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SITTING DAYS—2010

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>2, 3, 4, 22, 23, 24, 25</td>
</tr>
<tr>
<td>March</td>
<td>9, 10, 11, 15, 16, 17, 18</td>
</tr>
<tr>
<td>May</td>
<td>11, 12, 13</td>
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<tr>
<td>June</td>
<td>15, 16, 17, 21, 22, 23, 24</td>
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<tr>
<td>August</td>
<td>24, 25, 26, 30, 31</td>
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<tr>
<td>September</td>
<td>1, 2, 20, 21, 22, 23, 28, 29, 30</td>
</tr>
<tr>
<td>October</td>
<td>25, 26, 27, 28</td>
</tr>
<tr>
<td>November</td>
<td>15, 16, 17, 18, 22, 23, 24, 25</td>
</tr>
</tbody>
</table>

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

Senate Officeholders

President—Senator Hon. John Joseph Hogg
Temporary Chairs of Committees—Senators Guy Barnett, Suzanne Kay Boyce, Thomas Mark Bishop, Carol Louise Brown, Michaelia Clare Cash, Patricia Margaret Crossin, Michael George Forshaw, Annette Kay Hurley, Stephen Patrick Hutchins, Gavin Mark Marshall, Julian John James McGauran, Claire Mary Moore, Stephen Shane Parry, Hon. Judith Mary Troeth and Russell Brunell Trood
Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Stephen Shane Parry

Senate Party Leaders and Whips

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

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

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2011</td>
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<td>Adams, Judith Anne</td>
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<td>LP</td>
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<td>Arbib, Hon. Mark Victor</td>
<td>NSW</td>
<td>30.6.2014</td>
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<td>Back, Christopher John (1)</td>
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<td>TAS</td>
<td>30.6.2011</td>
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<td>Bernardi, Cory</td>
<td>SA</td>
<td>30.6.2014</td>
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<td>Bilyk, Catryna Louise</td>
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<td>30.6.2014</td>
<td>ALP</td>
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<td>Birmingham, Simon John</td>
<td>SA</td>
<td>30.6.2014</td>
<td>LP</td>
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<tr>
<td>Bishop, Thomas Mark</td>
<td>WA</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Boswell, Hon. Ronald Leslie Doyle</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>NATS</td>
</tr>
<tr>
<td>Boyce, Suzanne Kay</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>Brandis, Hon. George Henry, SC</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Brown, Robert James</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>AG</td>
</tr>
<tr>
<td>Bushby, David Christopher</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>Cameron, Douglas Niven</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Carr, Hon. Kim John</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Cash, Michaelia Clare</td>
<td>WA</td>
<td>30.6.2014</td>
<td>LP</td>
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<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>LP</td>
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<tr>
<td>Collins, Jacinta Mary Ann</td>
<td>VIC</td>
<td>30.6.2014</td>
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<td>Conroy, Hon. Stephen Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
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<td>Coonan, Hon. Helen Lloyd</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>LP</td>
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<tr>
<td>Cormann, Mathias Hubert Paul (2)</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Crossin, Patricia Margaret (3)</td>
<td>NT</td>
<td>ALP</td>
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</tr>
<tr>
<td>Eggleston, Alan</td>
<td>WA</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Evans, Hon. Christopher Vaughan</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
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<tr>
<td>Farrell, Donald Edward</td>
<td>SA</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Feeney, David Ian</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Hon. Alan Baird</td>
<td>SA</td>
<td>30.6.2011</td>
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<td>Fielding, Steve</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>FF</td>
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<td>Fierravanti-Wells, Concetta Anna</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Fifield, Mitchell Peter</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>Fisher, Mary Jo (1)</td>
<td>SA</td>
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<td>Forshaw, Michael George</td>
<td>NSW</td>
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<td>Furner, Mark Lionel</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Hanson-Young, Sarah Coral</td>
<td>SA</td>
<td>30.6.2014</td>
<td>AG</td>
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<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
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<td>Hogg, Hon. John Joseph</td>
<td>QLD</td>
<td>30.6.2014</td>
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<td>Humphries, Gary John Joseph (4)</td>
<td>ACT</td>
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<td>Hurley, Annette Kay</td>
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<td>Hutchins, Stephen Patrick</td>
<td>NSW</td>
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<td>ALP</td>
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<td>Johnston, Hon. David Albert Lloyd</td>
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<td>Joyce, Barnaby Thomas Gerard</td>
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<td>Kroger, Helen</td>
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<td>Ludlam, Scott</td>
<td>WA</td>
<td>30.6.2014</td>
<td>AG</td>
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<td>Lundy, Kate Alexandra (3)</td>
<td>ACT</td>
<td>ALP</td>
<td></td>
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<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2014</td>
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<td>Senator</td>
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<td>McEwen, Anne</td>
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<td>ALP</td>
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<td>McGauran, Julian John</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>McLucas, Hon. Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>ALP</td>
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<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Mason, Hon. Brett John</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>Milne, Christine Anne</td>
<td>TAS</td>
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<td>AG</td>
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<td>Minchin, Hon. Nicholas Hugh</td>
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<td>30.6.2011</td>
<td>LP</td>
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<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Nash, Fiona Joy</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>O’Brien, Kerry Williams Kelso</td>
<td>TAS</td>
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<td>ALP</td>
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<td>30.6.2011</td>
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<td>30.6.2014</td>
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<td>Pratt, Louise Clare</td>
<td>WA</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Ryan, Scott Michael</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>Scullion, Hon. Nigel Gregory</td>
<td>NT</td>
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<td>CLP</td>
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<td>Sherry, Hon. Nicholas John</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>ALP</td>
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<tr>
<td>Siewert, Rachel Mary</td>
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<td>30.6.2011</td>
<td>AG</td>
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<td>Stephens, Hon. Ursula Mary</td>
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<td>30.6.2014</td>
<td>ALP</td>
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<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
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<td>Troeth, Hon. Judith Mary</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>Trood, Russell Brunell</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>Williams, John Reginald</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>NATS</td>
</tr>
<tr>
<td>Wong, Hon. Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Wortley, Dana Johanna</td>
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<td>30.6.2011</td>
<td>ALP</td>
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<td>SA</td>
<td>30.6.2014</td>
<td>IND</td>
</tr>
</tbody>
</table>

(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—R Laing
Clerk of the House of Representatives—B Wright
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]
RUDD MINISTRY—continued

