answer will be, ‘Anything but the ALP’s.’ The opposition simply have no substance to their arguments, to these questions and even to their motions, including this one. You cannot criticise policy when you have no other suggestions or alternatives.

Interestingly enough, Mr Ruddock, the man responsible for the children overboard scandal, is now advising coalition leaders. On 14 October 2009, the Sydney Morning Herald reported:

The Herald has learnt that the former immigration minister Philip Ruddock is taking part in the development of the Coalition’s policy on the matter. He has been working with a former cabinet colleague, Kevin Andrews, who is in charge of the process. He is also understood to have been advising Malcolm Turnbull.

How can this government take the opposition seriously when you have the man responsible for creating such an untruth, and who caused so much grief and pain, advising the opposition leader on border security—a portfolio he failed in in the first place?

This next one is my personal favourite, however. During an interview with 2SM on 29 October 2009, Dr Sharman Stone was asked: ‘The opposition has been pretty long on criticism but short on answers. If you were the Prime Minister, how would you solve it?’ In her response, she says, ‘Well, we wouldn’t have had this problem.’ It is good to know that if the opposition were in power then all global issues would cease to exist, therefore stopping any future asylum seekers and refugees entering our waters. This is essentially what Dr Stone is suggesting: that there would be no problems in border security because—mysteriously enough—there would be no global issues causing people to seek asylum.

Up until now the opposition have not had a single problem with this government’s border protection policy. The opposition did not oppose the government when we abolished temporary protection visas in August 2008. The opposition never opposed our changes to the Pacific solution announced in December 2007. In late 2008, the parliamentary Joint Standing Committee on Migration released a report entitled Immigration detention in Australia: A new beginning—criteria for release from immigration detention saying:

The committee recommends that, as a priority, the Australian Government introduce amendments to the Migration Act 1958 to enshrine in legislation the reforms to immigration detention policy announced by the Minister for Immigration and Citizenship.

Dr Sharman Stone, a member of that committee, said on Radio 2SM on 1 December, ‘Labor is very much echoing what we did’. When asked, on Sky News, if she welcomed the report’s recommendations to finetune the system, Dr Stone said, ‘Yes, I do.’ Then, on 16 April in the Australian, Dr Stone ruled out the reopening of the offshore processing centres on Nauru and Manus Island:

We no longer have that requirement because we’ve got an alternative place which is in our excised migration zone, Christmas Island.

That was her response.

As far as the Rudd Government is concerned, if people show up on our borders, it indicates an issue. It indicates a global issue and as a government we do not apologise for acting swiftly; nor do we apologise for being upfront with providing the public with updates on this matter. I believe the opposition would have done the same had they been in power. I would like to set the record straight once and for all on how the 78 people on board the Oceanic Viking came to be there. Put simply, this case was a rescue. A vessel on the high seas carrying 78 people became distressed. Under our safety of life at sea obligations, an Australian vessel, the Oceanic Viking, had no choice but to rescue these people from a vessel that was not sea-
worthy. If the opposition are now suggesting we should not have rescued these 78 people, I would ask them to reflect on the gravity of that suggestion. Safety of life at sea obligations exist for the benefit of everyone, including Australians, who find themselves in danger on the high seas. We honoured those obligations in rescuing these people and we continue to honour them by disembarking these 78 people at a port nominated for disembarkation by the Indonesian authorities.

I would like to reflect on Senator Parry’s four points and mention a few things of interest. Senator Parry believes: (a) that there is increased activity in illegal people smuggling in Australia’s region; (b) that there is an increased number of unlawful arrivals who have taken perilous journeys; (c) that there has been a diversion of border protection agencies and resources; and (d) that security and biosecurity risks have increased.

I would like to put on record that this government has committed more assets to patrolling our borders than the previous Howard government. In 2008-09, both the total number of flying hours undertaken by aircraft and the total number of sea days undertaken by vessels conducting surveillance in our northern waters under the control of Customs and Border Protection Command was greater than in the previous year. The number of sea-patrolling days in 2008-09 was 5,921. That is more than 16 per cent greater than in 2007-08, over 27 per cent greater than in 2006-07 and 25 per cent greater than in 2005-06.

This government has a better record on interceptions. Since it came to office, this government has intercepted 98 per cent of all SIEVs before they reached the mainland. Under this government, only two per cent—one out of 44—of suspected illegal entry vessels have reached Australia’s mainland or mainland harbours. In the period of the Howard government, 11 per cent of the 244 suspected illegal entry vessels reached Australia’s mainland or mainland harbours. The Rudd government has intercepted 98 per cent of people, with the previous Howard government’s interception rate being 89 per cent. How then, Senator Parry, has there been an increase in the amount of illegal people smuggling and in the number of unlawful arrivals? Where is the evidence that supports this misleading motion?

Let us look at the previous government’s track record on immigration. An Australian citizen called Cornelia Rau was wrongfully detained. Vivian Solon was unlawfully deported. Tony Tran, the husband of an Australian citizen, was wrongfully detained for five years and assaulted while in detention. Children were held in immigration detention centres. In June 2003, there were 95 children in immigration detention centres and, as late as April 2005, there were 69 children held in detention centres. The Commonwealth Ombudsman identified 247 cases where people were detained who were not unlawful.

I would like to quickly reflect on the situation at Christmas Island. Asylum seekers receive legal advice and assistance, access to independent review of unfavourable decisions and external scrutiny by the Immigration Ombudsman. While there is no statutory obligation to process asylum claims on Christmas Island within a particular time frame, the vast majority of claims are being dealt with in about 100 days. It is only right that we should treat people who seek our protection humanely and it is right that we meet our international obligations under the UN refugee convention.

People found to be refugees will generally be granted Australia’s protection. If they are found not to be owed Australia’s protection, they will be returned. The AHRC’s report recognises the efforts being put into the off-
shore processing of asylum seekers on Christmas Island and reflects positively on the quality of care and services provided to clients on Christmas Island. Healthcare arrangements and support are commensurate with those available to the broader Australian community. The government continues to work with other agencies to ensure continuous improvements to processing and to the quality of care provided to our clients on Christmas Island.

Under the Rudd government, people detained on Christmas Island are provided with independent advice and assistance during the refugee assessment process. Those people found not to be owed protection through the process have access to an independent interview and review of the decision. The Commonwealth Ombudsman will scrutinise the arrangements.

Asylum seekers have more humanitarian rights now than they ever did under the Howard government. Under the Howard government, many people were left to languish in detention for years on end without review and with no resolution of their cases in sight. I truly believe that, given the opposition’s track record on border security, they should be the last ones to lecture this government on how to handle it.

Let us go back six years to Saturday, 25 August 2001—back to when Australia was still shaping itself as a model of international citizenship, back to when we thought that the rise of Pauline Hanson’s One Nation in the late 1990s was just a racial hiccup, back to when the Howard government was facing re-election and was in serious trouble in the polls. I reflect on a comment that Senator Abetz made about claims the then Prime Minister was chasing redneck votes. I can remember fronting up to the booths in the 2001 election, when the opposition was using scaremongering tactics, to find bunting claiming that they would decide who was to come to this country and under what terms. That, in my view, was certainly redneck vote chasing.

Everything changed on Sunday, 26 August 2001, just 24 hours later, when Norwegian freighter MV *Tampa* sailed to the aid of 438 people whose boat had sunk in international waters en route to Australia. After the successful rescue of what were mostly shocked Afghans fleeing the Taliban, Captain Arne Rinnan headed for the nearest landing port, Christmas Island, and radioed for medical help. Rather than providing aid, for nine days the Howard government left those people sitting on the decks of the *Tampa*. The *Tampa* was eventually diverted to Nauru as part of the government’s newly enshrined Pacific solution, prompting then Minister for Immigration and Multicultural Affairs, Philip Ruddock, to say as some sort of defence for his government’s avoidance of its international responsibilities that the authors of the international refugee convention would not want the convention seen as ‘the enabling tool for organised crime’. Two weeks after the *Tampa* incident, two hijacked planes, as we know, flew into the World Trade Centre in New York. The Prime Minister seized upon that opportunity and turned border protection into a national security issue. Rather than work with a firm but compassionate government to find solutions, the opposition wants to pull the same race card out of its rear pocket and play it at the tables of bigotry.

I have developed an extensive network of friends from Sri Lanka, India, Vietnam, China, Taiwan and Lebanon, to name just a few. All of these Australian citizens appreciate our democracy, our beauty and our multicultural society, all of which we all cherish. Many, if not all, of these citizens migrated to this country to find a better life, building successful careers and adding to our com-
munities. Many of these citizens understand the policies and compassion shown by the Rudd government when it comes to migration matters. They realise the desire of many of our neighbours abroad to reach our shores and prosper in our rich and diverse multicultural communities. However, they all also understand that we cannot admit everyone simply on the basis that they wish to come to our shores.

In closing, I ask Senator Parry two simple questions that not one of his colleagues has been able to answer. Firstly, would you authorise HMAS Armidale and the Oceanic Viking to rescue these people? Secondly, would you have directed the Oceanic Viking to disembark these people in Indonesia? This government is getting on with the job. It is doing what the opposition originally had no problem with. We are protecting Australia’s borders while protecting the humanitarian rights of asylum seekers. This is more than the Howard government ever did for this nation. For years—from the previous Labor government prior to 1996, throughout the years of the Howard government and now into the new Labor government—boat arrivals, in cyclical terms, have always been a problem that can arise. It is how you deal with the problem after it arises that really counts. We have heard Senator Furner say we ‘have no policy’. In fact we do have a policy: orderly migration. I thought it was one that the Labor Party supported as well.

Orderly migration allows us to take refugees into Australia. We have a quota of refugees. There are, as we have heard today, millions of refugees around the world who would love to come to Australia. We cannot take them all—it is impossible—although they see Australia as a very attractive destination. Like others on this side of the chamber, I do not see why people who can afford to pay people smugglers—to buy their way into Australia—should take the place of genuine refugees who do not have the money to purchase a ride on a ship to come to Australia via a people smuggler. That is why this government is not showing the right attitude and not sending the right signals out to people smugglers.

Senator McEwen in her speech earlier—I happened to be in the chair when she made her speech—started off by saying that the opposition had made an issue of border protection on Monday, Tuesday and Thursday and that we were wasting the time of the Senate. I tell her that the Australian people
do not think we are wasting time raising the issue of border protection. The Australian population are very concerned about our border protection issues, and it has been debated day after day because it is so important. Senator McEwen also said that people should be able to seek a better life for themselves and their families. Of course people should be able to seek a better life for themselves and their families, but they should do it through the proper channels. We have an orderly migration program. We take in 13,000 refugees, so those people who wish to come here to seek a better life should go through the orderly migration program that has been supported by Labor governments and Liberal governments in the past. It is only this Labor government that has gone soft on border protection, encouraging people to come to Australia unauthorised.

Senator McEwen also said that we should not be raising the issue of biosecurity risk. Only an urban dweller would say that we should dismiss the risk of biosecurity. I can tell you that we have spent years and years taking a bipartisan approach to making sure that, as far as biosecurity is concerned, we keep Australia the way it is: free from many diseases, particularly animal diseases. So we have the situation where I think that biosecurity is a very important issue, if not in bringing in human diseases than certainly with regard to animal diseases and other things that may be brought into Australia under the guise of biosecurity.

I read from a media statement that was made by Julia Gillard on 23 April 2003. It is headed ‘Another boat on the way, another policy failure’. It says:

Reports today that yet another boat of Vietnamese asylum seekers is on its way to Australia is a stark reminder that the Howard Government policy is not working. This is the second unconfirmed report in two days of a boat carrying Vietnamese asylum seekers heading to Australia. The situation highlights, once again, the failure of the Howard Government to conclude an agreement with Indonesia on people smuggling.

A people smuggling agreement would ensure a strong working relationship between both governments, enabling the sharing of accurate and timely information on people smuggling …

She then goes on:

The situation also highlights the need for a Coastguard to protect our borders. Only Labor will establish a Coastguard – a cop on the beat 24 hours a day, 365 days a year. Labor believes Coastguard – a truly effective maritime police – should carry out surveillance and interception of any asylum seeker boats heading toward Australia.

The Howard Government has said that a Coastguard is not needed because there are no more boats coming. They should now recognise the folly of that statement.

My question to those opposite is: where is this coastguard? Your policy at the last election was to establish a coastguard. Why the change?

Senator Ronaldson—They’ve got McHale’s Navy!

Senator FERGUSON—Yes, they’ve got McHale’s Navy all right! Do you know who made that press statement? None other than the then shadow minister for population and immigration and now Deputy Prime Minister, Julia Gillard. If Ms Gillard was so sure that we needed a coastguard—and at the time of the last election the Labor Party were still saying it was their policy to have a coastguard—where is it? What has happened to the coastguard which you said would be the way that we could fix all the problems that we have in relation to boat people arriving or the surveillance of our coastline and maritime patrols? This is an example of the Labor Party saying one thing in opposition and then coming into government and doing another thing. You promised the people a coastguard in opposition. It is yet to be seen.
One of the reasons that I wanted to talk about boat people coming is that members opposite have talked about the numbers of people that arrived in Australia by boat during that dreadful period between 1999 and 2002 when we had so many people in detention. The Howard government put in place strong border protection policies, and what happened? In 2002, there were 19 boats and 3,039 people. The following year, there were zero. It went from 3,000 unauthorised arrivals to zero. The next year, when Ms Gillard made her press statement about more boats arriving, we actually had three boats, with 82 people. What happened the year after that? There were zero. And yet you say that the Howard policy did not work because of all the people that came in from 1999 to 2002. The policies and structures that were put in place to discourage people from coming to our shores were as successful as they could possibly be, reducing the numbers that came into Australia to absolutely zero.

It would not hurt the government of the day to look back at those policies that were successful in making sure that unauthorised arrivals did not come to Australia. If they did that, we might find that there was some deterrent to people smugglers trying to get people into Australia for significantly large sums of money.

The Hon. Con Sciacca, the then shadow minister for immigration, back in 1998-99 said:

… the Government must now view the flood of illegal immigrants as a major crisis and a possible threat to national security …

Steve Cook, the Chief of Mission for the International Organisation for Migration in Indonesia, in December last year said:

People smugglers have clearly noted that there has been a change in policy and they’re testing the envelope. Up until about a year ago there was very little people smuggling activity. Over the last year there’s been a considerable kick-up. … There are rumours of a lot of organizing going on.

The most telling statement was made by a 31-year-old Iraqi by the name of Samer, who said:

I know Kevin Rudd is the new PM. I know about him. He has tried to get more immigrants. I have heard if someone arrives it is easy. They have camps, good service and if someone arrives they give us a limited visa and after three years you become an Australian citizen.

The government members need not try and get the message through to us that they have not eased up on their border protection, that their policies are not recognised overseas, by those that want to come to Australia, as making Australia now a much easier target than it has been for a long, long time.

The UNHCR regional representative, Richard Towle, in October this year said:

I think perceptions of policy can certainly play a role in people smuggling.

And you have heard what the Iraqi gentleman said. Mr Towle went on:

They have a product that they need to market, and to show that Australia is a place where refugees can get fair and effective refugee protection is something that is understood.

It is understood by those who want to perceive that policy as being much weaker. It is time the government took stock of the current situation. I heard Senator Furner going on and on about historical events, all of which occurred when he was not here. He has only read about them. He does not understand them. He mentioned the ‘children overboard’ scandal. I happened to be on the inquiry into the ‘children overboard’ scandal. I urge Senator Furner to read the report of the committee and see what really did happen, because popular myth gives a very one-sided view of what happened in that particular event. In fact, the inquiry was set up in the first place to try and find some excuse for
the Labor Party’s appalling performance in the 2001 election rather than to really get to the truth.

I was on that committee and heard and read of a report of the captain of the Adelaide actually saying, ‘They’re throwing kids overboard.’ That has developed through the mists of time, so now we have this continual line by the Labor Party about a ‘children overboard’ scandal. It is not Senator Furner’s fault that he is ignorant of the facts. He was not here at the time. Perhaps he only believes what he reads and only believes the commentary that is made by other people—people like Tony Kevin and others who wanted to drag it out further and have an investigation into SIEV36, as though that was something that the Australian government was responsible for. If he had been around at the time, he might realise exactly what did take place.

He also mentioned that these 78 people were rescued at sea. You are only in danger at sea if your boat is likely to sink. In the case of this particular vessel there have been a lot of allegations made—none of which have been confirmed yet. But one of the allegations is that those on board informed the Australian maritime authorities by phone of what they were intending to do with their vessel. That does not sound like a ship in distress to me. That sounds like someone planning to do something so that the Australian authorities would have to come to their rescue and that would make it easier for them to get to Australia. Why would they ring the Australian authorities? They were much closer to Indonesia’s territorial boundaries. Why would they not ring the Indonesian authorities rather than the Australian authorities? Before Senator Furner reads a great diatribe that has been prepared word for word on things that he has read about or been fed by other people he ought to perhaps have a go at trying to find out the real details behind exactly what is happening.