Minister for Veterans’ Affairs Hon. Alan Griffin MP
Minister for Housing and Minister for the Status of Women Hon. Tanya Plibersek MP
Minister for Home Affairs Hon. Brendan O’Connor MP
Minister for Indigenous Health, Rural and Regional Health and Regional Services Delivery Hon. Warren Snowdon MP
Minister for Small Business, Independent Contractors and the Service Economy, Minister Assisting the Finance Minister on Deregulation and Minister for Competition Policy and Consumer Affairs Hon. Dr Craig Emerson MP
Assistant Treasurer Senator Hon. Nick Sherry
Minister for Ageing Hon. Justine Elliot MP
Minister for Early Childhood Education, Childcare and Youth and Minister for Sport Hon. Kate Ellis MP
Minister for Defence Personnel, Materiel and Science and Minister Assisting the Minister for Climate Change Hon. Greg Combet AM, MP
Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery Senator Hon. Mark Arbib
Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government Hon. Maxine McKew MP
Parliamentary Secretary for Defence Support and Parliamentary Secretary for Water Hon. Dr Mike Kelly AM, MP
Parliamentary Secretary for Western and Northern Australia Hon. Gary Gray AO, MP
Parliamentary Secretary for Disabilities and Children’s Services and Parliamentary Secretary for Victorian Bushfire Reconstruction Hon. Bill Shorten MP
Parliamentary Secretary for International Development Assistance Hon. Bob McMullan MP
Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Trade Hon. Anthony Byrne MP
Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector Senator Hon. Ursula Stephens
Parliamentary Secretary for Multicultural Affairs and Settlement Services Hon. Laurie Ferguson MP
Parliamentary Secretary for Employment Hon. Jason Clare MP
Parliamentary Secretary for Health Hon. Mark Butler MP
Parliamentary Secretary for Innovation and Industry Hon. Richard Marles MP
SHADOW MINISTRY

Leader of the Opposition Hon. Tony Abbott MP
Shadow Minister for Foreign Affairs and Deputy Leader of the Opposition Hon. Julie Bishop MP
Shadow Minister for Trade, Transport, Regional Development and Local Government and Leader of The Nationals Hon. Warren Truss MP
Shadow Minister for Resources and Energy and Leader of the Opposition in the Senate Senator Hon. Nick Minchin
Shadow Minister for Employment and Workplace Relations and Deputy Leader of the Opposition in the Senate Senator Hon. Eric Abetz
Shadow Treasurer Hon. Joe Hockey MP
Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House Hon. Christopher Pyne MP
Shadow Minister for Infrastructure and Water Hon. Ian Macfarlane MP
Shadow Attorney-General Senator Hon. George Brandis SC
Shadow Minister for Defence Senator Hon. David Johnston
Shadow Minister for Health and Ageing Hon. Peter Dutton MP
Shadow Minister for Families, Housing and Human Services Hon. Kevin Andrews MP
Shadow Minister for Climate Action, Environment and Heritage Hon. Greg Hunt MP
Shadow Minister for Indigenous Affairs and Deputy Leader of The Nationals Senator Hon. Nigel Scullion
Shadow Minister for Finance and Debt Reduction and Leader of The Nationals in the Senate Senator Barnaby Joyce
Shadow Minister for Agriculture, Food Security, Fisheries and Forestry Hon. John Cobb MP
Shadow Minister for Small Business, Deregulation, Competition Policy and Sustainable Cities Hon. Bruce Billson MP
Shadow Minister for Broadband, Communications and the Digital Economy Hon. Tony Smith MP
Shadow Minister for Immigration and Citizenship Mr Scott Morrison MP
Shadow Minister for Innovation, Industry, Science and Research Mrs Sophie Mirabella MP
Chairman of the Coalition Policy Development Committee Hon. Andrew Robb AO MP

[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

Shadow Minister for Tourism and the Arts and Shadow Minister for Youth and Sport
Mr Steven Ciobo MP

Shadow Minister for Employment Participation, Apprenticeships and Training
Senator Mathias Cormann

Shadow Minister for Consumer Affairs, Financial Services, Superannuation and Corporate Law and Deputy Manager of Opposition Business in the House
Mr Luke Hartsuyker MP

Shadow Assistant Treasurer
Hon. Sussan Ley MP

Shadow Minister for COAG and Modernising the Federation
Senator Marise Payne

Shadow Minister for Early Childhood Education and Childcare and Shadow Minister for the Status of Women
Hon. Dr Sharman Stone MP

Shadow Minister for Justice and Customs
Mr Michael Keenan MP

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

Shadow Minister for Veterans Affairs
Mrs Louise Markus MP

Shadow Minister for Ageing
Senator Concetta Fierravanti-Wells

Shadow Minister for Seniors
Hon. Bronwyn Bishop MP

Shadow Special Minister of State and Scrutiny of Government Waste
Senator Hon. Michael Ronaldson

Shadow Parliamentary Secretary Assisting the Leader of the Opposition and Shadow Parliamentary Secretary for Infrastructure and Population Policy
Senator Cory Bernardi

Shadow Parliamentary Secretary for Northern and Remote Australia
Senator Hon. Ian Macdonald

Shadow Parliamentary Secretary for Roads and Transport
Mr Don Randall MP

Shadow Parliamentary Secretary for Regional Development and Emerging Trade Markets
Mr Mark Coulton MP

Shadow Parliamentary Secretary for Tourism
Mrs Jo Gash MP

Shadow Parliamentary Secretary for Education and School Curriculum Standards
Senator Hon. Brett Mason

Shadow Parliamentary Secretary for the Murray Darling Basin and Shadow Parliamentary Secretary for Climate Action
Senator Simon Birmingham

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

Shadow Parliamentary Secretary for Defence
Mr Stuart Robert MP

Shadow Parliamentary Secretary for Regional Health Services, Health and Wellbeing
Dr Andrew Southcott MP

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

Shadow Parliamentary Secretary for Families, Housing and Human Services and Shadow Parliamentary Secretary for Citizenship
Senator Gary Humphries

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

**WEDNESDAY, 3 FEBRUARY**

**Chamber**

National Security Legislation Monitor Bill 2009 [2010]—
- Second Reading ................................................................. 209
- In Committee ...................................................................... 211
- Third Reading .................................................................... 225

Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009—
- Second Reading .................................................................. 225

Matters of Public Interest—
- Ovarian Cancer .................................................................. 254
- Veterans Affairs ................................................................... 257
- Green Loans Program ....................................................... 260
- Health ................................................................................ 264
- Assyrian Community .............................................................. 266

Ministerial Arrangements ....................................................... 269

Questions Without Notice—
- Climate Change .................................................................. 269

Distinguished Visitors ............................................................. 271

Questions Without Notice—
- Economy ........................................................................... 272
- Emissions Trading Scheme ................................................. 273
- Green Loans Program ....................................................... 275
- Asylum Seekers .................................................................. 276
- Economy ........................................................................... 277
- Indigenous People ................................................................. 279
- Grocery Prices ................................................................. 281
- Workplace Relations ............................................................. 282

Questions Without Notice: Take Note of Answers—
- Workplace Relations ............................................................. 284
- Green Loans Program ....................................................... 290

Notices—
- Presentation ........................................................................ 291
- Postponement ..................................................................... 292

Export Finance and Insurance Corporation—
- Order ................................................................................. 292

Committees—
- Economics References Committee—Reference .................... 292
- Death Penalty In China ..................................................... 293
- Tamil Asylum Seekers .............................................................. 295
- Boobook Declaration and Biodiversity Protection .................... 295
- World Wetlands Day .............................................................. 297

Committees—
- Order ................................................................................. 298

Committees—
- Economics References Committee—Meeting ....................... 299
- Regional and Remote Indigenous Communities Committee—Extension of Time .......... 299
- Environment, Communications and the Arts References Committee—Extension of Time .......... 299
- Renewable Energy Certificates ................................................. 299
CONTENTS—continued