Of course, we now have the problem that the seasons are changing. We are about to move into the cyclone season. The real danger will occur if these people smugglers try to get people to Australia when they are in much more danger of being affected by the weather to the north of Australia. We all know the cyclone season goes for some time. It could put these people at even greater risk if they intend to put themselves in the situation that the 78 people on the Oceanic Viking find themselves in at present. Of course these are not people that were island hopping through Indonesia to try to get to Australia—they sailed directly from Sri Lanka to try to make their way through to Australia.

That is where the Rudd government, the Labor government of those opposite, have to really make sure that they do something about the policies that they are currently developing, because they are the government. It is all very well for Senator Furner and others to say, ‘What would you do?’ In fact from opposition we cannot do anything. We are not the government. It is the government’s responsibility and they are the only ones that can do anything about it. It is sad for me to see that the Prime Minister of the day has no solution in Indonesia or anywhere else to the border protection policy chaos that has been created by the Rudd government’s changes to immigration policy. There has been the dismantling of the Pacific solution, the abolition of temporary protection visas, the significant winding back of immigration detention policy, the abolition of detention debt, the abolition of the 45-day rule and changes to the citizenship test to make it easier to get citizenship. Yet those members opposite would try to say that they have not softened their attitude towards those who want to come to Australia as unauthorised arrivals.
The coalition’s record on border protection speaks for itself. It is well known to the Australian people and it is well known to the people smugglers. That is why people smuggling and unlawful arrivals ceased in the mid-2000s, because they were aware of our record on border protection. We in this place have been asking questions of Senator Evans and the Prime Minister in the other place all this week about their role in the *Oceanic Viking* fiasco and they have just been washing their hands of it. We have even got to the stage today where Senator Abetz had to ask Senator Evans, ‘Who is the minister responsible?’ Nobody wants to know, nobody wants to own your border protection policy because in fact it is a policy failure. I would not want to own it either. But that is the reason that we are in this situation today.

Unless this government gets its act together, strengthens its border protection policy and makes some courageous decisions then we are going to see a continuance of people trying to find their way to Australia because they see we are a soft touch. As I said, right from the beginning I have been proud to be part of both a government and an opposition which has a very strong and orderly migration policy. That migration policy should not change. It should never be changed. We take our quota. We take the second-highest per head of population quota of refugees in the world. That is something we can be proud of, but it does not mean that we can have this willy-nilly dismantling of a strong border protection policy so that all the work that has put in over the last 15 or 20 years, which has been sensible work, is washed away because of a lack of concern by the current government in relation to people who will unlawfully arrive in this country.

**Senator BILYK** (Tasmania) (5.50 pm)—What a week we have had. The opposition have been harping on all week and trying to inflame the debate about asylum seekers. Every question time we have to put up with their harping and their feigned concern. All week, they have been going on and on and on about the issue. Is it because they cannot debate the other important issues facing Australia? I think it is. Those on the other side cannot debate issues such as climate change because they are divided as a party and have no real policy. They cannot debate schools because they are divided as a party and once again have no real policy on schools and education. Just to make the trifecta, they do not have a policy on asylum seekers either. They are running a fear campaign in a futile attempt to take the heat off themselves and the sorry debacle that the Liberal Party is. They have made some pretty lame remarks throughout this week most of which I would not even bother responding to. I think, though, that they are worn out, really. Those on the other side are a bit like petulant children. If you let them have the tantrums, I am hopeful that eventually they will be worn out and will go to sleep.

The Rudd government is committed to protecting Australia’s borders and to ensuring that people who come to Australia are treated humanely. Our border protection policy involves extensive air and sea patrols, excision, offshore processing and mandatory detention for people who pose a threat to the safety of the Australian community. The Rudd government understands that it is necessary to have good relations with our neighbours in order to combat the serious crime of people smuggling. In regard to this, the Rudd government has more people patrolling our borders than the previous government did.

Mandatory detention is an essential component of strong border control. To support the integrity of Australia’s immigration program, some groups are subject to mandatory detention. All unauthorised arrivals, for man-
agement of health, identity and security risk to the community, are subject to mandatory detention. Unlawful non-citizens who present unacceptable risk to the community, and also unlawful non-citizens who have repeatedly refused to comply with their visa conditions, are subject to mandatory detention.

But these people are risking their lives. They sell everything they own to get here because they are absolutely desperate. They risk their lives in rusty old boats. You cannot tell me that anyone that was not desperate would do that. They are not coming on the four horses of the apocalypse and should not be demonised as a biosecurity risk, because as I have just mentioned all unauthorised arrivals have to undergo health checks along with identity and security checks.

Under the previous government detention was the norm. Even children were subject to detention in facilities with barbed wire fences. I have been to and seen some of those facilities, and I am proud that the Rudd government is removing the razor wire in those facilities. Detainees were often kept in those facilities for long periods of time by the Howard government, and both their physical and their mental health were seriously damaged as a result of the length of time they had to spend in incarceration. The Rudd government, as I have said, is committed to a risk management approach. Only those who are considered a high risk to the Australian community should be held in detention centres, but if people are considered a high risk then they will be held in detention centres.

The Rudd government is continuing the work of the former Howard government, which began reforms in 2005 after realising that the Australian system was too harsh and that the nation’s reputation had been seriously damaged. As I have stated, the government is retaining mandatory detention as a way to undertake health, identity and security checks to ensure the safety of the Australian community. But these people are part of a global problem. There are over 42 million displaced people around the world. In recent years global factors have continued to see an increase in the numbers of refugees and asylum seekers.

In regard to Afghanistan, the United Nations Secretary-General noted in a recent report to the Security Council that ‘2008 ended as the most violent year in Afghanistan since 2001’ and that ‘in 2008 there was an 85 per cent increase in the number of Afghan asylum seekers claiming protection in industrialised countries worldwide’. Between 2005 and 2008 the number of internally displaced people assisted by the UNHCR in Afghanistan increased from 142,505 to 230,670. That is an increase of 62 per cent.

In Sri Lanka, in the same period the number of internally displaced people assisted by the UNHCR increased from 324,699 to 504,800, an increase of 55 per cent. Sri Lanka has just emerged from a civil war that has been running for decades and that cost tens of thousands of lives, uprooted hundreds of thousands of Sri Lankans and left an economic divide between north and south and between east and west. There are currently 250,000 Tamils from the north of Sri Lanka in camps for internally displaced people.

As I have said, the Australian government has increased funding for border protection and takes the protection of our borders very seriously. Under the Howard government $289 million was spent running the Nauru and Manus offshore processing centres. For the same period, the Howard government’s funding for aerial and surface surveillance by Customs was $25 million less, $264 million. We have more assets patrolling our borders than did the previous government. In 2008-09, the total number of both flying hours and
sea days undertaken by vessels and aircraft conducting surveillance in our northern waters under the control of Customs and Border Protection Command was greater than in the previous year. The number of sea days, 5,921 in 2008-09, was over 16 per cent greater than in the 2007-08 year, over 27 per cent more than in 2006-07 and 25 per cent more than in 2005-06.

We have retained mandatory excision of Ashmore Reef and Christmas Island. If a boat is intercepted, those on board are taken to Christmas Island, where they are checked for health conditions, for their identity and for security risks. These people are not bio-security risks. Part of the fear campaign being pushed by those on the other side is to scare the Australian people into thinking that they are going to catch some terminal disease and that there is going to be plague and pestilence around. I really think it is time the opposition drew a deep breath collectively—which might be a bit hard for those on the other side, because there are about four or five different groupings. It would be great if they took a deep breath and all just relaxed a little bit.

I note also that the government has returned almost 100 people because their asylum claims have been refused, and this includes four involuntary removals. Regardless of the policies of the Australian government, whether it is Liberal or Labor, asylum seekers will continue to seek refuge here, just as they have for each and every one of the past 20 years. Australia has one of the largest surrounding sea areas in the world, with a coastline of 59,736 kilometres. There are over 17,000 islands that make up Indonesia, making it extraordinarily difficult to police the archipelago. (Time expired)

Debate interrupted.
Townsville: the suburb of Annandale. It has about 7,000 people and it is where the current member for Herbert actually lives. This is stupidity at its highest, and I cannot believe that the Electoral Commission has confirmed the draft boundaries in the way that it has.

**Consideration**

The following orders of the day relating to government documents were considered:


- **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 agreed to.

- **Airservices Australia**—Corporate plan 1 July 2009 to 30 June 2014. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

- **Department of Finance and Deregulation**—Campaign advertising by Australian government departments and agencies—Report for 2008-09. Motion of Senator Parry to take note of document called on. Debate adjourned till Thursday at general business, Senator Parry in continuation.

- **Migration Review Tribunal and Refugee Review Tribunal**—Report for 2008-09. Motion of Senator Boyce to take note of document called on. On the motion of Senator Parry the debate was adjourned till Thursday at general business.

**COMMITTEES**

**Economics References Committee**

Report

Debate resumed from 27 October, on motion by Senator Eggleston:

That the Senate take note of the report.

**Senator Ryan** (Victoria) (6.04 pm)—I rise tonight to take note of the interim report of the Senate Economic References Committee into the government’s economic stimulus initiatives. I had the privilege of joining this committee for its inquiry and I could not let the comments of another member of the committee, Senator Cameron, from earlier this week go by without responding to some of them.

This report actually outlines how this stimulus package has failed, even against the very low bar which the government sets for it. This has placed an extraordinary debt burden upon future Australians. This debt burden has not been undertaken for productive reasons, and it is a burden on the future of every Australian, as they need to pay back well over $200 billion of debt.

When businesses and people borrow money, they do so after analysing whether it is an investment in a business, in providing housing or in providing for their own personal future. This government has not done any of that. The justification from the government for parts of this report is, ‘We have
spent $14 billion on education.’ Building school halls all around the country is not an investment in education. This tries to walk both sides of the street by saying this is an education investment and a stimulus investment. But it fails on both counts.

I do not think that anyone in this building has any doubt that we could find a better way to invest $14 billion in educating young Australians. We could invest it by improving standards or we could improve teacher training. Building a school hall is not going to help one child to read better or to count better. This claim that it is investment in education is a farce. Asserting that something is infrastructure does not make it so. Asserting that something is an investment in education does not make it so.

Earlier this week the Business Council of Australia outlined that many of these projects had not been tested by Infrastructure Australia with a cost-benefit analysis and that many of the projects were not of real economic value. They were simply called ‘infrastructure’ by the government. They had not been examined. They had not been tested to see whether or not they actually provided a stronger economic environment for Australia in the future. Handing out $900 cheques, building school halls and throwing borrowed money around willy-nilly does not improve the future economic capacity of this country. But the most important thing about this so-called economic stimulus plan is its impact on the future economic growth of Australia through interest rates.

The Reserve Bank governor himself admitted to the committee that if this were to be wound back, interest rates would be lower than they will otherwise be under this government’s plans. So every time the interest rates go up in this country every Australian who is paying higher interest rates for their business loan or who is paying higher interest rates on their home mortgage will know who to point the finger at—that is, those opposite. The Reserve Bank governor was asked: if there were $20 billion or $30 billion less of government spending in the forward estimates, would that mean there would be less pressure on interest rates? The Governor of the Reserve Bank said, ‘Yes’. The Governor of the Reserve Bank said that that would mean there was less pressure on interest rates. What we see from this government is a plan that knowingly, wilfully and intentionally will make interest rates higher than they otherwise would be, and that is something the Australian people will hold these people to account for.

Senator Cameron made some comments earlier this week about what he alleged were ‘academic economists’. We were fortunate enough to hear from some of Australia’s most eminent economists, who came before the inquiry. What they, being very well credentialed professors at two of Australia’s universities, outlined was that the model and the assumptions that underpin this government’s ideas—we will call it neo-Keynesianism, because they so favour the word ‘neo’ these days—do not work in a modern economy. The idea that governments can borrow money and pump prime an economy died in the 1970s. It died when our economy opened up. It died when our exchange rate became internationally tradeable. It died when tariffs went down. What we are seeing right now was in fact predicted by one of the economists. Professor Tony Makin from Griffith University outlined exactly how governments borrowing tens of billions of dollars to splash around Australia without any concern for its impact on future economic growth would drive our currency up.

Every exporter in Australia today is living with the consequences of this government’s borrowed money, not just in terms of their interest rates going up but also in terms of
lower prices in Australian dollars for everything they sell overseas. And, Senator Marshall, every person who manufactures, every Australian manufacturer who tries to export a product, is actually facing a squeeze because of this rise in our currency. This rise in our currency is being pushed up higher than it otherwise would by the interest rate increases driven by your stimulus package. It has been pushed up higher than it otherwise would be by the policies of your government of borrowing money and splashing it around. That is the reality of a modern internationally tradeable economy. I know that those people opposite do not like it. They refer to it as neo-liberalism or some sort of neo-liberal conspiracy, but that is the reality of modern Australia.

Senator Pratt interjecting—

Senator Ryan—Those opposite like to claim they support jobs. I recall a year ago that they were talking about creating jobs. Now they talk about supporting jobs. Senator Pratt interjected earlier, ‘Two hundred thousand jobs’—200,000 jobs for $200 billion. Is that what you are asserting? If that is what you are asserting, I will be very interested to see what the Australian people consider the value of that particular alleged stimulus package. Australians are going to pay for this for a long time. Not one child is going to come out these school halls being able to read, write or count any better. They are going to have lower employment prospects. If they want to go into an export industry, they are going to have lower employment prospects—less chance at a job. We had people come before us who explained exactly how and the Governor of the Reserve Bank pointed at the elephant in the room and said, ‘Interest rates are going to be higher than they otherwise would be because of this government.’ This government will stand condemned in future years for this.

Senator Marshall (Victoria) (6.11 pm)—I just want to make a brief contribution on this report too. A couple of things that Senator Ryan said in his contribution just do not pass the old laugh test. People here forget that you should actually put things up and test them for their veracity. Senator Ryan put it to us that an economist predicted that the currency would go up. Well, there you have it! Currencies have two ways to go. They can go either up or down. And, because of the fact that an economist predicted that the currency would go up, therefore his whole economic theory that espouses support for that should be absolutely believed and is the only credible point of view to put before this Senate—you have got to be joking! If that is the sort of argument that you are putting forward to support your case, Senator Ryan, I suggest you go and do a bit more rigorous intellectual work and then come to this Senate with a reasonable proposition.

The other thing that I encourage you not to do, Senator Ryan, is to selectively quote the Governor of the Reserve Bank just to support the propositions that you want to put. I was not at the committee hearing and you were, as you have said. The interesting thing about A-PAC now is that I unfortunately find myself sitting at home in the evenings watching it when I should be watching something else. It is very sad and it is a serious concern! But I actually watched a lot of that evidence and I found it very interesting. But I think, Senator Ryan, to simplify the responses of the Governor of the Reserve Bank in the way you did to support your argument did no justice to the very thorough, long and detailed presentation the Reserve Bank governor gave to that committee. I just wanted to make those points in case anyone was listening—or watching on A-PAC, as I do. We should not accept those arguments without testing
them and putting them up against the laugh test.

Senator IAN MACDONALD (Queensland) (6.14 pm)—I also want to make a couple of comments on this report of the Economics References Committee. I congratulate the committee on their work and the quality of the report. I was interested to listen to Senator Marshall, and I just want to ask Senator Marshall one thing: who is going to pay off the money that has been borrowed for the economic stimulus package? It is all borrowed money, which puts upward pressure on interest rates, as you know, and we are seeing the results of that now. Already interest rates are starting to climb and will continue to do so, because Mr Rudd, that supposed economic conservative, has borrowed all of the money for the economic stimulus package. Who is going to pay that off and how?

Senator Marshall—I am happy to answer that question.

The ACTING DEPUTY PRESIDENT (Senator Humphries)—You may be happy to answer, Senator Marshall, but it was a rhetorical question, I assume.

Senator IAN MACDONALD—Please get up and answer it at any time that you are able to within the standing orders—and I do not think that is now, Senator Marshall. Just tell us. How is it going to be paid off? Will it be increased taxes? More taxes? Additional taxes? The CPRS is a huge tax grab with some $50 billion unaccounted for. Is this how we are going to pay for the economic stimulus package? I would be interested to hear. Perhaps someone from the other side who has not spoken in this debate could answer my questions if Senator Marshall is not permitted under the standing orders to do it.

I did want to raise one other thing in relation to the committee’s report on the economic stimulus package. In question time today we had the Minister for Employment Participation responding to some interjections I have been making during the week about the rate of male unemployment in the city of Cairns in the north of Queensland. It is 17½ per cent, which is beyond even the Hawke-Keating unemployment rates in Far North Queensland. There are a number of reasons for that. The tourism industry is struggling but it is not getting any assistance whatsoever from the Rudd government. Of course, the changes in industrial relations laws mean that it is more difficult for the small businesses that constitute the tourism industry in Far North Queensland to engage and employ people. The minister has just come into the chamber; he must have been attracted by my commenting about his sterling performance in question time today when, in response to my interjections about that 17½ unemployment in Cairns, he said, ‘Oh, but we’re building some schools in Ravens Shoe.’

Opposition senator interjecting—

Senator IAN MACDONALD—Is it in western New South Wales? I am not sure where Raven Shoe is. I thought he must have been talking about a bird that was wearing some footwear. I assume he was talking about Ravenshoe—which, while it is in Far North Queensland, is nowhere near Cairns. My interjections, to which he said in his answer he was responding, were in relation to the high rate of unemployment in Cairns. Ravenshoe is some two or three hours to the south-west of Cairns, at the bottom southern tip of the Atherton Tableland. Senator Arbib, if you ever get out of running the Labor Party in Sydney, you would do well to go and have a look around Cairns and places in Queensland and in Northern Australia where unemployment is so unacceptably high.

My real concern about these artificial measures which Senator Arbib is saying the
government is putting in place—the ‘Julia Gillard memorial halls’—is that they are supposed to be economic stimulus. In Cairns they have had a very good shipbuilding industry for almost 100 years and perhaps even longer. It is a shipbuilding industry that built the first iteration of Australia’s very successful patrol boats. It is a shipbuilding industry that employed a considerable number of tradesmen and labourers, blue-collar workers, in Cairns. There was a government contract around that was allowing for some shipbuilding work for the Navy. I understand from all reports that the Cairns company North Queensland Engineers and Agents—NQEA—trading under another name, was pretty well in line to get the contract. Then, because of the Queensland government and the federal government, on the cusp of signing the contract it was pulled from under the feet of NQEA, the shipbuilding operators in Cairns. As a result, over 300 trade jobs in the shipbuilding industry have gone.

Cairns is now in a situation where it is experiencing 17½ per cent adult male unemployment. This government could have secured the jobs of all of those working families in Cairns, but it chose to stab NQEA and every single one of those tradesmen in the back. Now they are talking about artificially stimulating the economy, when there was a very viable business there—a business that was paying its own way and employing a lot of working families in Cairns. The federal Labor government, in conjunction with the Queensland Labor government, let that business go to the wall. This is why I get very distressed at the way the Labor Party cannot handle the economy, cannot handle employment and simply cannot be trusted with our economy. There are more than 300 skilled tradesmen in Cairns who know firsthand what it is like to be victims of the Labor Party’s mismanagement of the country. Their jobs, their secure jobs that could have been there for the next 10 years if they had got this shipbuilding contract, were capriciously taken from them by the Labor governments in Queensland and the Commonwealth. Mr Rudd and his government must stand condemned for that and for the fact that unemployment in Cairns is now in excess of 17 per cent for adult males.

Senator HUMPHRIES (Australian Capital Territory) (6.22 pm)—I want to make a brief contribution to this debate. I want to commend the Senate Economics References Committee for its report on the government’s economic stimulus initiatives. Like Senator Macdonald, I would like to draw attention to the flawed thinking which is evident in the way the government has approached this stimulus spending. Obviously, anybody from blind Freddy upwards can see that the government is using a large amount of this stimulus spending for pork-barrelling.

This was emphasised today in question time when the Minister for Employment Participation, Senator Arbib, very clumsily suggested that any criticism of the way economic stimulus spending occurred and was distributed around Australia was a call for those senators to have stimulus spending made in their own electorates or jurisdictions. Of course he was referring to my criticisms earlier this week of the government’s neglect of the ACT in allocating stimulus spending, particularly for school science labs and under the Jobs Fund program. I reject the suggestion that criticising the government stimulus package’s fairness of distribution in any way amounts to a call for a stimulus package of the size and scale which the government has in fact rolled out. It is perfectly appropriate to say that the government is wrong to attempt to borrow as much money as it has and to spend it in such a wayward and targeted way and then to suggest that it needs to reconsider how it has distributed.
that money between Australian jurisdictions and between different citizens of Australia.

I think the spending was wrong, and I am very proud to have voted against that spending. That is not to say that the opposition does not believe a stimulus package of some sort was warranted. The opposition has never pretended that stimulus spending was not needed; but, as Senator Macdonald made reference to in this debate already, it did not claim that spending need be on such a scale and in such a badly targeted way. I think the corollary of the argument which was used in question time today—that a member of the Senate who voted against the stimulus package has no right to criticise the way the money is spent in his or her electorate—is presumptuously that the government is free to not target for funding the electorates of those senators who voted against the government’s package. Is that what the government is actually suggesting—that because the member for an electorate in Queensland or a senator for the ACT voted against the package of government stimulus spending the government is entitled not to spend money in those places? That is what it sounded like in question time today.

Just because we oppose legislation does not mean we walk away from our obligation as legislators to scrutinise the way money is spent. That is our obligation to the electors who return us to this place. We do that job; irrespective of whether we support the package in the first place or not. If members of this government think they can avoid scrutiny because their package is not supported in the first place, they are very sorely mistaken.

Question agreed to.

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Economics References Committee—Interim report—Government’s economic stimulus initiatives. Motion of Senator Parry to take note of report debated and agreed to.


Education, Employment and Workplace Relations Legislation Committee—Report—Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009 [Provisions]. Motion of Senator Parry to take note of report agreed to.


Economics References Committee—Interim report—GROCERYchoice website. Motion of Senator Parry to take note of report called on. On the motion of Senator Pratt the debate was adjourned till the next day of sitting.

Housing Affordability in Australia—Select Committee—Report—A good house is hard to find: Housing affordability in Australia—Government response. Motion of Senator Parry to take note of document agreed to.


Economics References Committee—Report—Government measures to address confidence concerns in the financial sector – The Financial Claims Scheme and the Guarantee Scheme for Large Deposits and Wholesale Funding. Motion of Senator Bushby to take note of report agreed to.

Economics References Committee—Report—Bank mergers. Motion of Senator Bushby to take note of report agreed to.

Economics References Committee—Report—Foreign investment by state-owned entities. Mo-
tion of the chair of the committee (Senator Eggleston) to take note of report agreed to.

Treaties—Joint Standing Committee—Report 106—Nuclear non-proliferation and disarmament. Motion of Senator McGauran to take note of report called on. On the motion of Senator Pratt the debate was adjourned till the next day of sitting.

AUDITOR-GENERAL'S REPORTS

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Australian National Audit Office—Report for 2008-09. Motion of Senator Parry to take note of document agreed to.

Auditor-General—Audit report no. 6 of 2009-10—Performance audit—Confidentiality in Government contracts: Senate order for departmental and agency contracts (calendar year 2008 compliance). Motion of Senator Parry to take note of document agreed to.

Orders of the day Nos 1 and 4 relating to reports of the Auditor-General were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Ryan)—Order! There being no further consideration of committee reports, government responses and Auditor-General reports, I propose the question:

That the Senate do now adjourn.

Wool Industry

Senator FIERRAVANTI- Wells (New South Wales) (6.29 pm)—I seek leave to table my study leave report entitled From the farm to the wardrobe: a snapshot of the Australian wool industry, August 2009, as a report to the Senate.

Leave granted.

Senator FIERRAVANTI- Wells—I first thank the government for granting me leave to table my report as a report to the Senate. Having commenced my work and research in October last year, I have watched the report evolve to 620 pages of what I have termed ‘War and peace on wool’. Indeed, the photo on the front—a merino sheep in an elegant wardrobe—encapsulates the two ends of this complex industry. In my report I acknowledge the many people, both here and in Italy, who took the time to speak with me and provide me with information. To my ‘wool family’—and you know who you are—thank you for your guidance, support and commitment. Thank you also to the Senate IT staff, and in particular John Baczyński, who helped me with the logistics of the report; to my staff, and in particular Gemma Iafrate, who persevered with me in this venture; and to my husband, John, for his support and understanding. Cuddling lambs across the countryside meant that lamb was off the Wells’s household menu for a while! It is unusual to prepare such a study leave report. I suspect it is one of the longest ever tabled and I am very proud to do so.

Over the years I often asked myself why Australia produces the best wool in the world, yet we sell it to the Italians and then buy the clothes back. I myself have been guilty of this, as I suspect have quite a number of my Senate colleagues, judging by their suits. And so I decided to get the answer for myself. I admit that I had only seen sheep in paddocks and never touched one in my life. I thank Senator John Williams, former shearer, who kindly demonstrated the finer points of shearing to me during my visit to Inverell last December.

The wool industry has historically been important to the Australian economy. It is worth approximately $2.6 billion and provides employment across regional Australia. But it faces many challenges, which I traverse in my report. In particular, continued negative media, especially around the mulesing issue, has compounded its difficulties.
The challenge for the industry is to manage transition and change whilst there is still a core base of breeding ewes that can continue to produce the commercial quantities of wool that are required to supply Australia’s existing markets, and in particular the Italian market, before we embark on new opportunities. Continued business with Italy remains the leading opportunity to continue wool’s presence in the premium apparel market. In times of continued economic pressure and much more environmentally aware consumers, wool is well placed to re-establish its position within the textile markets.

In researching my report, I came at it as a consumer. I enjoy wearing wool and would like to ensure it remains a viable product into the future. But what has become apparent to me is that the wool industry has failed to start with a clear view of the needs of the consumer and the properties of wool and work back and produce what the consumer wants. It has always been a production oriented business. However, things have changed, and so too must the industry.

What happens on the farms of Australia affects what happens on the catwalks of Milan and what happens on the catwalks of Milan affects what happens on the farms of Australia. If the consumer does not demand wool and if the designers do not use wool in their apparel, there will be less wool for sale. Australia remains the largest producer of wool. We supply 85 per cent of the world’s merino wool, so there is an 85 per cent chance that the wool in apparel will be Australian. However, this is under challenge with the Chinese industry in very much a growth phase. Regrettably, this has been allowed to happen at the expense of Australian wool growers and at the expense of our traditional relationships.

My report is lengthy and a comprehensive analysis of the industry. The table of contents alone covers nine pages and outlines the many different and complex aspects of what wool is about today. The report also has an addendum which includes my comments following the release of Australian Wool Innovation’s 3 year review of performance final report released on 1 September 2009. The review of AWI undertaken for the WoolPoll process vindicates much of my criticism of AWI. It is very clear that AWI’s problems are systemic and ingrained. Its standing and reliability as an effective organisation have been compromised to the point where it is best for the Australian government and industry stakeholders to start afresh with the establishment of a broad skills based, industry-wide body.

In addition to wider wool industry participation covering the spectrum, including wool growers, processors, testing and certification bodies, such a body should also include the broader wool industry stakeholders such as the textile and apparel sector, the fashion industry, research and educational stakeholders, trade development and marketing expertise. Many stressed to me the need for an umbrella organisation to undertake the functions currently spread between AWI and other wool bodies and others not being met. In short, we need a go-to body for the whole wool industry.

Mulesing is one of the most important issues facing the wool industry. One thing that is clear is that the issue has been badly handled since the beginning. Irrespective of the merits of pro- or anti-mulesing, the reality is that the 2004 undertakings were given and the perception is that, whilst ever mulesing continues to be an issue, there will be a negative perception about wool. There needs to be a reality check. Two recent incidents—the decision by the Ermenegildo Zegna Group not to award its coveted award this year and resume the award next year for non-mulesed wool only and the comments by key Austra-
lian wool buyers such as China’s Sunshine Group about ceasing mulesing—provide a salutary warning about the future demand for non-mulesed wool. Regrettably, rightly or wrongly the long-term continuation of this practice is not sustainable.

I make 10 recommendations in my report which broadly fall into three categories: firstly, the need for the Australian government to review the current wool industry representation and research and development options, including abolishing AWI and establishing a broad skills based, industry-wide body or reviewing and substantially restructuring AWI by changing the voting eligibility, voting system and selection process for directors. There should also be a review of the wool levy system, the current grant criteria and an audit of AWI Ltd research and development, innovation and marketing projects against the key legislative criteria of their benefit to Australian wool growers and to the Australian community generally.

Secondly, I have made a series of recommendations to strengthen the relationship between Australia and Italy on wool. Australia and Italy are the premium ends of wool. Australia produces the best fine and superfine merino wool and Italy is our flagship manufacturer and brand leader. I suggest that a memorandum of understanding between Australia and Italy be established with a view to a closer working relationship and more direct cooperation between the two countries, including between Australian and Italian wool industry bodies; between key Australian and Italian fashion, textile and apparel bodies; between Australian and Italian tertiary, vocational and research institutions in the textile-apparel areas and especially in wool; greater cooperation on technical issues such as reclassification of wool as a primary product and the standardisation of veterinary certificates; and greater grower awareness of their Italian textile, apparel and fashion markets.

Thirdly, there are technical recommendations, including that Australian government and wool industry support be given to AWEX to ensure that on-farm audits are fully implemented as soon as practicable; that the Australian government examine the previous role of EFIC regarding credit in the wool industry and consider the re-establishment of a similar facility; and that licensing parameters for the use of Woolmark be reviewed, noting that the 2008 TCF review recommended a new Australian ethical mark be devised which will have important repercussions for the mulesing issue and for ethical and quality labelling.

In conclusion, I cannot but say that this is an industry which, despite its challenges, does have a future. Whilst many in the industry are facing difficulties, they still retain their passion and commitment to wool, and it is this passion and commitment which I believe will see the industry through these difficult times and into the future.

Senate adjourned at 6.39 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 17 of 2009—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2009L04021]*.

Civil Aviation Act—

Civil Aviation Regulations—

Instruments Nos CASA—
450/09—Instructions – RNAV (RNP-AR) approaches and departures [F2009L03705]*.

473/09—Permission and direction – helicopter charter operations [F2009L03888]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part—

105—
AD/BEECH 55/57—Fuselage Bulkheads FS 257.6 & FS 271.92 [F2009L03942]*.
AD/BEECH 56/19—Fuselage Bulkheads FS 257.6 and FS 271.92 [F2009L03941]*.
AD/BEECH 95/21—Fuselage Bulkheads FS 257.6 & FS 271.92 [F2009L03940]*.
AD/BELL 205/2—Tail Rotor Yoke – Inspection [F2009L03855]*.
AD/BELL 205/17—Hydraulic Fluid Temperature Indicators – Installation [F2009L03854]*.
AD/BELL 205/32—Main Beam Cap – Inspection and Repair [F2009L03852]*.
AD/BELL 412/11—Main Rotor Yoke, P/N 412-010-101-123 – Inspection [F2009L03920]*.
AD/BELL 412/19—Emergency DC Bus Number One Feeder Circuit [F2009L03928]*.
AD/BELL 412/20—Bolts P/N AN4-5A – Pylon Support [F2009L03927]*.
AD/BELL 412/21—Fuel Cell Interconnect Tube [F2009L03926]*.
AD/BELL 412/24—Main Rotor Pitch Link to Pitch Horn Bolt [F2009L03925]*.
AD/BELL 412/25—Main Rotor Flight Control System Bolts [F2009L03924]*.

AD/BELL 412/26—Bogus Pressure Gauge Emergency Floats P/N 212-073-905-1 [F2009L03923]*.
AD/BELL 412/31—Fin to Tail Boom Junction [F2009L03922]*.
AD/BELL 412/35—Tail Boom Doubler and Fin Spar Caps [F2009L03921]*.
AD/F27/56 Amdt 1—Rudder Trim Tab – Inspection [F2009L03937]*.

107—
AD/PR/13—Pitch Lock Assembly – Modification [F2009L03935]*.
AD/PR/17—Hub Driving Centre Flange – Inspection [F2009L03934]*.

Instrument No. CASA EX91/09—Exemption – use of ADS-C separation minima [F2009L03962]*.

Corporations Act—AASB 2009-9—Amendment to Australian Accounting Standards – Additional Exemption for First-time Adopters [F2009L03966]*.

Customs Act—Tariff Concession Orders—
0906218 [F2009L03807]*.
0906219 [F2009L03803]*.
0909028 [F2009L03800]*.
0909454 [F2009L03799]*.
0909455 [F2009L03797]*.
0909458 [F2009L03795]*.
0909765 [F2009L03796]*.
0909928 [F2009L03793]*.
0909985 [F2009L03794]*.
0910048 [F2009L03801]*.