Green Loans Program ............................................................................................................ 300
World Wetlands Day ............................................................................................................. 301
Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2010—
  First Reading .................................................................................................................. 301
  Second Reading ............................................................................................................. 301
Matters of Public Importance—
  Climate Change ............................................................................................................ 302
Afghanistan ....................................................................................................................... 315
Committees—
  Scrutiny of Bills Committee—Report ........................................................................... 315
  Economics Legislation Committee—Report .................................................................... 316
Ministerial Statements—
  Nation Building and Jobs Plan ..................................................................................... 317
Documents—
  Work of Committees ..................................................................................................... 320
Auditor-General’s Reports—
  Report No. 20 of 2009-10 ............................................................................................. 320
Documents—
  Renal Health Services .................................................................................................. 328
Asylum Seekers—
  Return To Order .......................................................................................................... 332
Committees—
  Membership .................................................................................................................. 334
Education Services for Overseas Students Amendment (Re-registration of
Providers and Other Measures) Bill 2009—
  Second Reading ............................................................................................................. 334
  In Committee ................................................................................................................ 336
Documents—
  Consideration ................................................................................................................. 342
Adjournment—
  Economy ....................................................................................................................... 342
  Health ............................................................................................................................ 344
  Burma ............................................................................................................................. 347
  Mr Peter Wood ............................................................................................................. 349
Documents—
  Tabling ........................................................................................................................... 351
  Tabling ........................................................................................................................... 352
  Departmental and Agency Appointments and Vacancies ............................................. 353
  Departmental and Agency Grants .................................................................................. 353
Questions on Notice
  Prime Minister and Cabinet: Legal Advice—(Question No. 2321) .............................. 354
  Foreign Affairs and Trade: Legal Advice—(Question Nos 2328 and 2329) .............. 358
  Finance and Deregulation: Legal Advice—(Question No. 2332) ............................. 360
  Innovation, Industry, Science and Research: Legal Advice—(Question No. 2335) .... 363
  Attorney-General, and Home Affairs: Legal Advice—(Question Nos 2338 and 2348) ... 364
  Special Minister of State: Legal Advice—(Question No. 2339) ................................. 367
  Human Services: Legal Advice—(Question No. 2343) .............................................. 367
  Small Business, Independent Contractors and the Service Economy: Legal Advice—(Question No. 2351) ................................................................. 368
  Mongolia—(Question No. 2372) .................................................................................. 368
CONTENTS—continued

Mongolia—(Question No. 2373) ................................................................. 369
Environment—(Question No. 2375) .......................................................... 370
Aged Care—(Question No. 2378) ............................................................... 371
Australia Post—(Question No. 2379) ....................................................... 371
Aged Care—(Question No. 2380) ............................................................... 373
Aged Care—(Question No. 2381) ............................................................... 374
Aged Care—(Question No. 2382) ............................................................... 374
Commonwealth Scientific and Industrial Research Organisation—(Question
No. 2387) ........................................................................................................ 375
Australian Bureau of Statistics—(Question No. 2388) .......................... 376
Prime Minister and Cabinet: Delegations—(Question No. 2390) .......... 377
Immigration and Citizenship: Retirement Visas—(Question No. 2391) .... 378
Health and Ageing: Elective Surgery—(Question No. 2392) ................. 379
Therapeutic Goods Administration—(Question No. 2395) ................... 381
Immigration and Citizenship—(Question No. 2398) .............................. 385
Aged Care—(Question No. 2399) ............................................................... 410
Swine Influenza—(Question No. 2401) ..................................................... 411
Aged Care—(Question No. 2404) ............................................................... 412
Consumer Policy Framework—(Question Nos 2405 and 2406) ............ 414
The PRESIDENT (Senator the Hon. John Hogg) took the chair at 9.30 am and read prayers.

NATIONAL SECURITY LEGISLATION MONITOR BILL 2009 [2010]
Second Reading

Debate resumed from 2 February, on motion by Senator Wong:

That this bill be now read a second time.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.31 am)—I take it that no other senators are going to contribute to the second reading debate on the National Security Legislation Monitor Bill 2009 [2010], so I will sum up. To all those who contributed to the debate I would like to extend a thank you. I would particularly like to thank the members of the Senate Finance and Public Administration Legislation Committee, who conducted an inquiry into the bill in September last year. The report of that inquiry contains many important recommendations. I thank the committee for their work. Shortly I will go into more detail about some of the amendments to the bill that they have suggested.

First, it might be more worthwhile to go to the purpose of the bill. Since 2001 a number of incidents have served to remind us that Australia is not immune to threats of terrorism. Terrorism is a heinous crime and the consequences of a terrorist attack in Australia are likely to be severe, should they occur. Accordingly, Australia now has a highly developed legal framework reflecting the seriousness of terrorism related activity. This framework is and must remain a key component in Australia’s counterterrorism strategy. This legal framework provides Australian law enforcement and intelligence agencies with the appropriate tools to deter, investigate, apprehend and prosecute the perpetrators of terrorism and other threats to national security.

Australia has moved beyond the immediate response phase to the threat of terrorism, following the attacks on 11 September 2001. The government is committed to ensuring that this legal framework is robust enough to adapt to future events and development while incorporating appropriate review mechanisms to ensure the full suite of counterterrorism and national security laws remain necessary and effective. The government recognises the importance of counterterrorism and protecting the rights of all Australians at the same time. Since 2006 a number of inquiries into different aspects of terrorism and national security legislation have recommended the introduction of an independent reviewer to provide comprehensive and ongoing oversight. In a December 2006 report the Parliamentary Joint Committee on Intelligence and Security observed:

The Independent Reviewer, if adopted, will provide valuable reporting to the Parliament and help to maintain public confidence in Australia’s specialist terrorism laws.

More recently, the Hon. John Clarke QC, in his November 2008 report on the case of Dr Mohamed Haneef, recommended that consideration be given to the appointment of an independent reviewer of Commonwealth counterterrorism law. The Clarke report supported:

...the notion of ensuring that the system is balanced between the need to endeavour to prevent terrorism and the need to protect an individual’s rights and liberties. An independent reviewer could play an important part in striking this necessary balance.

As Senator Brandis described in his speech in the second reading debate, this notion of an independent reviewer of security legislation was reflected in a private senator’s bill sponsored by Senators Troeth and
Humphries and introduced in the Senate in June 2008. An identical bill was also introduced in the House by Mr Georgiou. In October 2008 the Senate Legal and Constitutional Affairs Legislation Committee reported on its inquiry into the private senators’ bill, the Independent Reviewer of Terrorism Laws Bill 2008 [No. 2]. The bill sought to establish an independent reviewer to ensure ongoing and integrated review of the operation, effectiveness and implication of Australia’s terrorism laws. In brief, the committee gave in-principle support to the bill and made five recommendations about possible amendments to the bill. A range of amendments were made and the bill was passed in the Senate on 13 November 2008. It was introduced in the House of Representatives on 24 November 2008.