Education Services for Overseas Students Act—ESOS Assurance Fund 2010 Contributions Criteria [F2009L03999]*.

Environment Protection and Biodiversity Conservation Act—Amendment of list of
exempt native specimens—EPBC303DC/SFS/2009/36 [F2009L04028]*.


Higher Education Support Act—
  List of Grants under Division 41, dated 21 October 2009 [F2009L03996]*.
  Other Grants Guidelines (Education) 2008 (DEEWR)—Amendment No. 3 [F2009L03997]*.
  VET Provider Approval No. 39 of 2009—Benchmark Resources Pty Ltd [F2009L04003]*.

Migration Act—Migration Regulations—Instrument IMMI 09/125—Specification of occupations [F2009L03970]*.

Military Superannuation and Benefits Act—Military Superannuation and Benefits (Eligible Member) Declaration 2009 [F2009L03980]*.

National Health Act—Instrument No. PB 104 of 2009—Amendment Special Arrangements—Highly Specialised Drugs Program [F2009L04011]*.

* Explanatory statement tabled with legislative instrument.

Order

The following document was tabled pursuant to the order of the Senate of 24 June 2008, as amended:

Departmental and agency appointments and vacancies—Supplementary budget estimates—Letter of advice—Climate Change portfolio agencies.

The following document was tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency grants—Supplementary budget estimates—Letter of advice—Climate Change portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Prime Minister and Cabinet: Hospitality
(Question No. 1784 amended)

Senator Abetz asked the Minister representing the Prime Minister, 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 Chris Evans—The Prime Minister has provided the following amended answer to the honourable senator’s question:

(1) A response to this question appeared in the Hansard on 4 September 2009. An amended response providing details of expenditure on official hospitality since 24 November 2007 is in the attached table.

(2) Nil.

<table>
<thead>
<tr>
<th>Date</th>
<th>Host</th>
<th>Nature of function</th>
<th>Location</th>
<th>Alcohol</th>
<th>Other Costs</th>
<th>Total Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>03/12/2007</td>
<td>Kevin Rudd</td>
<td>Reception on the occasion of the Swearing-in of the Rudd Ministry</td>
<td>The Lodge, Canberra</td>
<td>N/A</td>
<td>N/A</td>
<td>$7,762</td>
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<td>09/12/2007</td>
<td>Kevin Rudd</td>
<td>Working luncheon in honour of the Rt Hon Helen Clark, Prime Minister of New Zealand</td>
<td>Private Residence</td>
<td>$172</td>
<td>$610</td>
<td>$782</td>
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<td>17/12/2007</td>
<td>Kevin Rudd</td>
<td>Reception for members of the Parliamentary Press Gallery</td>
<td>The Lodge, Canberra</td>
<td>N/A</td>
<td>N/A</td>
<td>$7,157</td>
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<tr>
<td>06/01/2008</td>
<td>Kevin Rudd</td>
<td>Reception on the occasion of the visit to Australia by the US Congressional Delegation led by HoR Majority Leader Steny Hoyer</td>
<td>Kirribilli House, Kirribilli, Sydney</td>
<td>$827</td>
<td>$497</td>
<td>$1,324</td>
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<tr>
<td>10/01/2008</td>
<td>Kevin Rudd</td>
<td>Reception on the occasion of the visit to Australia by the US Congressional Delegation led by HoR Majority Whip James Clyburn</td>
<td>Kirribilli House, Kirribilli, Sydney</td>
<td>$417</td>
<td>$245</td>
<td>$662</td>
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<tr>
<td>Date</td>
<td>Host</td>
<td>Nature of function</td>
<td>Location</td>
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<td>Other Costs</td>
<td>Total Costs</td>
</tr>
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<tr>
<td>23/01/2008</td>
<td>Kevin Rudd</td>
<td>Luncheon in honour of the Honourable Dr Derek Sikua MP, Prime Minister of Solomon Islands</td>
<td>Prime Minister’s Dining Room, Parliament House, Canberra</td>
<td>$231</td>
<td>$1,175</td>
<td>$1,406</td>
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<tr>
<td>25/01/2008</td>
<td>Kevin Rudd</td>
<td>Morning tea in honour of the 2008 Australian of the Year National Finalists</td>
<td>The Lodge, Canberra</td>
<td>$0</td>
<td>$804</td>
<td>$804</td>
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<tr>
<td>26/01/2008</td>
<td>Kevin Rudd</td>
<td>Australia Day Reception</td>
<td>The Lodge, Canberra</td>
<td>$1,855</td>
<td>$6,250</td>
<td>$8,105</td>
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<tr>
<td>29/01/2008</td>
<td>Kevin Rudd</td>
<td>Reception on the occasion of The Prime Minister’s XI versus Sri Lanka Cricket Match</td>
<td>The Lodge, Canberra</td>
<td>$1,429</td>
<td>$5,000</td>
<td>$6,429</td>
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<td>30/01/2008</td>
<td>Kevin Rudd</td>
<td>Luncheon on the occasion of The Prime Minister’s XI versus Sri Lanka Cricket Match</td>
<td>The Sir Donald Bradman Stand, Manuka Oval, Canberra</td>
<td>$981</td>
<td>$9,111</td>
<td>$10,092</td>
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<td>02/02/2008</td>
<td>PM&amp;C</td>
<td>APEC Seminars</td>
<td>State Library of NSW</td>
<td>$0</td>
<td>$2,777</td>
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<td>05/02/2008</td>
<td>Stephen Smith</td>
<td>Luncheon in honour of His Excellency Mr Yang Jiechi, Minister of Foreign Affairs in the Government of the People’s Republic of China</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$270</td>
<td>$1,585</td>
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<td>05/02/2008</td>
<td>Kevin Rudd</td>
<td>Breakfast meeting with the Prime Minister of Australia and Mr Yang Jiechi, Minister of Foreign Affairs in the Government of the People’s Republic of China</td>
<td>Prime Minister’s Dining Room, Parliament House, Canberra</td>
<td>$0</td>
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<td>08/02/2008</td>
<td>Kim Carr</td>
<td>Luncheon in honour of His Excellency Shri Kapil Sibal Minister for Science &amp; Technology and Earth Sciences in the Government of India</td>
<td>East Tower Suite</td>
<td>$0</td>
<td>$2,282</td>
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<td>11/02/2008</td>
<td>Ms Rein</td>
<td>Parliamentary Partners and Childrens Garden Party</td>
<td>The Lodge, Canberra</td>
<td>$610</td>
<td>$2,790</td>
<td>$3,400</td>
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<td>Date</td>
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<td>13/02/2008</td>
<td>Kevin Rudd</td>
<td>Morning tea on the occasion of the National Apology to the Stolen Generations</td>
<td>Members’ Hall, Parliament House</td>
<td>$0</td>
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<td>18/02/2008</td>
<td>Stephen Smith</td>
<td>Dinner in honour of His Excellency Mr Zacarias Albano da Costa Minister of Foreign Affairs Democratic Republic of Timor-Leste</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$254</td>
<td>$1,528</td>
<td>$1,782</td>
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<td>23/02/2008</td>
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<td>Dinner on the occasion of the Australia-United States Ministerial Consultations</td>
<td>The Lodge, Canberra</td>
<td>$1,036</td>
<td>$1,200</td>
<td>$2,236</td>
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<td>27/02/2008</td>
<td>Kevin Rudd</td>
<td>Luncheon in honour of the Right Honourable Helen Clarke MP, Prime Minister of New Zealand</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$276</td>
<td>$2,098</td>
<td>$2,374</td>
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<td>27/03/2008</td>
<td>Joel Fitzgibbon</td>
<td>Luncheon in honour of the Honourable Dr Juwono Sudarsono, Minister for Defence in the Government of the Republic of Indonesia</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$203</td>
<td>$2,136</td>
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<td>18/04/2008</td>
<td>Kevin Rudd</td>
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<td>The Lodge, Canberra</td>
<td>$511</td>
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<td>22/04/2008</td>
<td>PM&amp;C</td>
<td>Official Hospitality - Indonesian visit</td>
<td>The Lodge, Canberra</td>
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<td>14/05/2008</td>
<td>Stephen Smith</td>
<td>Dinner in honour of Representative Park Geun-hye, Former Chairperson of the ruling Grand National Party, Republic of Korea</td>
<td>House of Representatives, Parliament House, Canberra</td>
<td>$507</td>
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<td>23/05/2008</td>
<td>Kevin Rudd</td>
<td>Luncheon in honour of the Honourable Dr Fred Sevele, Prime Minister of the Kingdom of Tonga and Chair of the Pacific Islands Forum</td>
<td>Prime Minister’s Dining Room, Parliament House, Canberra</td>
<td>$168</td>
<td>$850</td>
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<td>26/05/2008</td>
<td>Simon Crean</td>
<td>Luncheon in honour of His Excellency Dr Nam Viyaketh MP, Minister of Industry and Commerce, Lao People’s Democratic Republic</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$335</td>
<td>$1,105</td>
<td>$1,440</td>
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<td>26/05/2008</td>
<td>Anthony Albanese</td>
<td>Luncheon in honour of the Honourable Sri Praful Patel, Minister of Civil Aviation in the Government of India</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$174</td>
<td>$1,210</td>
<td>$1,384</td>
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<td>30/05/2008</td>
<td>PM&amp;C</td>
<td>Refreshments for Ministerial Meeting on Electoral Reform with Commonwealth, State and Territory ministers</td>
<td>Commonwealth Parliamentary Offices, Sydney</td>
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<td>20/06/2008</td>
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<td>Luncheon in honour of His Excellency Anote Tong, President of the Republic of Kiribati</td>
<td>Prime Minister’s Dining Room, Parliament House, Canberra</td>
<td>$146</td>
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<td>04/07/2008</td>
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<td>Luncheon in honour of the Honourable Tuilaepa Lupe-soliai Sailele Mailelegaoi, Prime Minister of the Independent State of Samoa</td>
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<td>$746</td>
<td>$902</td>
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<td>11/07/2008</td>
<td>PM&amp;C</td>
<td>Update on Lowy Institute perspective on foreign policy</td>
<td>Kanoba Restaurant Hotel Realm, Canberra</td>
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<td>16/07/2008</td>
<td>Kevin Rudd</td>
<td>Luncheon in honour of the Honourable Apisai Ielemia, Prime Minister of Tuvalu</td>
<td>Premier’s Room, Hotel Inter-Continental, Sydney</td>
<td>$135</td>
<td>$1,445</td>
<td>$1,580</td>
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<tr>
<td>30/07/2008</td>
<td>Simon Crean</td>
<td>Luncheon in honour of Mr Alejandro Foxley, Minister for Foreign Affairs in the Government of the Republic of Chile</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$961</td>
<td>$3,321</td>
<td>$4,282</td>
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<tr>
<td>Date</td>
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<td>31/07/2008</td>
<td>PM&amp;C</td>
<td>APEC Seminars</td>
<td>The Sydney Masonic Centre, Sydney</td>
<td>$0</td>
<td>$3,203</td>
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<tr>
<td>19/08/2008</td>
<td>PM&amp;C</td>
<td>Official Dinner for Indonesian Delegation</td>
<td>Sanur Restaurant, Canberra</td>
<td>$0</td>
<td>$465</td>
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<tr>
<td>22/08/2008</td>
<td>PM&amp;C</td>
<td>Official Dinner for Indonesian Delegation</td>
<td>Polo Club Brisbane, Brisbane</td>
<td>$185</td>
<td>$1,425</td>
<td>$1,610</td>
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<td>25/08/2008</td>
<td>Kevin Rudd</td>
<td>Dinner in honour of His Excellency Mr Kay Rala Xanana Gusmão, Prime Minister and Minister of Defense and Security of the Democratic Republic of Timor-Leste, and Her Excellency Mrs Kirsty Sword Gusmão</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$1,734</td>
<td>$11,380</td>
<td>$13,114</td>
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<td>26/08/2008</td>
<td>PM&amp;C</td>
<td>Lunch for Indonesian delegation</td>
<td>Ottomans restaurant, Barton, Canberra</td>
<td>$0</td>
<td>$311</td>
<td>$311</td>
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<tr>
<td>26/08/2008</td>
<td>Kevin Rudd</td>
<td>Farewell Dinner for the Governor-General and Mrs Jeffery</td>
<td>Great Hall, Parliament House, Canberra</td>
<td>$27,874</td>
<td>$101,115</td>
<td>$128,988</td>
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<tr>
<td>27/08/2008</td>
<td>PM&amp;C</td>
<td>Farewell function for Indonesian delegation</td>
<td>PM&amp;C, Canberra</td>
<td>$0</td>
<td>$135</td>
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<td>28/08/2008</td>
<td>PM&amp;C</td>
<td>APEC Seminars</td>
<td>The State Library of NSW, Sydney</td>
<td>$0</td>
<td>$1,495</td>
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<tr>
<td>05/09/2008</td>
<td>Kevin Rudd</td>
<td>Swearing in of Ms Quentin Bryce AC as Governor-General of the Commonwealth of Australia</td>
<td>Senate Chamber</td>
<td>$2,400</td>
<td>$15,407</td>
<td>$17,807</td>
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<tr>
<td>16/09/2008</td>
<td>Joel Fitzgibbon</td>
<td>Dinner in honour of Mr Hervé Morin, Minister for Defence of France</td>
<td>Boat House By The Lake, Canberra</td>
<td>$772</td>
<td>$1,503</td>
<td>$2,275</td>
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<td>30/09/2008</td>
<td>PM&amp;C</td>
<td>A Dinner to Honour Public Service Medal recipients announced in the Queen’s Birthday Honours List 2008</td>
<td>The Lobby Restaurant, Canberra</td>
<td>$1,493</td>
<td>$4,840</td>
<td>$6,333</td>
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<tr>
<td>Date</td>
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<tr>
<td>13/10/2008</td>
<td>Kevin Rudd</td>
<td>Dinner in honour of His Excellency Mr Nguyen Tan Dung, Prime Minister of the Socialist Republic of Vietnam</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$3,115</td>
<td>$15,357</td>
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<tr>
<td>15/10/2008</td>
<td>PM&amp;C</td>
<td>Multi agency People Smuggling delegation working dinner</td>
<td>Lan Na Thai, Jakarta</td>
<td>$70</td>
<td>$215</td>
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<tr>
<td>19/10/2008</td>
<td>Kevin Rudd</td>
<td>Dinner on the occasion of the first meeting of the International Commission on Nuclear Non-proliferation and Disarmament</td>
<td>Kirribilli House, Kirribilli, Sydney</td>
<td>$1,271</td>
<td>$7,906</td>
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<tr>
<td>21/10/2008</td>
<td>Wayne Swan</td>
<td>Dinner in honour of His Excellency Mr Zhang Ping, Chairman of the National Development and Reform Commission, People’s Republic of China</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$306</td>
<td>$1,934</td>
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<td>22/10/2008</td>
<td>PM&amp;C</td>
<td>ANU working lunch: International Strategic Unit</td>
<td>Cafe in the House, Canberra</td>
<td>$0</td>
<td>$58</td>
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<td>22/10/2008</td>
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<td>Unified Policing Model meeting</td>
<td>Hilton Melbourne Airport, Melbourne</td>
<td>$445</td>
<td>$1,005</td>
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<td>22/10/2008</td>
<td>Simon Crean</td>
<td>Luncheon in honour of His Excellency Mr Zhang Ping, Chairman of the National Development and Reform Commission, People’s Republic of China</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$231</td>
<td>$2,720</td>
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<td>29/10/2008</td>
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<td>Official Dinner for Indonesian Delegation</td>
<td>Sanur Restaurant Belconnen, Canberra</td>
<td>$0</td>
<td>$626</td>
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<tr>
<td>Date</td>
<td>Host</td>
<td>Nature of function</td>
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<td>Other Costs</td>
<td>Total Costs</td>
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<tr>
<td>05/11/2008</td>
<td>Stephen Smith</td>
<td>Luncheon in honour of His Excellency Mr Zhou Yongkang, Member of the Standing Committee of the Political Bureau of the CPC Central Committee (Note: Of costs 50% paid by PM&amp;C, 50% paid by WA premiers Dept.)</td>
<td>Acqua Viva on the Swan, Jojo’s Jetty, Perth</td>
<td>$516</td>
<td>$2,954</td>
<td>$3,470</td>
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<td>11/11/2008</td>
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<td>11/11/2008</td>
<td>Kevin Rudd</td>
<td>Dinner on the occasion of the Australia Indonesia Ministerial Forum</td>
<td>The Lodge, Canberra</td>
<td>$661</td>
<td>$1,057</td>
<td>$1,718</td>
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<td>13/11/2008</td>
<td>Kevin Rudd</td>
<td>Commemoration of the centenary of Prime Minister Andrew Fisher’s first Government</td>
<td>King’s Hall, Old Parliament House, Canberra</td>
<td>$0</td>
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<td>13/11/2008</td>
<td>Chris Evans</td>
<td>Dinner in honour of His Excellency Mr Andi Mattalatta, Minister of Law and Human Rights in the Government of the Republic of Indonesia</td>
<td>MV Commissioner II, Flagship Charter</td>
<td>$601</td>
<td>$6,707</td>
<td>$7,308</td>
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<tr>
<td>29/11/2008</td>
<td>Kevin Rudd</td>
<td>Breakfast on the occasion of the Council of Australian Government’s Meeting</td>
<td>The Lodge, Canberra</td>
<td>$0</td>
<td>$546</td>
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<td>29/11/2008</td>
<td>Kevin Rudd</td>
<td>Council of Australian Governments Meeting</td>
<td>Parliament House, Canberra</td>
<td>$403</td>
<td>$11,224</td>
<td>$11,627</td>
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<tr>
<td>30/11/2008</td>
<td>Ms Rein</td>
<td>Parliamentary Partners and Childrens Garden Party</td>
<td>The Lodge, Canberra</td>
<td>$710</td>
<td>$2,325</td>
<td>$3,035</td>
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<tr>
<td>02/12/2008</td>
<td>Kevin Rudd</td>
<td>Reception for members of the Parliament Press Gallery</td>
<td>The Lodge, Canberra</td>
<td>$3,108</td>
<td>$6,418</td>
<td>$9,526</td>
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<tr>
<td>08/12/2008</td>
<td>Kevin Rudd</td>
<td>Reception for SES Officers of the Department of the Prime Minister and Cabinet</td>
<td>The Lodge, Canberra</td>
<td>$496</td>
<td>$2,990</td>
<td>$3,486</td>
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<tr>
<td>Date</td>
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<td>Nature of function</td>
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<td>Alcohol Costs</td>
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<td>10/12/2008</td>
<td>PM&amp;C</td>
<td>Official Dinner for Indonesian Delegation</td>
<td>PM&amp;C, Canberra</td>
<td>$149</td>
<td>$1,200</td>
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<td>11/12/2008</td>
<td>Kevin Rudd</td>
<td>Prime Minister’s Reception for Senior Officers</td>
<td>The Lodge, Canberra</td>
<td>$1,221</td>
<td>$4,267</td>
<td>$5,488</td>
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<td>22/12/2008</td>
<td>PM&amp;C</td>
<td>Refreshments for Ministerial Meeting on Electoral Reform with Commonwealth, State and Territory ministers</td>
<td>Commonwealth Parliamentary Offices, Sydney</td>
<td>$0</td>
<td>$196</td>
<td>$196</td>
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<tr>
<td>13/01/2009</td>
<td>Julia Gillard</td>
<td>Dinner to thank Tax Review Committee</td>
<td>Acting Prime Minister’s Dining Room, Parliament House, Canberra</td>
<td>$153</td>
<td>$485</td>
<td>$638</td>
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<tr>
<td>19/01/2009</td>
<td>Stephen Smith</td>
<td>Luncheon in honour of His Excellency Mr Maxime Verhagen, Minister of Foreign Affairs in the Government of the Kingdom of the Netherlands</td>
<td>Fraser’s Restaurant, Perth</td>
<td>$256</td>
<td>$1,654</td>
<td>$1,910</td>
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<td>19/01/2009</td>
<td>Kevin Rudd</td>
<td>Australia Day Reception</td>
<td>Kirribilli House, Kirribilli, Sydney PM&amp;C, Canberra</td>
<td>$1,536</td>
<td>$13,389</td>
<td>$14,925</td>
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<td>21/01/2009</td>
<td>PM&amp;C</td>
<td>Official Dinner for Indonesian Delegation</td>
<td>PM&amp;C, Canberra</td>
<td>$95</td>
<td>$750</td>
<td>$845</td>
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<td>24/01/2009</td>
<td>Kevin Rudd</td>
<td>Australia Day Reception</td>
<td>Government House, Perth</td>
<td>$2,814</td>
<td>$13,388</td>
<td>$16,202</td>
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<td>25/01/2009</td>
<td>Kevin Rudd</td>
<td>Morning tea in honour of the 2009 Australian of the Year Awards National Finalists</td>
<td>The Lodge, Canberra</td>
<td>$0</td>
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<td>26/01/2009</td>
<td>Kevin Rudd</td>
<td>Australia Day Reception</td>
<td>The Lodge, Canberra</td>
<td>$1,449</td>
<td>$6,842</td>
<td>$8,291</td>
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<tr>
<td>28/01/2009</td>
<td>Kevin Rudd</td>
<td>Reception on the occasion of the Prime Minister’s XI versus New Zealand Cricket Match</td>
<td>The Lodge, Canberra</td>
<td>$1,895</td>
<td>$8,032</td>
<td>$9,927</td>
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<tr>
<td>Date</td>
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<tr>
<td>29/01/2009</td>
<td>Kevin Rudd</td>
<td>Luncheon on the occasion of the Prime Minister’s XI versus New Zealand Cricket Match</td>
<td>The Sir Donald Bradman Stand, Manuka Oval, Canberra</td>
<td>$1,828</td>
<td>$11,033</td>
<td>$12,861</td>
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<td>05/02/2009</td>
<td>Kevin Rudd</td>
<td>Council of Australian Governments Meeting</td>
<td>Parliament House, Canberra</td>
<td>$1,010</td>
<td>$7,799</td>
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<td>09/02/2009</td>
<td>Kevin Rudd</td>
<td>Dinner in honour of Mr Lou Jiwei, Chairman and Chief Executive Officer of the China Investment Corporation</td>
<td>The Lodge, Canberra</td>
<td>$929</td>
<td>$1,896</td>
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<td>23/02/2009</td>
<td>Kevin Rudd</td>
<td>Dinner in honour of His Excellency Dr Edward Fenech Adami, President of Malta, and Mrs Mary Fenech Adami</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$1,268</td>
<td>$11,022</td>
<td>$12,290</td>
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<td>23/02/2009</td>
<td>Chris Evans</td>
<td>Dinner in honour of His Excellency Mr António Guterres, United Nations High Commissioner for Refugees</td>
<td>Senate Alcove, Parliament House, Canberra</td>
<td>$533</td>
<td>$1,733</td>
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<td>PM&amp;C</td>
<td>Undersea Cables Tri-lateral</td>
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<td>Undersea Cables Tri-lateral - Dinner</td>
<td>Barton ACT, Canberra</td>
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<td>26/02/2009</td>
<td>PM&amp;C</td>
<td>Undersea Cables Tri-lateral</td>
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<td>01/03/2009</td>
<td>Kevin Rudd</td>
<td>Dinner in honour of the Honourable John Key, Prime Minister of New Zealand</td>
<td>Kirribilli House, Kirribilli, Sydney</td>
<td>$0</td>
<td>$3,441</td>
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<tr>
<td>02/03/2009</td>
<td>PM&amp;C</td>
<td>Will Jessett working lunch</td>
<td>PM&amp;C, Canberra</td>
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<td>03/03/2009</td>
<td>PM&amp;C</td>
<td>Dinner hosting CEO of Indonesia’s Maritime Security Board</td>
<td>Ottoman Restaurant Barton, Canberra</td>
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<td>PM&amp;C, Canberra</td>
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<td>PM&amp;C</td>
<td>Technical Support Working Group lunch</td>
<td>PM&amp;C, Canberra</td>
<td>$0</td>
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<td>04/03/2009</td>
<td>PM&amp;C</td>
<td>Technical Support Working Group dinner</td>
<td>The Lobby Restaurant, Canberra</td>
<td>$1,540</td>
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<tr>
<td>Date</td>
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<td>Total Costs</td>
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<tr>
<td>05/03/2009</td>
<td>PM&amp;C</td>
<td>Technical Support Working Group lunch Dinner in honour of His Excellency Mr Lee Myung-bak, President of the Republic of Korea</td>
<td>PM&amp;C, Canberra</td>
<td>$0</td>
<td>$644</td>
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<td>05/03/2009</td>
<td>Kevin Rudd</td>
<td>Dinner in honour of His Excellency Mr Lee Myung-bak, President of the Republic of Korea</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$2,093</td>
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<td>06/03/2009</td>
<td>PM&amp;C</td>
<td>Michael Hallows working lunch</td>
<td>PM&amp;C, Canberra</td>
<td>$0</td>
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<td>12/03/2009</td>
<td>Kevin Rudd</td>
<td>Dinner in honour of His Excellency Mr Nouri Kamil Al-Maliki, Prime Minister of the Republic of Iraq</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$0</td>
<td>$20,210</td>
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<td>12/03/2009</td>
<td>Alan Griffin</td>
<td>Meet the troops at Australian War Memorial - Prime Minister of Iraq</td>
<td>Australian War Memorial, Canberra</td>
<td>$0</td>
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<td>13/03/2009</td>
<td>PM&amp;C</td>
<td>Murray Darling Basin and transport infrastructure discussion^</td>
<td>Sculpture gardens, National Gallery of Australia, Canberra</td>
<td>N/A</td>
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<td>16/03/2009</td>
<td>Simon Crean</td>
<td>Luncheon in honour of His Excellency Mr Luis Guillermo Plata, Minister of Trade, Industry and Tourism in the Government of the Republic of Colombia</td>
<td>Private Dining Room, Parliament House, Canberra</td>
<td>$190</td>
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<td>Kevin Rudd</td>
<td>Luncheon in honour of His Excellency Mr Li Changchun, member of the Standing Committee of the Political Bureau of the Communist Party of China Central Committee of the People’s Republic of China</td>
<td>The Lodge, Canberra</td>
<td>$108</td>
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## QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Date</th>
<th>Host</th>
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<th>Location</th>
<th>Alcohol Costs</th>
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<tbody>
<tr>
<td>20/04/2009</td>
<td>Stephen Smith</td>
<td>Luncheon in honour of His Excellency Mr Urmas Paet, Minister of Foreign Affairs in the Government of the Republic of Estonia</td>
<td>Fraser’s Restaurant, Perth</td>
<td>$210</td>
<td>$1,745</td>
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<td>23/04/2009</td>
<td>PM&amp;C</td>
<td>Official Hospitality - Indonesian visit</td>
<td>Canberra</td>
<td>$0</td>
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<td>28/04/2009</td>
<td>Kevin Rudd</td>
<td>Luncheon in honour of the Right Honourable Grand Chief Sir Michael T Somare GCL GCMG CH CF KSJ MP, Prime Minister of Papua New Guinea</td>
<td>Prime Minister’s Dining Room, Canberra</td>
<td>$0</td>
<td>$1,174</td>
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<td>30/04/2009</td>
<td>Kevin Rudd</td>
<td>Council of Australian Governments Meeting</td>
<td>Mercure Hotel, Hobart</td>
<td>$889</td>
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<td>01/05/2009</td>
<td>Stephen Smith</td>
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<td>Alcohol Costs</td>
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Totals: $82,064 | $466,301 | $563,384

Itemised list of Departmental spend on hospitality*

* Note, figures do not cover extraneous costs such as equipment hire.

^ Itemised costs for these functions are not available.
Treasury

(No. 1914)

Senator Barnett asked the Minister representing the Treasurer, upon notice, on 2 July 2009:

(1) With reference to ministerial staff and departmental liaison officers for each Minister and Parliamentary Secretary, since November 2007: (a) how many positions exist; (b) how many staff are employed; (c) how many vacancies exist; (d) what are the levels of these positions; and (e) what is the total cost of staff employed in these respective offices on an annual basis.

(2) Can a breakdown be provided of how many laptops, mobile phones and personal digital assistants (PDAs) the department provides to the office of each Minister and Parliamentary Secretary.

(3) Are any departmental officers on secondment to the office of the Minister and/or Parliamentary Secretary; if so, (a) how many; and (b) to whom.

(4) (a) how much did the department spend on hospitality for the: (i) 2008 calendar year, and (ii) 2008-09 financial year, and (b) can details be provided of each hospitality event, including the: (i) date, (ii) location, (iii) purpose, and (iv) cost.

(5) For the office of each Minister and Parliamentary Secretary: (a) what was the total amount spent on hospitality for the: (i) 2008 calendar year, and (ii) 2008-09 financial year, and (b) can details be provided of each hospitality event, including the: (i) date, (ii) location, (iii) purpose, and (iv) cost.

(6) For the 2008-09 financial year, how much has the department spent on: (a) the hire of plants, either real or artificial; (b) the maintenance of these plants; (c) water coolers; and (d) television subscriptions.

(7) How many government credit cards for the department currently have on issue.

(8) (a) How many credit cards have been reported lost; and (b) in relation to credit cards that have been reported lost: (i) how many have been cancelled, (ii) how many remain active, and (iii) what is the potential credit limit liability from the lost cards that remain active.

Senator Sherry—The Treasurer has provided the following answer to the honourable senator’s question:

(1) As at 2 July 2009 The Treasurer had:
   (a) 3 Departmental Liaison positions and 17 Ministerial staff positions
   (b) 3 Departmental Liaison staff and 14 Ministerial staff are employed
   (c) no Departmental Liaison position and 4 Ministerial staff vacancies exist
   Note: the figures for Parts (1)(b) and (c) do not necessarily add up to be the figure provided for Part (1)(a) as more than one individual can be employed against a particular position.
   (d) Levels of Departmental Liaison positions are: SES Band 1, EL2 and APS6. Levels of Ministerial positions are: Principal Adviser x 1, Senior Adviser 1 (Cabinet) x 3, Senior Media Adviser (Treasurer) x 1, Adviser x 4, Assistant Adviser x 4, Executive Assistant/Office Manager x 2, Secretary/Administrative Assistant x 2
   (e) Total Departmental Liaison staff costs are $487,900. Information relating to the costs of Ministerial staff can be found in the Members of Parliament (Staff) Act 1984 Annual Report 2007-08 which was tabled 23 December 2008 and is available on the Department of Finance and Deregulation website at http://www.finance.gov.au.

(2) The Treasurer’s office has:
   20 Laptops
   5 Mobile Phones
17 Personal Digital Assistants (PDA’s)

(3) There are:
   (a) 4 Treasury staff are currently employed under the Members of Parliament Act
   (b) No Treasury employees are seconded to the Treasurer’s office.

(4) Refer response to QoN 1788, 16th June 2009 asked by Senator Abetz.

(5) Refer response to QoN 1788, 16th June 2009 asked by Senator Abetz.

(6) The GST exclusive cost in 2008-09 is:
   (a) and (b) Plant hire and maintenance $54,972.98
   (c) Water coolers $3,856.61
   (d) Television Subscriptions $7,738.26

(7) 35

(8) (a) and (b) No credit cards have been reported lost.

Aged Care

(Question No. 2040)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 29 July 2009:

For each financial year from 2000-01 to 2008-09:

(1) What were the vacancy rates in government funded residential aged care services for:
   (a) each state and territory; and
   (b) each aged care planning region.

(2) What was the average waiting time for access to an aged care placement after a person was assessed as requiring residential aged care for:
   (a) each state and territory; and
   (b) each aged care planning region.

(3) How many persons waited a period of 90 days or longer to receive a residential aged care placement in:
   (a) each state and territory; and
   (b) each aged care planning region.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) The vacancy rates in Commonwealth funded residential aged care services for each state and territory and planning region between 2000-01 and 2008-09 are presented in Tables 1a and 1b (below). Note that the 2008-09 data is preliminary and subject to revision.

(2) The Department collects information on the time between when a care recipient receives approval to enter residential care from an Aged Care Assessment Team (ACAT) and when they actually enter residential care (‘Entry period’).

Data on average entry periods for first permanent admissions in each state and territory and planning region between 2000-01 and 2008-09 are presented in Tables 2a and 2b (below). Note that the 2008-09 data is preliminary and subject to revision.

The data needs to be interpreted with care as a person’s ability and desire to enter care after being approved for that care by an ACAT depends on a number of factors. Some people may not yet have

QUESTIONS ON NOTICE
decided to enter care at the time of seeking an ACAT assessment. Many take time to visit different aged care homes and arrange their affairs before moving into their preferred aged care home. In general people entering low care take longer to decide on their preferred home than those entering high care.

It is also important to note that many of these older people receive care through the Home and Community Care program, Veterans’ Home Care, packaged community care or respite care whilst assessing their residential care options.

(3) The number of admissions with an entry period of 90 days or more for each state and territory and planning region between 2000-01 and 2008-09 are presented in Tables 3a and 3b (below). Note that the 2008-09 data is preliminary and subject to revision.