In many respects, the bill we are considering today reflects the considerable work of both the joint and the Senate committees in drawing attention to and developing proposals to fix a gap in the security legislation identified by both committees, as well as independent reviews of counterterrorism legislation since 2001. I recognise the work of my Senate and House colleagues from all parties on this important issue. To a great extent the bill is the fruit of a properly functioning parliament working at its best. For the bill to succeed it does require the support of the executive in the system of government we have. The previous government was unwilling to provide that support. But where that government was unable or unwilling to act, this government is not.

The bill before us implements the decision announced by the government on 23 December 2008 to establish Australia’s first ever independent reviewer of counterterrorism and national security laws, to be called the National Security Legislation Monitor. It is a significant new position and reflects the times we are living in, where we face the threat of terrorism and where we need laws in place to deal with this threat.

The main purpose of the bill is to ensure that the laws operate in an effective and accountable manner and are consistent with our international obligations, including both human rights and security obligations, and contain appropriate safeguards for protecting individual rights and helping to maintain public confidence in those laws. The role of the monitor will be to review annually the counterterrorism and national security legislation which has been used or considered during the reporting year. As part of this review, the monitor will examine the operation, effectiveness and implications of the legislation and report his or her comments, findings and recommendations to the Prime Minister and, in turn, parliament on an annual basis. As well, the monitor must consider whether Australia’s counterterrorism and national security legislation remains necessary and contains appropriate safeguards for protecting individuals’ rights. The monitor has been given suitable powers to ensure he or she can conduct a thorough review of the legislation.

The government recognises the work performed by the Finance and Public Administration Legislation Committee on the bill. We have taken on board many suggestions made in its report and made amendments to this effect. The committee received evidence from a variety of organisations. The majority of evidence received supported the establishment of the monitor as an important office for improving the operation of terrorism and national security legislation. Typical were the comments made on this by the Federation of Community Legal Centres in Victoria. The federation welcomed the proposal to establish a national security legislation monitor due to the fact that:

The counter-terrorism laws are extraordinary and it is imperative whilst they are in place that they
are subject to regular, comprehensive and independent review.

The evidence the committee heard can broadly be grouped into the following headings: ‘the independence of the monitor’, ‘the review referral mechanism’ and ‘the matters to which the monitor must have regard when reviewing legislation and the monitor’s reporting requirements’.

There are some key changes that are worth mentioning which result from the committee’s work. One of the important changes is that the title of the bill will now be the Independent National Security Legislation Monitor Bill. Naturally all references to the monitor contained within the bill will also change to include the word ‘independent’. This change highlights the independent nature of the monitor’s role. The monitor’s functions will be expanded to now explicitly require the monitor to assess whether the legislation being reviewed remains necessary and proportionate to the threat of terrorism and threats to national security.

The monitor’s reporting requirements will also expand to allow the monitor to include in the annual report, as appropriate, referrals from the Prime Minister. For example, the monitor may include how many times the Prime Minister referred a matter to the monitor and what those references related to. Of course, any sensitive information will be excluded from the unclassified version of the annual report, much like the annual reports of the Inspector-General of Intelligence and Security.

The Parliamentary Joint Committee on Intelligence and Security will be able to refer matters relating to Australia’s counterterrorism and national security legislation to the monitor for the monitor to consider reviewing. Although not specified explicitly in the bill, there is nothing to prevent other interested parties referring matters to the monitor as well. The monitor could include in the annual report relevant information about these references.

There are also some minor changes which clarify existing provisions in the bill. The amendments make explicit that the monitor has the power to conduct inquiries on their own initiative into subjects within their functions. It is now made clear that the monitor may consult with the heads of statutory agencies such as the Privacy Commissioner and the Australian Human Rights Commissioner. The bill now also clarifies that Australia’s obligations under international agreements include human rights, counterterrorism and international security obligations.

To reiterate, the Independent National Security Legislation Monitor will ensure that the laws underpinning Australia’s counterterrorism and national security regime remain effective as the threats to Australian national interests evolve. At the same time, the impartial and independent monitor will make sure we strike the right balance between protecting our individual rights and liberties and preventing terrorism.

In conclusion, I would like to thank those who have contributed to the bill who have sought to genuinely improve the bill. The proposals in this bill reflect the government’s commitment to ensure that Australia has strong counterterrorism and national security laws that protect the security of Australia while preserving the values and freedoms that are part of the Australian way of life. I commend the work of the Senate. I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDLAM (Western Australia) (9.43 am)—Owing to the time commitments
of the coalition spokesperson on this matter, I want to move amendments out of the order in which they are listed on the running sheet. I seek leave to move Australian Greens amendments (15) to (18) together.

Leave granted.

Senator LUDLAM—I move:

(15) Clause 29, page 18 (after line 10), after sub-clause (2), insert:

(2A) If the National Security Legislation Monitor considers that the annual report contains information of the kind referred to in subsection (3), the Monitor must also prepare and give to the Prime Minister, at the same time as the annual report, a version of the report which does not contain that information (a declassified annual report).

(16) Clause 29, page 18 (line 11), omit “The annual report must not contain”, substitute “The information specified by this subsection is information of the following kind”.

(17) Clause 29, page 19 (lines 3 to 16), omit sub-clauses (4) to (7), substitute:

(4) In determining whether an annual report contains information of the kind referred to in subsection (3), the National Security Legislation Monitor may consult the responsible Minister or responsible Ministers concerned.

(5) The Prime Minister must cause a copy of:

(a) each annual report; or
(b) if a report contains information of the kind referred to in subsection 29(3)—the corresponding declassified report;

to be presented to each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.

(18) Clause 30, page 19 (after line 28), at the end of the clause, add:

(4) If the National Security Legislation Monitor considers that a report to the Prime Minister under subsection (1) or (3) contains information of the kind referred to in subsection 29(3), the Monitor must also prepare and give to the Prime Minister, at the same time as the report, a version of the report which does not contain that information (a declassified report).

(5) In determining whether a report contains information of the kind referred to in subsection 29(3), the National Security Legislation Monitor may consult the responsible Minister or responsible Ministers concerned.

(6) The Prime Minister must cause a copy of:

(a) each report under subsections (1) and (3); or
(b) if a report contains information of the kind referred to in subsection 29(3)—the corresponding declassified report;

to be presented to each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.

I did speak about the intent of this block of amendments yesterday in my speech on the second reading. They relate to the crucial issue of the reporting requirements of the monitor and what will actually make its way into the public domain as a result of the establishment of this office which, as I indicated yesterday, the Australian Greens certainly support.

Insufficient parliamentary debate and deliberation of the antiterrorism laws is one of the major contributing factors to the need for the creation of this office in the first place. The Greens believe that it is essential that the annual reports of the reviewer are provided to the parliament and not vetted in advance by ministers, including the Prime Minister. Such editing as is necessary to remove operationally sensitive information should be undertaken by the monitor’s office. We need to trust that this office will be competent to
undertake that sort of work. We are not in the business of exposing operationally sensitive information to the public domain. It is obviously not the intention here. But it should be the monitor rather than the executive that edits these reports prior to them being tabled in parliament. If we are to build public confidence in the independence of this reviewer, and if we are to believe that the government truly intends this office to be independent and we are to seriously consider and act upon their advice, then surely we can trust the judgment of this person appointed to consult so thoroughly and then to have judgment enough not to have to be vetted in the fashion proposed by the government.