Again, these numbers need to be interpreted with care as there could be a number of reasons for the time between receiving ACAT approval and entering care.

Table 1a. Vacancy rates (%) of operational residential aged care places, by State and Territory, 2000-01 to 2008-09(a)

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(a) 2008-09 data is preliminary and subject to revision

Table 1b. Vacancy rates (%) of operational residential aged care places, by Aged Care Planning Region, 2000-01 to 2008-09(a)

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(a) 2008-09 data is preliminary and subject to revision

Table 2. Vacancy rates (%) of operational residential aged care places, by Aged Care Planning Region, 2000-01 to 2008-09(a)

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(a) 2008-09 data is preliminary and subject to revision

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### QUESTIONS ON NOTICE

**Table 2a.** Average time (in days) between receiving an ACAT approval and entering residential care, for first permanent admissions, by State and Territory, 2000-01 to 2008-09 (a)

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### QUESTIONS ON NOTICE

**Table 2b.** Average time (in days) between receiving an ACAT approval and entering residential care, for first permanent admissions, by Aged Care Planning Region, 2000-01 to 2008-09 (a)

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## QUESTIONS ON NOTICE

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### QUESTIONS ON NOTICE


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Table 3a. Number and proportion of admissions where entry period exceeds 90 days, by State and Territory, 2000-01 to 2008-09(a)

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<td></td>
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<td>41.5%</td>
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<td>33.3%</td>
<td>28.6%</td>
<td>-</td>
<td>11.1%</td>
<td>28.6%</td>
<td>31.3%</td>
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<td>35.7%</td>
</tr>
</tbody>
</table>

(a) 2008-09 data is preliminary and subject to revision

### ACT

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<td>36.9%</td>
<td>38.0%</td>
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(a) 2008-09 data is preliminary and subject to revision

---

**Aged Care**

*(Question No. 2042)*

**Senator Cormann** asked the Minister representing the Minister for Ageing, upon notice, on 29 July 2009:

What is the current average daily cost of providing care to a:

(a) patient in a hospital in each state and territory; and

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**QUESTIONS ON NOTICE**
(b) resident in an aged care facility in each: (i) state and territory, and (ii) aged care planning region.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(a) Refer to answer to Senate question 2041.

(b) Information on the cost of delivering residential aged care is not directly collected by the Department of Health and Ageing. However, relevant data is recorded in the general purpose financial reports that each approved provider is required to produce for each financial year in order to receive the Conditional Adjustment Payment.

The following analysis is based on the 2006-07 general purpose financial reports submitted to the Department of Health and Ageing by approved providers (the de-identified data from which has been placed on the Departmental website).

The expense data provided by approved providers is compared with administrative data held by the Department of Health and Ageing on the number of days of care delivered by each approved provider to derive average costs per resident per day.

Because approved providers often operate more than one aged care home, often in different planning regions, it is not possible to analyse this data at the planning region level. It is possible to analyse the data at state and territory level subject to the following caveats.

A small number of providers (22 out of 1174) operate aged care homes in more than one state or territory. The expenses of these providers are apportioned between the states and territories according to the number of homes they operate in each state or territory.

It is evident that there is considerable variation in the interpretation of accounting standards and so total expenses have been used to determine the cost. The Department’s interpretation of the accounting data provided in the general purpose financial reports has not been verified with the accountants of aged care providers.

Subject to these caveats, the table below provides a summary of the average cost of delivering residential aged care per resident per day in each state/territory for 2006-07.

<table>
<thead>
<tr>
<th>2006-07</th>
<th>ESTIMATED AVERAGE COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>NEW SOUTH WALES</td>
<td>$137.43</td>
</tr>
<tr>
<td>VICTORIA</td>
<td>$153.76</td>
</tr>
<tr>
<td>QUEENSLAND</td>
<td>$147.42</td>
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<tr>
<td>SOUTH AUSTRALIA</td>
<td>$142.70</td>
</tr>
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<td>WESTERN AUSTRALIA</td>
<td>$152.42</td>
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<td>TASMANIA</td>
<td>$156.84</td>
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<tr>
<td>AUSTRALIAN CAPITAL TERRITORY</td>
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</tr>
<tr>
<td>NORTHERN TERRITORY</td>
<td>$192.15</td>
</tr>
<tr>
<td>AUSTRALIA</td>
<td>$145.95</td>
</tr>
</tbody>
</table>

NB: The variation in average total expenses per resident across the different states/territories reflect in part the variation in the level of frailty between and across states/territories.

**Swift Parrot**

(Question No. 2056)

Senator Bob Brown asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 11 August 2009:

Given that the management plan for the endangered swift parrot expired 4 years ago: (a) when will the Government be releasing a new management plan for the swift parrot; (b) why has there been a 4-year
delay in implementing a new plan for this endangered species; and (c) how many other endangered species have no current management plan in place.

**Senator Wong**—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(a) A draft revised recovery plan for the Swift Parrot is expected to be released for community consultation within the next few months.

(b) The current recovery plan was due for review in 2007 and remains in place until such time it is varied or revoked. The time taken to comprehensively review and revise the recovery plan has been a function of the need to incorporate very recent information, engage with experts and key stakeholders across the swift parrot’s distribution and obtain endorsement from all five range states.

(c) All listed species are the subject of either a recovery plan, a recovery plan currently in preparation, or a conservation advice. Two hundred and fifty endangered or critically endangered species are the subject of recovery plans currently in preparation.

**Aged Care**

*(Question No. 2103)*

**Senator Cormann** asked the Minister representing the Minister for Ageing, upon notice, on 13 August 2009:

(1) What is the average time taken for Aged Care Assessment Teams (ACATs) to respond to and complete assessments for persons referred for admission to either residential care or Commonwealth funded community care in respect of: (a) Australia as a whole; (b) each state and territory; and (c) each team.

(2) How successful has the ACATs emergency team pilot been.

(3) Has ACATs emergency team pilot support been provided to all states and territories.

(4) What is the total Commonwealth funding support for ACATs for each year from 2000 to 2009.

(5) Has an evaluation of the additional Commonwealth funding been undertake; if so, is there any indication that these additional funds have improved service provision and timeliness of ACATs responses.

(6) What is the current average vacancy rate of aged care facilities for each state and territory based on the latest data available to the department.

(7) What is the current average vacancy rates for each state and territory based on the latest data available to the department for: (a) all aged care facilities; (b) high care; and (c) low care.

(8) For each year from 1997 to 2008, what were the average vacancy rates for each state and territory for: (a) all aged care facilities; (b) high care; and (c) low care.

(9) Given the aged care industry has stated that vacancy rates have risen recently, is this statement correct; if so, why.

**Senator Ludwig**—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) The average time from when a person’s referral to an Aged Care Assessment Team (ACAT) is accepted, and when the assessment has been completed by the ACAT Delegate for:

a. Australia as a whole is 28.7 days;

b. Each state and territory is at Attachment A; and

c. Each ACAT is at Attachment B.
(2) The ACAT emergency team pilot is known as the Mobile Assessment Support Team in NSW. NSW Health reported that:
- 343 assessments were completed in the Northern Beaches, Central Coast and Richmond Valley Aged Care Assessment Teams; and
- 171 assessments were completed in the Hunter Urban, Hunter Rural and Canterbury ACATs.

The Queensland ACAT Rapid Response Initiative (ARRI) was funded from 1 April to 31 August 2009. Queensland Health has advised that data collation is not yet complete, however, it reports that 800 additional assessments were conducted under the project by eight participating ACATs and that these have had a significant impact on the waiting lists of those teams.

In South Australia, the aim of the Rapid Response project was to reduce the wait-list of the Adelaide ACAT and the Adelaide Hills & Southern Fleurieu ACAT by 20% by 30 June 2009. This has been achieved and the project has been extended to 31 December 2009.

(3) The Commonwealth has provided funding to each state and territory government as part of the COAG Aged Care Assessment Program (ACAP) Reform Agenda for activities to improve and strengthen the ACAP.

(4) The total Commonwealth funding to the state and territory governments to operate the Aged Care Assessment Teams is:
- 2000-01, $37,880,000
- 2001-02, $39,929,000
- 2002-03, $42,971,132
- 2003-04, $48,259,001
- 2004-05, $52,930,000
- 2005-06, $55,461,000
- 2006-07, $64,831,719
- 2007-08, $68,361,000
- 2008-09, $72,331,000
- 2009-10, $75,534,000

(5) No.

(6) The average vacancy rates for residential aged care facilities in each state and territory for 2008-09 are shown in Table 1.

<table>
<thead>
<tr>
<th>State/territory</th>
<th>Vacancy rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>7.3</td>
</tr>
<tr>
<td>VIC</td>
<td>8.4</td>
</tr>
<tr>
<td>QLD</td>
<td>7.4</td>
</tr>
<tr>
<td>SA</td>
<td>3.8</td>
</tr>
<tr>
<td>WA</td>
<td>5.8</td>
</tr>
<tr>
<td>TAS</td>
<td>5.7</td>
</tr>
<tr>
<td>NT</td>
<td>11.0</td>
</tr>
<tr>
<td>ACT</td>
<td>7.6</td>
</tr>
<tr>
<td>Australia</td>
<td>7.1</td>
</tr>
</tbody>
</table>

(a) 2008-09 data is preliminary and subject to revision.

(7) It is not possible to calculate vacancy rates by high care and low care.
The average vacancy rates for residential aged care facilities in each state and territory from 1998-99 to 2008-09 are shown in Table 2. The introduction of a new payment system following the 1997 reforms means that the Department is not able to analyse data prior to 1998-99. As outlined in the response to question 7, the vacancy rates cannot be split by high care and low care.

Table 2: Vacancy rates for residential aged care, by state and territory, 1998-99 to 2008-09 (%)(a)

<table>
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<tr>
<th></th>
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<th></th>
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<td>3.0</td>
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<td>2.0</td>
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<td>1.7</td>
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<td>--(b)</td>
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<td>5.5</td>
<td>6.2</td>
<td>7.1</td>
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</table>

(a) 2008-09 data is preliminary and subject to revision.
(b) Reliable data for the Northern Territory for 1998-99 is not available.

The average national vacancy rate for residential aged care has risen between 2001-02 and 2008-09.

The overriding dynamic in explaining the rising vacancy levels is the rapid growth in operational aged care places that has occurred over the same period. A total of 28,667 new residential aged care places became operational between June 2002 and June 2008.

A fast rate of growth in places forces the vacancy rate to rise because it takes time for those newly created places or newly built aged care homes to fill up. A large release of places, or the building of a new home, is also likely to temporarily affect the number of vacant places in neighboring homes.

Attachment A
Waiting Times - Referral to Delegation Date

<table>
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<th>Location State Description</th>
<th>Mean (days)</th>
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<td>Victoria</td>
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<tr>
<td>Queensland</td>
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<td>South Australia</td>
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<tr>
<td>Western Australia</td>
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<td>Tasmania</td>
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<td>Australian Total:</td>
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Attachment B
Waiting Times - Referral to Delegation Date

State : New South Wales

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<td>Bathurst</td>
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<td>Blacktown</td>
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</tr>
<tr>
<td>Blue Mountains / Nepean</td>
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<tr>
<td>ACAT Description</td>
<td>Mean (days)</td>
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<tr>
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<td>-------------</td>
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<tr>
<td>Camden / Cambelltown / Wollondilly</td>
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<td>Orange</td>
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<tr>
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<td>Ryde</td>
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<td>Shoalhaven</td>
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<tr>
<td>Southcare</td>
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<td>Tamworth</td>
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<td>Wagga Wagga</td>
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</tr>
<tr>
<td>Waverly</td>
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</tr>
<tr>
<td>Westmead / Auburn</td>
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</tr>
<tr>
<td>Wingecarribee</td>
<td>22.5</td>
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<tr>
<td>Young</td>
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<td>Australian Total :</td>
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**State : Victoria**

<table>
<thead>
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<td>Mean (days)</td>
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<td>-------------</td>
</tr>
<tr>
<td>Bendigo</td>
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</tr>
<tr>
<td>Bundoora</td>
<td>31.3</td>
</tr>
<tr>
<td>Caulfield</td>
<td>17.7</td>
</tr>
<tr>
<td>Central East</td>
<td>19.8</td>
</tr>
<tr>
<td>Geelong</td>
<td>30.1</td>
</tr>
<tr>
<td>Gippsland</td>
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</tr>
<tr>
<td>Heidelberg</td>
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</tr>
<tr>
<td>Kingston</td>
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</tr>
<tr>
<td>Mildura</td>
<td>12.7</td>
</tr>
<tr>
<td>Mount Eliza</td>
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<tr>
<td>Northeastern Metro / St Vincents</td>
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<tr>
<td>Northwest</td>
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</tr>
<tr>
<td>Outer East</td>
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</tr>
<tr>
<td>Shepparton</td>
<td>39.1</td>
</tr>
<tr>
<td>Wangaratta</td>
<td>19.4</td>
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<tr>
<td>Warrnambool</td>
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<td>Western</td>
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<td>Victoria Total :</td>
<td>23.7</td>
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**State : Queensland**

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**State : Western Australia**

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<td>Darwin</td>
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State: Australian Capital Territory

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**Canberra Airport**

(Question No. 2116)

Senator Bob Brown asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 7 September 2009:

With reference to the Canberra Airport master plan:

1. (a) What is the scope, content and exact timing of the planned 2010 Airservices Australia review of the management of aircraft noise; (b) will this review commence before or after new construction work for the freight hub development begins; and (c) to what extent will Airservices Australia consult with the affected local community.

2. Of the 17 000 jobs to be created over the next 20 years: (a) what is the analysis that supports this estimate; and (b) what types of jobs will be created.

3. In regard to the increased number of flights and truck movements: (a) by how much will greenhouse gas emissions rise as a result; (b) what are the plans for mitigating the increase in emissions; and (c) what are the plans for addressing the safety and environmental concerns of increased transport of aviation gas by road.

Senator Conroy—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

1. Airservices’ noise review will occur in 2010 and it will be public, with local community involvement.

2. The Canberra Airport Master Plan states its forecasts are predicated on full occupancy of existing and intended facilities.

   The Master Plan lists the categories of businesses that operate at the Airport, including: infrastructure; air transport; aviation support services; retail/wholesale; and office.

3. The Australian Government has set out its proposed Carbon Pollution Reduction Scheme and complementary measures to address transport emissions in Australia.

   Aviation gas must be transported in accordance with the Australian Dangerous Goods Code. The Code is designed to reduce the risks of personal injury, property damage and environmental harm arising from the transport of dangerous goods by road.

**Coral Sea Heritage Park**

(Question No. 2120)

Senator Boswell asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 8 September 2009:

With reference to the proposed Coral Sea Heritage Park (the park):

1. What threats or threatening processes are the Government protecting by introducing the park.

2. (a) What particular unique iconic biodiversity is being protected in the area; (b) what has been located; and (b) what is the location of each site.

3. What studies, reports, modelling, papers, research projects, analysis and reviews that have been commissioned, show any threat to this unique iconic biodiversity.
(4) (a) Will navigation rights be considered within the proposal; and (b) if so, and navigation in a particular area is banned, will international vessels be subject to this law or will navigation rights be allowed through international treaties.

(5) Does the department have any closures planned for the park; if so: (a) which areas are planned to be closed; (b) who will be impacted by the closures; and (c) what groups of stakeholders will be impacted by the closures.

(6) If any fishing, or fishing-related activity, areas are closed, will compensation be provided to those who are impacted by the closure.

(7) Will another authority be created as a regulatory authority for the park: (a) if so: (i) what will be the total cost of policing the park, and (ii) what officers will be used to police the park; and (b) if not: (i) who will police the park, and (ii) what will be the total cost of policing the park.

**Senator Wong**—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

The Coral Sea Heritage Park is a proposal of the Pew Charitable Trusts. It has not been introduced by the Government, and is not being considered for introduction.

**East Marine Bioregional Plan**

(Question No. 2121)

**Senator Boswell** asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 8 September 2009:

With reference to the proposed East Marine Bioregional Plan:

(1) Is a full economic and social impact assessment being undertaken as part of the planning process; if so: (a) how and by whom is this assessment being conducted; (b) which stakeholders will be consulted; and (c) will the completed assessment be made available to stakeholders.

(2) Does the Government have a displaced fishing effort policy that includes provisions for compensation for the commercial fishing industry; if so: (a) will all small businesses, including land-based businesses, affected by the introduction of a further extensive network of marine protected areas around Australia, be provided for in this policy; if so, how will compensation be provided; and (b) will the displaced fishing effort policy be removed before closures are made.

(3) Have the concerns of stakeholders in relation to the time frames for completion of the planning been considered; if so, what measures will the Government introduce to accommodate these concerns.

**Senator Wong**—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(1) Yes.

(a) The assessment of the impacts on fisheries will be undertaken by the Bureau of Rural Sciences.

(b) A period of no less than 60 days statutory consultation will follow the release of the draft East Marine Bioregional Plan. All stakeholders will have an opportunity to comment during this period.

(c) Yes.

(2) Policy guidance on assistance to activities impacted by the declaration of marine protected areas is currently under development. A Stakeholder Advisory Group has been formed to provide input into the policy development process. Members of this Group are drawn from a wide range of marine
sectors. It is anticipated that this process will be finalised prior to the release of the draft South-west Marine Bioregional Plan.

(a) and (b) The Stakeholder Advisory Group is providing input into developing the new policy. As yet no conclusions have been reached regarding the extent, type and timing of assistance to be provided.

(3) The concerns of some stakeholders in relation to timelines for the completion of the East Marine Bioregional Plan are being considered.

**East Marine Bioregional Plan**

*(Question No. 2122)*

**Senator Boswell** asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 8 September 2009:

With reference to the proposed East Marine Bioregional Plan (the plan) and Coral Sea Heritage Park (the park):

(1) (a) Can a list be provided of the dates and venues of all meetings that the Minister or the department has held with stakeholder groups in relation to: (i) the plan, and (ii) the park; and (b) for each meeting, can a list be provided of the groups that were present at meetings and the names of the representative of the groups that attended.

(2) In regard to the article on 27 August 2009 in the industry publication Fishing World ‘Garrett meets with Greens over marine parks’, which provided details of a meeting held on 26 August 2009 by the Minister ‘with conservation groups, to discuss the Commonwealth’s review of marine protection zones’, can a list be provided of the groups that were present at the meeting, including the names of their representatives.

**Senator Wong**—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

**Minister – Plan**

(1) (a) (i) and (b) The Minister has met with stakeholder group meetings in relation to the plan, as follows:

<table>
<thead>
<tr>
<th>Organisations &amp; Dates</th>
<th>Venue</th>
</tr>
</thead>
<tbody>
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<td>3 August 2009</td>
<td></td>
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<tr>
<td>National Seafood Alliance</td>
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<tr>
<td>26 August 2009</td>
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<tr>
<td>Various conservation groups (see answer 2 below)</td>
<td>Sydney</td>
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<tr>
<td>17 September 2009</td>
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<tr>
<td>Boating and Fishing Council of Australia</td>
<td>Canberra</td>
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</table>

(1) (a) (i) and (b) The Department has held a number of stakeholder group meetings in relation to the East Marine Bioregional Plan. The table below identifies the location and date of each meeting, together with the groups that were represented. The Department has not included details of the individuals involved in each meeting because to do so would require the Department to contact each of these people to obtain their consent to this disclosure, and doing so would not represent an effective use of departmental resources.
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<thead>
<tr>
<th>Organisations &amp; Dates</th>
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QUESTIONS ON NOTICE
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QUESTIONS ON NOTICE
Organisations & Dates
1 July 2009
NSW Department of Environment and Climate Change
Sydney

28-29 July 2009
Regional Assessment Workshop
Queensland Seafood Industry Association
Queensland Seafood Industry Advisory Council of New South Wales
Clarence River Fisherman’s Coop
Sunfish
Recfish Australia
Queensland Game Fishing Association
Queensland Charter Vessels Association
Whale and Dolphin Watch Australia
Queensland Government agencies
Game Fishing Association of Australia
Incredible Charters
Queensland Ports Association
CSIRO Cleveland
Australian Marine Conservation Society
NSW Department of Primary Industry
Gold Coast Whale Watching Association
Australian Fisheries Management Authority

(1) (a) (ii) and (b) On 3 August 2009 the Minister met by videoconference with a representative of the National Geographic Society and of the Pew Charitable Trusts, who raised a number of marine issues including their park proposal.

Department – Park

(1) (a) (ii) and (b) The Coral Sea Heritage Park is not an Australian Government proposal; however it has been raised by fishing, boating, conservation and other stakeholders in many of the meetings about the East Marine Bioregional Plan described above.

On 19 March 2009, the Department met with the Australian Conservation Foundation, regarding Coral Sea conservation issues.

On 14 April 2009, the Department met with the Pew Charitable Trusts regarding the Pew proposal for a Coral Sea Heritage Park.

(2) On 26 August 2009 the Minister attended a National Marine Roundtable meeting with conservation groups. The conservation groups that attended the meeting were:

Australian Conservation Foundation;
Australian Marine Conservation Society;
Cetacean Conservation;
Environment Tasmania;
Humane Society International;
International Fund for Animal Welfare;
Nature Conservation Council of New South Wales;
TRAFFIC;
Victorian National Parks Association;
WWF Australia;

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Queensland Conservation Council;
The Conservation Council of South Australia;
Greenpeace;
Wentworth Group; and
Mittagong Forum.

Gedun Choekyi Nyima
(Question No. 2124)

Senator Hanson-Young asked the Minister representing the Minister for Foreign Affairs, upon notice, on 8 September 2009:

With reference to Gedun Choekyi Nyima who was detained by Chinese authorities on 17 May 1995, aged six, after being recognised by the Dalai Lama as the eleventh Panchen Lama of Tibet:

(1) What efforts has the Australian Government made to obtain information on the health and whereabouts of Gedun Choekyi Nyima since the former Minister for Foreign Affairs reported to the House of Representatives on 8 February 2005.

(2) Has the Government obtained any new information on the health and location of Gedun Choekyi Nyima; if so, what is the information and has it been independently verified; if not, what steps will the Government take to obtain that information.

Senator Faulkner—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:


(2) In all instances the Australian Government expressed concern as to his safety; pressed China to allow an independent observer to visit him and confirm his wellbeing; and sought information on his religious education. In 2009, we also pointed out that Gedun Choekyi Nyima turned 18 years old on 25 May 2007 and was now legally an adult.

In each case, the Chinese responded that Gedun Choekyi Nyima was living a normal life and was doing well academically, but his family had asked that they be left alone. Under these circumstances, Australian officials have been unable to visit him or obtain independently verified information.

Shell Australia
(Question No. 2125)

Senator Ludlam asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 9 September 2009:

(1) Is the Minister aware that the Shell Oil company will no longer use rail to transport fuel from its depot at Sandown, Sydney to depots in Dubbo, Canberra, Tamworth and Wagga Wagga, and that all future deliveries to these depots will be carried by road haulage using B-double trucks.

(2) Has the Minister or his staff sought an explanation from Shell for this decision; if not, why not.

(3) Given that the Federal Government is allocating $2.4 billion to the Australian Rail Track Corporation Ltd to upgrade the interstate rail network to provide competition to road haulage, and given that the decision by Shell will undermine this long-term plan for rail, is the Minister satisfied with Shell’s decision and the rationale it has offered.

(4) How will risk and occupational health and safety issues be assessed and managed.
Does the Minister consider that the increased congestion, subsequent risk of injury and environmental damage, is acceptable.

**Senator Conroy**—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

(1) to (3) The decision by Shell Australia to transport goods by road or rail is a commercial decision for the company.

(4) Shell Australia within Australia is required by law to conform to state and territory occupational health and safety legislation.

(5) Refer to previous answer.

**Australia Post**

(Question No. 2126)

**Senator Pratt** asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 9 September 2009:

For the period Wednesday, 24 September, to Wednesday, 8 October 2008:

(1) Why were postal delivery officers in metropolitan delivery centres in Western Australia directed to return to the delivery centres by 3 pm regardless of whether they had, or had not, finished their delivery.

(2) What was the carryover/delivery delay of all mail from the following delivery centers: (a) Bibra Lake; (b) Rockingham; (c) Bentley; (d) Joondalup; and (e) Malaga.

**Senator Conroy**—The answer to the honourable senator’s question is as follows:

(1) Staff shortages at the time meant that postal delivery officers (PDOs) had been working longer than normal shifts over an escalated period. Due to concerns over fatigue and staff morale, managers were advised to balance the PDOs workload appropriately to achieve a shift completion time of 3pm if possible. On many occasions PDOs completed their shift beyond 3pm.

(2) Total carryover/delivery delay for the period 24 September to 8 October 2008 was:

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>DELIVERY DELAYED</th>
<th>CARRYOVER*</th>
</tr>
</thead>
<tbody>
<tr>
<td>BENTLEY DC</td>
<td>STANDARD 1,836</td>
<td>LARGE 31,152</td>
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<tr>
<td>BIBRA LAKE DC</td>
<td>85,700</td>
<td>52,025</td>
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<tr>
<td>JOONDALUP DC</td>
<td>2,264</td>
<td>22,061</td>
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<td>MALAGA DC</td>
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<tr>
<td>ROCKINGHAM DC</td>
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<td>41,116</td>
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</table>

*Carryover mail is mail on hand at the Delivery Centre that was not scheduled for delivery that day.

**Reserve Bank of Australia**

(Question No. 2127)

**Senator Bob Brown** asked the Minister representing the Treasurer, upon notice, on 10 September 2009:

(1) What does the Reserve Bank of Australia (RBA) know about a Malaysian middleman that was paid large amounts by Securency International Pty Ltd and Note Printing Australia to strike currency printing deals in Malaysia.
QUESTIONS ON NOTICE

(2) Did Austrade warn the RBA in 2007 about the middleman; if so, what was the RBA’s response and did the middleman’s employment continue after the warning.

(3) Has the RBA asked Securency International Pty Ltd to stop using any of its criminally convicted middleman or those implicated in corruption since reports were first published in The Age in May 2009.

Senator Sherry—The Treasurer has provided the following answer to the honourable senator’s question:

At the time of this answer, the Australian Federal Police investigation into Securency is ongoing. Accordingly, it would be inappropriate for the Government to comment on the investigation at this time. I note that the RBA’s 2009 Annual Report has made a statement relating to the recent allegations made against Securency.

Australian Rail Track Corporation: Grants
(Question No. 2202)

Senator Carr asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 15 September 2009:

With reference to the Australian National Audit Office audit report no. 22 of 2007-08, Administration of grants to the Australian Rail Track Corporation: (a) what action has been taken to comply with recommendations nos 1 and 2; and (b) was there a need to seek additional funding in subsequent budgets for any additional costs incurred in implementing each recommendation; if so, how much.

Senator Conroy—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

(a) The Department takes into account the measures identified in ANAO recommendations 1 and 2 in preparing its advice.

(b) No.

Customs and Border Protection
(Question No. 2203)

Senator Cash asked the Minister representing the Minister for Home Affairs, upon notice, on 15 September 2009:

With reference to the Australian National Audit Office audit report no. 24 of 2006-07, Customs’ cargo management re-engineering project: (a) what action has been taken to comply with recommendations nos 1 to 7; (b) what additional costs will be involved in implementing each recommendation; and (c) was any additional funding sought in subsequent budgets for any additional costs to be incurred in implementing each recommendation.

Senator Wong—The Minister for Home Affairs has provided the following answer to the honourable senator’s question:

(a) On 17 June 2009, Customs and Border Protection provided a response to the Joint Committee of Public Accounts and Audit (JCPAA) request for the provision of a written report on the status of the implementation of the ANAO’s recommendations contained in the ANAO Performance Audit Report No 24 and the recommendations of the review conducted by Booz Allen Hamilton of the Integrated Cargo System. This response provides a contextual background to the issues and progress as well as an in depth status on the progress of each recommendation.

A copy of the report provided to the JCPAA is available using the following link under Report 412: http://www.aph.gov.au/house/committee/jpaa/reports.htm
In the period since the JCPAA submission, Customs and Border Protection has closed one outstanding recommendation (recommendation 1) and made further progress in finalising the last open recommendation (recommendation 5). An update on both recommendations is provided in the following paragraphs.

Recommendation 1 - Align Customs legislation with ICS business rules. (closed)
Customs and Border Protection has resolved the initial documented issues of non alignment and has developed an approach to address issues that continue to arise in business as usual operations.

Recommendation 5 - Update Memoranda of Understandings with other Government agencies about the ICS (open).
Customs and Border Protection has completed updating relevant aspects of the Australian Taxation Office (ATO), the Australian Quarantine Inspection Service (AQIS) and the Department of Innovation, Industry, Science and Research (DIISR) Memorandum of Understanding (MOU) to reflect the implementation of the ICS. Work is continuing on MOU’s with the Department of Defence and with the Australian Bureau of Statistics (ABS).
The development of an MOU with Defence is an ongoing process which is directed towards an overarching agreement supplemented by an array of annexes on specific topics.
Customs and Border Protection and the ABS signed the Heads of Agencies Agreement on 21 January 2009 and have continued to work on the subsidiary agreement work plan. The ABS provided new plans to Customs and Border Protection on 16 September 2009. The plans will be presented to the Deputy Heads meeting on 22 October 2009 for agreement.

(b) There will be no requests for additional funding to finalise the remaining recommendation. The finalisation of the outstanding MOUs will be pursued during the normal course of business.

(c) No.

**Defence: Program Funding**  
(Question No. 2204)

**Senator Cash** asked the Minister for Defence, upon notice, on 15 September 2009:

With reference to the Australian National Audit Office audit report no. 48 of 2008-09, Planning and approval of Defence major capital equipment projects: 

(a) what action has been taken to comply with recommendations nos 1 to 4; 
(b) what additional costs will be involved in implementing each recommendation; and 
(c) was any additional funding sought in subsequent budgets for any additional costs to be incurred in implementing each recommendation.

**Senator Faulkner**—The answer to the honourable senator’s question is as follows:
Defence agreed with all four recommendations, noting that these were mirrored in the information Defence had gathered during the White Paper process. While the ongoing implementation of these recommendations has been embedded in the Strategic Reform Program, specific responses to the three questions are as follows:

(a) The actions taken to comply with each of the four recommendations are as follows:

Recommendation 1. Defence will engage with Department of Finance and Deregulation, Department of Prime Minister and Cabinet, and the Treasury to develop a revised process for early and ongoing involvement in the evaluation of capability proposals. Defence aims to finalise this process by the end of 2009.

Recommendation 2. Capability Development Group (CDG) has developed internal group policies, along with the compliance and training requirements, to improve CDG’s records management.

Recommendation 3. Defence has developed processes that ensure all Cabinet submissions for future acquisitions do include a statement of the technical risks as stated by the Chief Defence Scien-
tist. Furthermore, the Defence Science and Technology Organisation will refine its methodology for assessing and describing the technical risks for future acquisitions and plans to develop a Technical Risk Assessment Manual which will set out the methodology for assessing and describing technical risks in acquisition projects. This manual will be developed in consultation with CDG and the Defence Materiel Organisation staff to ensure consistency with capability development and acquisition processes.

Recommendation 4. Defence now ensures that capability submissions contain a calculation of the future personnel and operating costs, in the context of explaining the derivation of Net Personnel and Operating Costs, with this requirement now mandated for all capability Cabinet submissions.

(b) There are no additional costs involved in implementing Recommendations 1, 2 and 4. The actions taken to address Recommendation 3 are cost neutral. While some effort is required to prepare the proposed Technical Risk Assessment Manual, this effort will be offset by improved technical risk assessment quality.

(c) No.

Airservices Australia

(Question No. 2206)

Senator Cash asked the Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, upon notice, on 15 September 2009:

With reference to the Australian National Audit Office audit report no. 8 of 2006-07, Airservices Australia’s upper airspace management contracts with the Solomon Islands Government: (a) what action has been taken to comply with recommendations nos 1 to 4; (b) what additional costs will be involved in implementing each recommendation; and (c) was any additional funding sought in subsequent budgets for any additional costs to be incurred in implementing each recommendation; if so, how much.

Senator Conroy—The Minister for Infrastructure, Transport, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

Airservices Australia has advised the following:

(a) Recommendation 1 - Airservices and the Department of Infrastructure, Transport, Regional Development and Local Government have discussed and resolved inconsistencies in their understanding on this matter.

Recommendations 2 and 3 relate to actions Airservices should undertake prior to entering into future contracts. Airservices has not entered into any such contracts since the audit and none are currently intended. The organisation has however, consistent with the recommendations of the audit, substantially improved the governance of overseas contracts since the time of the audit.

Recommendation 4 - Airservices has obtained assurance from the Solomon Islands Government that the manner in which payments are made is compliant with the Solomon Islands Constitution. The Australian National Audit Office has conducted a follow-up audit of Airservices’ implementation of these recommendations, with the resulting report expected to be tabled in the 2009 Spring sitting of Parliament.

(b) Nil.

(c) No.

Education Investment Fund

(Question No. 2209)

Senator Cash asked the Minister representing the Minister for Education, upon notice, on 15 September 2009:
With reference to the Government’s Education Investment Fund (EIF):

(1) Can a list be provided of all projects and programs funded under the EIF.