There are a number of amendments here that relate not only to the tabling of the annual report but also crucially to the tabling of reports of individual investigations of the monitor. It was recognised by the unanimous report of the Senate Finance and Public Administration Legislation Committee, when we investigated this bill, that we could see nothing as a result of the annual work of this important office but a three-page photocopy of a report covered in white-out from the Prime Minister’s office. I am probably overstating the case a bit, but there is nothing at all preventing very little from making its way into the public domain as a result of the operation of this office.

This block of amendments effectively does two things. Firstly, it makes sure that the annual reporting obligations are coming directly from the office of the monitor rather than via the Prime Minister’s office and, secondly, it makes sure that the operational reports of the monitor, also in similarly edited fashion with operationally sensitive matters removed, are tabled in parliament. It is absolutely essential that, at the very minimum, these reporting obligations are placed on the monitor so that we can have confidence in the work that is being undertaken. I commend Australian Greens amendments (15) to (18), at the bottom of the running sheet, to the chamber.

Senator BRANDIS (Queensland) (9.47 am)—The opposition supports Greens amendments (15) to (18). The essential difference between the bill introduced into this chamber by Senator Troeth and Senator Humphries last year and the bill in the form in which it arrives in the chamber now in the hands of the government is the extent to which this statutory officer is a creature of the parliament and an officer whose function is one of report and advice to the parliament. In the form that the government’s bill originally took, the officer would be an officer who reported to the Prime Minister. The government has conceded, after the Senate Finance and Public Administration Legislation Committee reviewed the matter, that there should be some limited reporting function to the parliament as well. But, at the moment, that is only the annual report.

Under section 7 of the act when it is enacted, one of the most important functions of the National Security Legislation Monitor is to deal with matters referred to him by the Prime Minister either at the monitor’s suggestion or on his or her own initiative. Reports on references under section 7 of the act at the moment are not required to be tabled in the parliament. The monitor’s only reporting obligation is the annual reporting obligation. That seems to the opposition—we agree with Senator Ludlam in relation to this—to be a massive constraint on the parliament’s right to know and to inform itself of issues which the monitor might identify as being of concern. Remember what the purpose of this officer is. The purpose of this officer is to address from time to time the sufficiency, effectiveness and, if necessary, the potential for overreach of the legislation which is within his jurisdiction. So, peculiarly, this is
an officer whose conclusions will be something the parliament is interested in knowing.

For the reasons you, Mr Temporary Chairman Trood, so eloquently expressed yesterday afternoon, it is entirely appropriate and consistent with the philosophy and, indeed, the rationale of this legislation that the parliament be informed of the monitor’s conclusions on individual references, not merely be the recipient of an annual report as to his functions.

It will always be objected in cases like this that issues of operational sensitivity or national security cannot be ventilated in the public domain. This is an issue that arises in relation to all reporting by all national security agencies and it is simply dealt with by redacting from the report that is presented to parliament sensitive or operational material. The amendments (15) to (18) that Senator Ludlam, on behalf of the Australian Greens, has moved provide for that. If there is sensitive or national security information included in the report on a reference, then a redacted report will be produced to the parliament only. There is no issue of compromise to or imperilment of national security by these measures. This is the way the legislation in the United Kingdom works, which is the legislative model which has inspired this bill.

Mr Temporary Chairman, for the reasons expressed by Senator Ludlam and for the reasons expressed by you yesterday afternoon, the opposition is persuaded to agree with recommendation 12 of the unanimous report of the Senate Finance and Public Administration Legislation Committee on this legislation and to support these amendments.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.52 am)—It seems that in terms of these amendments from the Greens the numbers are not on my side and, in response, we will not be dividing on this issue. The government will take these amendments away and have a look at that particular issue. At this point in time what is vitally important is that we do get the monitor in place so that an independent monitor is there to ensure that the work can proceed. On that basis, rather than argue for or against the amendments, I would like to take the opportunity to have a better look at the provisions of these Greens amendments.

The Senate committee did a significant amount of work to ensure that this legislation met the approval of the Senate. On behalf of the government I did take on board many of the recommendations of the Senate committee to ensure that we could get the independent monitor up and running as soon as possible. I think it is a valuable role, to provide an overview of the antiterrorism legislation, particularly since that legislation has been in place for some time. It is a matter that was also raised during the initial inquiry under the previous government, in 2006—that there should be an independent monitor. So I will not get stuck on some of the detail. I understand the numbers in this place and I will take on board the suggestions by the Greens and have a second look at them to see if we can get everyone’s approval.

Question agreed to.

Senator LUDLAM (Western Australia) (9.54 am)—I thank Senator Brandis and the chair, Senator Trood, for working together with us on this one. I now move—again moving up the running sheet, if that is okay—Greens amendment (4) on sheet 5904:

(4) Clause 6, page 6 (line 22), at the end of subclause (1), add:

; and (e) to assess whether Australia’s counter-terrorism or national security legislation is being used for matters unrelated to terrorism and national security.
The amendment relates to the ability of the monitor to assess whether the laws are operating as they should, as they were intended to, or whether in fact some form of ‘scope creep’ is occurring—for example, permitting undue surveillance of legitimate and peaceful demonstrators. The secrecy that surrounds the operationalisation of these laws means that they are vulnerable to misuse and abuse. Government amendment (6) does actually insert the possibility for the reviewer to assess the proportionality and necessity of the laws, and we appreciate the government moving that amendment; we will be supporting them. The Greens believe that there is merit in including explicit reference to the possibility of laws being used for matters unrelated to terrorism.

Senators will have heard me refer to these sorts of matters in the chamber and also in estimates committees. It is not simply a preoccupation with the defence of climate change activists or peace activists and so on, although obviously they are causes very dear to my heart. It is about looking at it from the point of view of these agencies which are provided with enormous budgets and operating capacity to protect Australians from violent crime and from attacks by international terrorist organisations. I am very concerned that these agencies not waste their time, effectively, following around people who may or may not have a banner in their backpack. This is something that I took up with the ASIO Director-General, who did not realise that operatives of ASIO were following around climate change protesters who were dropping banners. They were not even trespassing but outside power stations. It is with regard to that kind of waste of resources that we can give the monitor a useful role in assessing whether this kind of scope creep is occurring—whether these antiterrorism laws are being used for purposes other than those for which they were intended. It is a very simple amendment, inserting some language to effectively make sure that the counterterrorism or national security legislation is not being used for matters unrelated to terrorism and national security. I commend this amendment to the Senate.