(2) What criteria was used to determine whether a project or program is successful in receiving funding from the EIF.

(3) Can a breakdown be provided of funding allocated to each project and program during the following financial years: (a) 2008-09; and (b) 2009-10.

(4) Was there a need to seek additional funding for any additional costs incurred in the 2008-09 financial year; if so, how much.

Senator Carr—The Minister for Education has provided the following answer to the honourable senator’s question:

(1) In response to question one: I wish to table a list of all projects and programs funded under the Education Investment Fund (EIF) (Attachment A).

(2) In response to question two: each project funded under EIF was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria and recommended to the Minister for Education and the Minister for Innovation, Industry, Science and Research for funding.

The assessment criteria for EIF Round 1 were as follows:
1. Expected impacts
2. Strategic relevance
3. Desired collaboration
4. Desired co-investment
5. Required capabilities—research, teaching and learning expertise
6. Required capabilities—planning and management skills
7. Required capabilities—financial viability

Proposals under the Teaching and Learning Capital Fund (Higher Education) and Super Science programs were assessed using the Interim Education Investment Fund (EIF) evaluation criteria. These criteria were consistent with the objectives of the Nation-building Funds and in line with the Government’s overarching principles that projects financed from the Funds should:
• address national infrastructure priorities;
• demonstrate high benefits and effective use of resources;
• efficiently meet infrastructure needs; and
• demonstrate they achieve established standards in implementation and management.

The Interim EIF Evaluation Criteria were as follows:
1. Extent to which the proposal addresses national priorities
2. Projected positive impact on enhancing capacity
3. Alignment of the project with the proponent organisation’s priorities and strategic directions
4. Projects result in improvements consistent with the level of investment
5. Extent of co-investment and collaboration
6. Project quality & efficiency
7. Capacity of the organisation to support, maintain and integrate new infrastructure into ongoing business operations
8. Project readiness
The assessment criteria for EIF Round 2 were as follows:
1. Extent to which the project addresses national priorities
2. Alignment of the project with applicant organisation’s priorities and strategic directions
3. Projected positive impact on enhancing capacity
4. Projects result in improvements consistent with the level of investment
5. Extent of co-investment and collaboration
6. Project quality and readiness
7. Capacity of the organisation to support, maintain and integrate new infrastructure into ongoing business operations

(3) In response to question three: I refer to the tabled list as previously mentioned.

(4) In response to question four: there was no need to seek additional funding for any of these projects.

Attachment A

<table>
<thead>
<tr>
<th>Project name (Q1)</th>
<th>Program Name (Q1)</th>
<th>Federal Govt contribution ($m) Total*</th>
<th>Federal Govt contribution ($m) 2008-09 (Q3)</th>
<th>Federal Govt contribution ($m) 2009-10 (Q3)</th>
<th>Why was the project funded (Q2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Macquarie University Hearing Hub</td>
<td>EIF Round 1</td>
<td>40.00</td>
<td>10.00</td>
<td>30.00</td>
<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
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<td>RMIT University RMIT Design Hub</td>
<td>EIF Round 1</td>
<td>28.60</td>
<td>2.50</td>
<td>17.00</td>
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<tr>
<td>The University of Melbourne Peter Doherty Institute for Infection and Immunity</td>
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<td>90.00</td>
<td>1.00</td>
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<td>The University of New South Wales Energy Technologies Building</td>
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<td>2.90</td>
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<td>Project name (Q1)</td>
<td>Program Name (Q1)</td>
<td>Federal Govt contribution ($m) Total*</td>
<td>Federal Govt contribution ($m) 2008-09 (Q3)</td>
<td>Federal Govt contribution ($m) 2009-10 (Q3)</td>
<td>Why was the project funded (Q2)</td>
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<td>---------------------------------------------</td>
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</tr>
<tr>
<td>The University of Queensland World-class veterinary science facilities - the School of Veterinary Science - Gatton Campus</td>
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<td>University of Canberra The International Microsimulation Centre: A Research and Professional Development Facility for the National Centre for Social and Economic Modelling</td>
<td>EIF Round 1</td>
<td>11.00</td>
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<td>20.00</td>
<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
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QUESTIONS ON NOTICE
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<th>Project name (Q1)</th>
<th>Program Name (Q1)</th>
<th>Federal Govt contribution ($m)</th>
<th>Federal Govt contribution ($m) 2008-09 (Q3)</th>
<th>Why was the project funded (Q2)</th>
<th>Project name (Q1)</th>
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<td>University of Adelaide Institute for Photonics and Advanced Sensing</td>
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<td>University of Adelaide Institute for Photonics and Advanced Sensing</td>
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<td>Project name (Q1)</td>
<td>Program Name (Q1)</td>
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<td>Federal Govt contribution ($m) 2008-09 (Q3)</td>
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<td>Curtin University of Technology Engineering Pavilion</td>
<td>EIF Round 2</td>
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<td>Holmesglen Institute of TAFE A New Facility for Early Childhood Development, Vocational College and Related Services</td>
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<th>Project name (Q1)</th>
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### Questions on Notice

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<td>Super Science</td>
<td>20.00</td>
<td>0.00</td>
<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
<td>TBC Built Environment</td>
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</table>

QUESTIONS ON NOTICE
<table>
<thead>
<tr>
<th>Project name (Q1)</th>
<th>Program Name (Q1)</th>
<th>Federal Govt contribution ($m)</th>
<th>Federal Govt contribution ($m) 2008-09 (Q3)</th>
<th>Federal Govt contribution ($m) 2009-10 (Q3)</th>
<th>Why was the project funded (Q2)</th>
<th>Project name (Q1)</th>
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<tr>
<td>BioPlatforms</td>
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<td>50.00</td>
<td>0.00</td>
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<td>Australia Bio-molecular</td>
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<td></td>
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<td>Australia Bio-molecular</td>
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<tr>
<td>University of Adelaide Plant Genes</td>
<td>Super Science</td>
<td>10.00</td>
<td>0.00</td>
<td>0.00</td>
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<tr>
<td>Australian National University Animal Genes</td>
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<tr>
<td>TBC Translating health discovery</td>
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<td>35.00</td>
<td>0.00</td>
<td>5.00</td>
<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
<td>TBC Translating health discovery</td>
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<tr>
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<td>10.00</td>
<td>0.00</td>
<td>0.00</td>
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<tr>
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<td>CSIRO Biodiversity Atlas</td>
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<td>Program Name (Q1)</td>
<td>Federal Govt contribution ($m) Total*</td>
<td>Federal Govt contribution ($m) 2008-09 (Q3)</td>
<td>Federal Govt contribution ($m) 2009-10 (Q3)</td>
<td>Why was the project funded (Q2)</td>
<td>Project name (Q1)</td>
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<tr>
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<td>---------------------------------------------</td>
<td>-------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>Australian National Fabrication Facility Ltd - Fabrication</td>
<td>Super Science</td>
<td>50.00</td>
<td>10.00</td>
<td>10.00</td>
<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
<td>Australian National Fabrication Facility Ltd - Fabrication</td>
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<tr>
<td>Australian Nuclear Science and Technology Organisation Nuclear Science Facilities</td>
<td>Super Science</td>
<td>62.00</td>
<td>0.00</td>
<td>20.00</td>
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<td>10.00</td>
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<td>2.00</td>
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<td>Australian National University National Accelerators</td>
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<td>23.00</td>
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<td>Monash University Australian Research Data Commons</td>
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<td>48.00</td>
<td>10.00</td>
<td>24.00</td>
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<td>10.00</td>
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</table>
### Project Name (Q1) Program Name (Q1) Federal Govt contribution ($m) Total* Federal Govt contribution ($m) 2008-09 (Q3) Federal Govt contribution ($m) 2009-10 (Q3) Why was the project funded (Q2) Project name (Q1)

<table>
<thead>
<tr>
<th>Project name (Q1)</th>
<th>Program Name (Q1)</th>
<th>Federal Govt contribution ($m) 2008-09 (Q3)</th>
<th>Federal Govt contribution ($m) 2009-10 (Q3)</th>
<th>Why was the project funded (Q2)</th>
<th>Project name (Q1)</th>
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<td>Australian National University The Giant Magellan Telescope</td>
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<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
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<td>AAL - Astronomy Australia Limited (AAL)</td>
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<td>10.00</td>
<td>0.00</td>
<td>0.00</td>
<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
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<tr>
<td>University of Queensland - Terrestrial Ecosystem Research Network</td>
<td>Super Science</td>
<td>35.00</td>
<td>0.00</td>
<td>0.00</td>
<td>The project was assessed by the EIF Advisory Board as satisfying the EIF Evaluation Criteria</td>
</tr>
</tbody>
</table>

*Total amount will sometimes be greater than the sum of the 2008/09 and 2009/10 totals as funding is granted for periods of up to 5 years.

### Young Carers Forum
(Question No. 2211)

**Senator Cash** asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 15 September 2009:

With reference to the Young Carers Forum 2008 final report ‘Bring It!’, relating to Carers Australia’s recommendations to better support and recognise Australia’s young carers:

1. (a) How many young carers were funded under the Young Carers Program (the program) in the 2008-09 financial year; and (b) how many additional young carers are to be funded in the 2009-10 financial year.

2. (a) How much funding was allocated to the program in the 2008-09 financial year and has been allocated for the 2009-10 financial year; and (b) can a breakdown be provided of those who were allocated funds and the date it was allocated.

**Senator Chris Evans**—The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

1. The following figures relate to the number of times young carers were assisted rather than the actual number of young carers funded.

   (a) 6,171 young carers were assisted under the Young Carers Program in the 2008-09 financial year.

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QUESTIONS ON NOTICE
(b) 6,500 young carers are to be assisted under the Young Carers Program in the 2009-10 financial year.

(2) (a) Total funding of $7,606,764 was allocated to the Young Carers Program in 2008-09 and $7,758,630 has been allocated for the 2009-10 financial year. (b) The following table provides a summary of program funding allocated to service providers on 1 July each financial year:

<table>
<thead>
<tr>
<th>State</th>
<th>2008-09 Allocated on 1/7/08</th>
<th>2009-10 Allocated on 1/7/09</th>
</tr>
</thead>
<tbody>
<tr>
<td>National</td>
<td>$536,000</td>
<td>$553,544</td>
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<tr>
<td>ACT</td>
<td>Carers Association of the ACT Incorporated</td>
<td>$100,908</td>
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<tr>
<td>NSW</td>
<td>Far West CRCC</td>
<td>$35,000</td>
</tr>
<tr>
<td></td>
<td>Orana CRCC</td>
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</tr>
<tr>
<td></td>
<td>Central West CRCC</td>
<td>$59,433</td>
</tr>
<tr>
<td></td>
<td>Nepean CRCC</td>
<td>$62,180</td>
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<tr>
<td></td>
<td>Southern Highlands CRCC</td>
<td>$67,418</td>
</tr>
<tr>
<td></td>
<td>Riverina Murray CRCC</td>
<td>$91,273</td>
</tr>
<tr>
<td></td>
<td>Mid North Coast CRCC</td>
<td>$98,587</td>
</tr>
<tr>
<td></td>
<td>Central Coast CRCC</td>
<td>$102,732</td>
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<tr>
<td></td>
<td>New England CRCC</td>
<td>$110,702</td>
</tr>
<tr>
<td></td>
<td>Illawarra CRCC</td>
<td>$125,732</td>
</tr>
<tr>
<td></td>
<td>Inner West CRCC</td>
<td>$133,597</td>
</tr>
<tr>
<td></td>
<td>Hunter CRCC</td>
<td>$139,396</td>
</tr>
<tr>
<td></td>
<td>South West Sydney CRCC</td>
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<td></td>
<td>Cumberland Prospect CRCC</td>
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<tr>
<td></td>
<td>Northern Sydney CRCC</td>
<td>$219,645</td>
</tr>
<tr>
<td></td>
<td>South Eastern Sydney CRCC</td>
<td>$256,431</td>
</tr>
<tr>
<td></td>
<td>Far North Coast CRCC</td>
<td>$89,896</td>
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<tr>
<td>NT</td>
<td>Central Region Carer Respite Centre</td>
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<td></td>
<td>East Arnhem CRCC</td>
<td>$35,000</td>
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<td></td>
<td>Northern Region Carer Respite Centre</td>
<td>$35,000</td>
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<tr>
<td>QLD</td>
<td>Peninsula CRCC</td>
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<td>Darling Downs / South West CRCC</td>
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<td></td>
<td>Northern (QLD) CRCC</td>
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<td>Central CRCC</td>
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<td></td>
<td>South Brisbane CRCC</td>
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<td>West Moreton / South Coast CRCC</td>
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<tr>
<td></td>
<td>North Brisbane CRCC</td>
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<tr>
<td>SA</td>
<td>North and West Metropolitan CRCC</td>
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<td>Southern Country CRCC</td>
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<td>South and East Metropolitan CRCC</td>
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<td>North and West Country CRCC</td>
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<td>TAS</td>
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<tr>
<td>VIC</td>
<td>Carer Respite Centre Grampians Region</td>
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<td></td>
<td>CRCC Hume Region</td>
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<td></td>
<td>Gippsland CRCC</td>
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<tr>
<td></td>
<td>CRCC Lodden Mallee Region</td>
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</tr>
<tr>
<td>State</td>
<td>2008-09 Allocated on 1/7/08</td>
<td>2009-10 Allocated on 1/7/09</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-----------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>CRCC - Barwon South Western</td>
<td>$126,821</td>
<td>$129,231</td>
</tr>
<tr>
<td>CRCC Northern Metropolitan Region</td>
<td>$261,081</td>
<td>$266,042</td>
</tr>
<tr>
<td>CRCC Western Metropolitan Region</td>
<td>$261,081</td>
<td>$266,042</td>
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<tr>
<td>Eastern Metro CRCC</td>
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<td>$317,356</td>
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<td>Carer Respite Centre Southern Region</td>
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<td>$430,425</td>
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<td>Goldfields CRCC</td>
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<td>Great Southern CRCC</td>
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<td>Midwest CRCC</td>
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<td>Wheatbelt CRCC</td>
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<td>South West CRCC</td>
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<tr>
<td>South West Metropolitan CRCC</td>
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<tr>
<td>Kimberley CRCC</td>
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<tr>
<td>Pilbara CRCC</td>
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<td>East Metropolitan CRCC – Pilbara area</td>
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<td>North Metropolitan CRCC</td>
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<tr>
<td><strong>Respite Services Total</strong></td>
<td><strong>$7,070,764</strong></td>
<td><strong>$7,205,086</strong></td>
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<td><strong>Information Services Total</strong></td>
<td><strong>$536,000</strong></td>
<td><strong>$553,544</strong></td>
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<tr>
<td><strong>Program Total</strong></td>
<td><strong>$7,606,764</strong></td>
<td><strong>$7,758,630</strong></td>
</tr>
</tbody>
</table>

**GP Super Clinics Program**

(Question No. 2214)

**Senator Cash** asked the Minister representing the Minister for Health and Ageing, upon notice, on 16 September 2009:

With reference to the Australian Government’s GP Super Clinics Program:

1. How many super clinics have been built and established in each state and territory since the program’s induction.

2. How much funding:
   a. was allocated to the program for the financial years: (i) 2007-08, and (ii) 2008-09; and
   b. is allocated to the program for the 2009-10 financial year.

3. Was there a need to seek additional funding for any additional costs incurred in implementing the program in the 2007-08 and 2008-09 financial years; if so, how much.

**Senator Ludwig**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

1. Ballan GP Super Clinic in Victoria became fully operational on 14 September 2009. There are a further five clinics providing interim services. These include the Blue Mountains, North Central Coast, Southern Lake Macquarie (NSW), Devonport (TAS) and Palmerston (NT) – at the Urgent After Hours Care Service, which is Phase 1 of the Palmerston GP Super Clinic. Construction is underway in five sites: Southern Lake Macquarie (NSW), Bendigo (VIC) Strathpine (QLD), Devonport (TAS), Palmerston (NT) – Phase 2 of the Palmerston GP Super Clinic.
(2) Original allocation (Portfolio Budget Statements – 2007-2008):

<table>
<thead>
<tr>
<th>Year</th>
<th>2007-08 ($m)</th>
<th>2008-09 ($m)</th>
<th>2009-10 ($m)</th>
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<td></td>
<td>33.1</td>
<td>76.6</td>
<td>66.3</td>
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<table>
<thead>
<tr>
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<th>2008-09 ($m)</th>
<th>2009-10 ($m)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.2</td>
<td>43.9</td>
<td>123.9</td>
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Note: Figures include MBS, PBS and DVA flow-ons.

(3) No.