Senator BRANDIS (Queensland) (9.57 am)—The opposition support this amendment. It seems to us to flow logically from the scheme of clause 6 of the bill, given that the rationale for the establishment of this officer is to keep an eye on the operation and effectiveness of counterterrorism legislation and national security legislation. One of the matters which the legislation requires the officer to always have in mind is the question or the possibility of overreach, so amendment (4) proposed by the Greens seems to us to be entirely within that purpose—that is, whether the legislation is being used for an inappropriate or collateral purpose. I suspect it probably was not necessary to spell this out, given the amplitude of the language of clause 6(1) of the bill. Nevertheless, to make it clear that this is one of the purposes for which this officer is created by this legislation, the opposition sees the sense in having this spelt out specifically in the act.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.58 am)—It does seem we are having a difficulty today with the numbers in this place! The proposed provision, as in sub-clause (e), could be somewhat dependent on Greens amendment (3), but—

Senator Brandis—It may well have to be renumbered.

Senator LUDWIG—Yes, it may very well be. Senator Brandis makes a very good suggestion that it may need to be renumbered. In any case, from the government’s perspective, the spirit of the Greens amendment has been picked up by government amendment (6) relating to proportionality, as
recommended by the Senate committee at recommendation 11 of its report, which in the government’s view renders this test redundant. But I do recognise that, with the support of the opposition, it is going to be a difficult matter. I will not call a division on this. As I have indicated, the government is keen to get the independent monitor in place; it has a valuable role. I will have another look at that particular issue as well.

Question agreed to.

Senator LUDLAM (Western Australia) (10.00 am)—Mr Temporary Chairman, I am seeking your guidance. Those were the amendments I was seeking to have dealt with out of order. Do you want us to return to the top of the running sheet and work our way down? If that is the case, we will move to government amendments, otherwise I will keep moving through our amendments.

Senator BRANDIS (Queensland) (10.00 am)—If it assists the committee, I indicate that the Greens amendments which have been passed with the support of the opposition so far are the only Greens amendments which the opposition will be supporting. We will be, I assume, joining with the government in opposing the balance of the Australian Greens amendments. Whether that has consequences in terms of the running of the committee for the taking of the government amendments before the balance of the Greens amendments I am not sure, but I indicate that that is the opposition’s mind in relation to the balance of the Greens amendments.

The TEMPORARY CHAIRMAN (Senator Trood)—Thank you, Senator Brandis. It seems to me that we ought to proceed in order. We will start at the top of the sheet. I call the minister to move the government amendments.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.01 am)—What I might do is speak to all of the government amendments in the interests of time and then have them dealt with separately if that is permissible by the Chair. So, rather than seek leave to have them dealt with all together, I will talk to them all and then we can put them separately and see how they run from there.

Government amendments (1) to (10) on sheet BD213 that deal with clauses 3 and 8 make it clear that Australia’s national security legislation is consistent with both Australia’s human rights obligations and our international security and counterterrorism obligations. I think this is a matter that Senator Trood did raise. Perhaps in part rebuttal to Senator Trood’s contribution on this point in the second reading debate—Mr Temporary Chairman Trood, you might be interested in this—our security as a nation depends in part on cooperation and information sharing with our allies around the world and a multilateral approach to globalised threats such as terrorism, money laundering, drug trafficking and people smuggling. It also depends on the application of justice and the rule of law and a harmonious society at home that can only be secured by respect for liberty and the rights of the individual. The government believes our international commitments in these regards are worth consideration in any worthwhile objective assessment of the law. The alternative is to apply a somewhat blinkered approach, assessing our laws in blissful ignorance of the transnational context that in fact does exist across the globe in many of the areas that I have mentioned.

Amendment (1) implements recommendation 10 of the committee’s report. It makes clear that the monitor will ensure that Australia’s national security legislation is consistent with both Australia’s human rights obligations and our international security and counterterrorism obligations. Amendment (10)
also implements recommendation 10 of the committee’s report and clarifies that Australia’s obligations under international agreements include human rights, counterterrorism and international security obligations.

In addition, government amendments (2), (5) to (9), (14) and (15) relate to functions of the monitor specifically. Amendment (2) on sheet BD213 inserts the proposed definition of the ‘Committee on Intelligence and Security’ to mean the joint parliamentary standing committee of that name established under the Intelligence Services Act 2001. Amendment (5) on sheet BD213 implements recommendations 5 and 7 of the committee’s report and makes explicit that the monitor has the power to conduct inquiries on his or her own initiative on subjects within his or her function. It is a belt and braces approach but it ensures that it is clear for the monitor to operate on.

Amendment (6) implements recommendations 5 and 11 of the committee’s report. It allows Australia’s counterterrorism and national security legislation and any other law of the Commonwealth to the extent that it relates to these laws to be assessed against the principle of proportionality. This ensures the monitor can assess on his or her own initiative whether the legislation being reviewed remains proportionate to the threat of terrorism and the threats to national security as well as whether the legislation remains necessary. Amendment (7) implements recommendation 6 of the committee’s report. It makes clear that the monitor could perform his or her function if the parliamentary Joint Standing Committee on Intelligence and Security refers matters relating to Australia’s counterterrorism and national security legislation to the monitor.

Amendment (8) amends the heading to clause 7 to make it clear that this clause refers to references by the Prime Minister to the monitor. Amendment (9) also implements recommendation 6 of the committee’s report. It provides that the parliamentary committee may refer matters that it becomes aware of in the performance of its functions to the monitor and the monitor can consider reviewing. It provides that it would be a function of the committee to refer relevant matters to the monitor. The monitor would retain, of course, discretion over his or her work. The monitor would be able to report on the PJCIS reference in the annual report. It is worth considering that the committee does have and can play a very important role in this. It is a significant role that is being asked of them. I do expect that they will meet that well.

Amendment (14) replaces the heading to clause 30 to make it clear that this report relates to references made by the committee. Amendment (15) makes explicit that the monitor must report to the Prime Minister on a reference made by the committee.

If we are following the running sheet, I have now dealt with the first and second government amendments and the Greens have the next three on the running sheet. It depends whether any of those are subject to the next three government amendments. If they are not, I will continue. I may need advice from the Clerk as to whether we should stop at that part and deal with those now and then proceed further. I could take a nod from the clerk or the chair.

The TEMPORARY CHAIRMAN (Senator Trood)—Minister, I think it is preferable to deal with this group of your amendments now. I understand you have an explanatory memorandum, which you might care to table.

Senator LUDWIG—by leave—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill, which was circulated in
the chamber on 19 November 2009, and move those amendments I have spoken to on sheet BD213:

(1) Clause 3, page 2 (lines 12 and 13), omit paragraph (c), substitute:

(c) is consistent with Australia’s international obligations, including:

(i) human rights obligations; and

(ii) counter-terrorism obligations; and

(iii) international security obligations; and

(2) Clause 4, page 2 (before line 18), before the definition of counter-terrorism and national security legislation, insert:

Committee on Intelligence and Security means the Parliamentary Joint Committee on Intelligence and Security established under the Intelligence Services Act 2001.

(5) Clause 6, page 6 (line 9), after “review”, insert “, on his or her own initiative.”.

(6) Clause 6, page 6 (lines 15 to 19), omit paragraph (1)(b), substitute:

(b) to consider, on his or her own initiative, whether any legislation mentioned in paragraph (a):

(i) contains appropriate safeguards for protecting the rights of individuals; and

(ii) remains proportionate to any threat of terrorism or threat to national security, or both; and

(iii) remains necessary;

(7) Clause 6, page 6 (after line 22), after subclause (1), insert:

(1A) If a matter is referred to the National Security Legislation Monitor by the Committee on Intelligence and Security, the Monitor may perform the function set out in paragraph (1)(a) or (b) in relation to the matter.

(8) Heading to clause 7, page 7 (line 4), omit the heading, substitute:

7 References to the National Security Legislation Monitor by the Prime Minister

(9) Page 7 (after line 11), after clause 7, insert:

7A References to the National Security Legislation Monitor by the Committee on Intelligence and Security

(1) The Committee on Intelligence and Security may refer to the National Security Legislation Monitor a matter that the Committee:

(a) becomes aware of in the course of performing its functions under subsection 29(1) of the Intelligence Services Act 2001; and

(b) considers should be referred to the Monitor.

(2) It is a function of the Committee on Intelligence and Security to refer the matter to the National Security Legislation Monitor.

(10) Clause 8, page 7 (lines 16 and 17), omit paragraph (a), substitute:

(a) Australia’s obligations under international agreements (as in force from time to time), including:

(i) human rights obligations; and

(ii) counter-terrorism obligations; and

(iii) international security obligations; and

(14) Heading to clause 30, page 19 (line 19), omit the heading, substitute:

30 Report on a reference by the Prime Minister

(15) Clause 30, page 19 (line 21), at the end of subclause (1), add “made under section 7”.

Chair, I suggest we deal first with amendments (1) and (10), (2), (5) to (9) and (14) to (15).

Senator LUDLAM (Western Australia) (10.08 am)—Chair, I am just checking to see whether there is the opportunity to speak to these amendments.
The TEMPORARY CHAIRMAN—There is indeed, Senator Ludlam.

Senator LUDLAM—I would just like to indicate the Australian Greens support for the government amendments that have just been moved by Senator Ludwig. They arise I think entirely from the recommendations of the Senate Finance and Public Administration Legislation Committee inquiry, in which I participated. We believe that in some regards they do not go far enough to meeting the recommendations of the committee, but I will comment on those as we come to debate the Greens amendments that are further down the running sheet. But I would just like to indicate that I appreciate that the government sought to heed the work that that committee had done. It was valuable work. It incorporated feedback from some of the best minds in the country who have spent a lot of time thinking about or actually operating within this legal environment in the court system. I think the amendments that have come from the government do go some way towards fulfilling some of the unanimous recommendations that the committee made on the way through, so I just indicate at this point that we will be supporting these amendments.

The TEMPORARY CHAIRMAN (Senator Trood)—The question is that government amendments (1) and (10) on sheet BD213 and amendments (2), (5) to (9) and (14) and (15) on sheet BD213 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—Senator Ludlam, it might be convenient if you were to move the next group of amendments standing in your name.

Senator LUDLAM (Western Australia) (10.10 am)—by leave—I move Greens amendments (1) and (5) and (6) to (14) as they relate to essentially the same issues of the constitution of the monitor’s office:

(1) Clause 4, page 4 (lines 26 and 27), omit the definition of National Security Legislation Monitor, substitute:

National Security Legislation Monitor means:

(a) in Division 2 of Part 2, other than in subsection 11(1)—any one of the three members who constitute the panel appointed in accordance with section 11;

(b) elsewhere in this Act—the panel of three members appointed in accordance with section 11.

(5) Clause 11, page 9 (line 4), after “Monitor”, insert “is to comprise a panel of three members, each of whom”.

Amendments 6 to 14 are consequential upon amendments (1) and (5)

(6) Clause 11, page 9 (lines 7 to 14), omit “the National”, substitute “a National” (wherever occurring).

(7) Clauses 12, page 9 (lines 18 to 21), omit “The National”, substitute “Each National” (twice occurring).

(8) Clause 13, page 9 (line 24), omit “The”, substitute “Each”.

(9) Clause 13, page 9 (line 26), omit “the”, substitute “each”.

(10) Clause 13, page 9 (line 28), omit “The”, substitute “Each”.

(11) Clause 14, page 10 (line 4), omit “the”, substitute “each”.

(12) Clauses 15 to 18, page 10 (lines 8 to 22), omit “The National”, substitute “Each National” (wherever occurring).

(13) Clauses 19 and 20, page 11 (lines 2 to 24), omit “the National”, substitute “a National” (wherever occurring).

(14) Clause 20, page 11 (lines 26 to 28), omit “the Monitor”, substitute “a Monitor” (twice occurring).

What these amendments seek to do is act on recommendations that came through very strongly during the original inquiry of the legal and constitutional affairs committee.
into Senator Troeth’s private senator’s bill which I participated in and which foreshadowed the debate we are having now. During that inquiry it came through very strongly from a number of witnesses that, rather than a single part-time independent reviewer, what was required was a panel of three to create some diversity of opinion and background in the make-up of the office. The issue was discussed at great length. The conclusion that we came away with was that a diversity of experience on the panel would allow for a more rigorous process in what will actually be an arduous workload. We are tasking this office with an enormous workload of monitoring of past and ongoing law reform efforts in this crucial area of counter-terrorism legislation. We felt that a panel of three would be able to undertake this workload supported by a secretariat or a small staff much more effectively than, as is the government’s proposition, a single part-time officer.

The UK does have a single appointee in this role, but in my view the committee’s inquiry was provided with compelling reasons as to why we in Australia could improve on the UK model rather than just following it in every instance. I think there is less risk of the office of the monitor being perceived as an advocate for Commonwealth laws, which I think is really very important, if we get three reviewers with diverse backgrounds and relevant expertise. Given the number of new antiterrorism laws, the discussion paper that was tabled by the Attorney-General last year and the sheer number of these laws on the statute books, I think there is more than enough on which a panel of reviewers might report. If there were three reviewers I think their appointment could conceivably be part time, but, as I said during the second reading debate, a single part-time reviewer is more or less completely inadequate for the task at hand.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.13 am)—The Greens amendment proposes that a panel of three be appointed, as Senator Ludlam has argued. The role of the monitor as it currently stands in this bill means that a single-person monitor can operate flexibly to review legislation. The difficulty surrounding the role of a three-person monitor—although it would be a plural, I guess, as proposed by the Greens—is that it would add complexity and possible cost to the role in terms of coordination required for the role to operate successfully, and I think Senator Ludlam has not articulated particularly what the actual discernible benefit or improvement would be. Having three people in the role does not in and of itself add importance or prominence. It simply adds another two persons, which can add complexity and of course there is the question of how they would then operate as a three-person panel. None of that detail seems to have been made clear in the scheme proposed by the Greens.

I would also note that this proposal by the Greens was not canvassed in the report of the Finance and Public Administration Legislation Committee on the bill, even in the Greens’ additional comments. I stand to be corrected on that. It seems to have been a later thought. The difficulty around the scheme is that the panel cooperate by a majority verdict or unanimous court. We may end up finding split decisions and no mechanism within the legislation to deal with that eventuality. The idea of an independent monitor, following the work of the Sheller review and looking at experiences overseas—particularly from the UK—is that the force and prominence which a single person can bring to look at legislation comes with its own merit. The person should be clearly prominent, have the ability to operate flexibly and have the ability to examine legisla-
tion without the complicating factor of another two persons also doing similar work across the field.

The challenge in these amendments is that none of the detail is supplied. The Greens proposal in the current form is not in a fit state to be adopted in the Committee of the Whole and be genuinely workable, in the government’s view. The amendments would fundamentally alter the role and operation of the monitor and perhaps even the nature of their function as well. For these reasons, the government cannot support Greens amendments (6) to (14). In addition, it is always open for senators to push their wheelbarrow on certain issues in this chamber. I do think, upon reflection, Senator Ludlam, it is ill-considered. I do not mean to direct that at you personally. It is a matter that I think, upon reflection, you might not want to proceed with. But I will leave that with you.

Senator LUDLAM (Western Australia) (10.17 am)—It is interesting to hear an amendment referred to as a ‘wheelbarrow’. As I said in my opening comments, this was canvassed at quite a great deal of length during the original Standing Committee on Legal and Constitutional Affairs inquiry into Senator Troeth’s private senator’s bill. We moved these amendments partly, as I said in my comments before, for diversity of opinion and background but also, as I indicated, there is a resourcing question. We are tasking this to a part-time commissioner—who will undoubtedly be very well qualified but who will nonetheless be part time and have other unrelated responsibilities—with, I believe, two staff from within the Prime Minister’s department. Can the minister tell us what process the government or the Attorney has in mind for reviewing workload constraints on this office and whether he seriously believes that an office of this size will be able to undertake the functions that we are tasking it with, as we pass this legislation? The questions, to be a bit more direct, are these. How has the government assessed that an office of this size will be sufficient to undertake this work? What process of review do you expect to occur from time to time? What reporting will there be to the parliament as to whether this office actually has the resources that it needs?

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.18 am)—Perhaps the easiest way to explain this would be to refer to the independent inspector of intelligence, which currently operates in one such small office—if I could call it that—which acts in this area. It has reporting obligations. Clearly, within this proposed bill there are reporting obligations for the monitor. Also, there are annual reports and the budget process to deal with matters that might arise within the small office. Senator Ludlam, there are three estimates rounds a year, during which you can check how the monitor is operating in terms of their resourcing and how they are finding their work and their workload. I am sure that you will use that opportunity to engage with the monitor on those issues. Of course, as I indicated, the annual report and the budget process are the usual and normal processes of government to ensure that agencies—particularly small agencies or in this instance the monitor—are properly resourced. The bill does provide the appropriate framework for the monitor to operate within, and the government is satisfied that the monitor will be able to competently and effectively carry out the tasks that have been provided to the monitor.

Senator LUDLAM (Western Australia) (10.20 am)—Minister—through you, Chair—you can be very confident that I will be pursuing those matters exactly during estimates committee hearings and through other avenues that are available. I wonder, before we put these amendments, whether
you can confirm for us that the monitor will in fact be able to be present during estimates hearings or whether it is envisaged that he or she will be represented by an officer of the department.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.20 am)—I think the short answer is yes. Question negatived.

Senator LUDLAM (Western Australia) (10.21 am)—by leave—I move Greens amendments (2) and (3) on sheet 5904 together:

(2) Clause 6, page 6 (line 19), at the end of paragraph (1)(b), add:

and (iii) is consistent with Australia’s international obligations, including human rights obligations;

(3) Clause 6, page 6 (line 22), at the end of sub-clause (1), add:

; and (d) if a matter relating to Australia’s counter-terrorism or national security legislation is referred to the Monitor by the Australian Human Rights Commissioner—

to report on the reference.

These amendments relate to an issue we have touched on already this morning, going to how the monitor relates to our human rights obligations internationally. I would like to acknowledge that the government has come some way towards meeting the recommendations of the committee. There has been very strong evidence put forward that—as I think the minister put it, to paraphrase—we cannot assess the way these laws are operating in a bubble or in isolation from the obligations that Australia has under international human rights instruments. It is extremely important that these laws are benchmarked against exactly those obligations. One longstanding criticism of the way antiterrorism legislation works in Australia, given the diversity of the different statutes that are involved, is that it is entirely in some form offensive to our human rights obligations. It is inconsistent in many regards. That is part of the reason why people have expressed such longstanding concerns about the operation of the laws.

With due recognition of the fact that the government has come some way towards meeting these concerns, I am moving these amendments to ensure that the bill accords with one of the amendments to Senator Troeth’s bill of 2008 and a principle that was supported very strongly through two committee inquiry processes to date, which is that these laws are not merely in the objects that the government has proposed or in the amendments we have just supported but that the functions of the review contain explicit reference to Australia’s human rights obligations.

Greens amendment (3) provides for the Human Rights Commissioner to be able to make references to the monitor. I think the way the government sees it is that those references are inappropriate and that in fact the monitor is welcome to consult with the Human Rights Commissioner as, I suppose, he or she is welcome to consult with anybody. We think that, as references can come from the Parliamentary Joint Committee on Intelligence and Security or from the Prime Minister’s office, given the importance of human rights in these matters, the monitor should be able to receive a reference from the Human Rights Commissioner.

So we are not seeking to do anything really outside the existing ambit of the monitor but merely to provide one further avenue of matters to be raised and brought to the monitor’s attention. Given the Human Rights Commissioner’s expertise in these sorts of matters, we felt that they should be utilised to the full. That is the intention of those two amendments.
Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.24 am)—The government does, surprisingly, support the intention of the Greens amendments, although I say very early that we are not going to support the two amendments. Amendments (1) and (10) having been moved by the government earlier this morning make these amendments a little moot, but to the extent that we have included not only the national human rights obligations but also our international security and counterterrorism obligations within the legislation it would be unbalanced to consider only one set of obligations and not the other. So the government has made provision for both.

As the amendments before us address only one half of the equation, the government does prefer its own amendment. I think you would be taking away one-half of all of our obligations if we were to support this amendment but, in moving these amendments, you do recognise that there are not only human rights obligations but also international security and counterterrorism obligations. With that, we prefer our amendment.

Amendment (3) means that the monitor could take references from the Human Rights Commissioner. The government amendments on this matter are in fact wider than those suggested by the Greens and present a more complete description of those the monitor can consult with. So the government remains resolute in supporting its amendments. We do not support the Greens amendments, although I think we are talking about the same principles.

Question negatived.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.26 am)—by leave—I move amendments (11), (12) and (13) on sheet BD213:

(11) Clause 10, page 8 (lines 13 and 14), omit paragraph (2)(a).

(12) Clause 10, page 8 (after line 16), after paragraph (2)(c), insert:

(ca) the Human Rights Commissioner; or
(cb) the Privacy Commissioner; or
(cc) the head of an agency established by a law of the Commonwealth or of a State or Territory; or

(13) Clause 29, page 18 (lines 4 to 7), omit sub-clause (1), substitute:

(1) The National Security Legislation Monitor must prepare and give to the Prime Minister a report (an annual report):

(a) relating to the performance of the Monitor’s functions as set out in paragraphs 6(1)(a) and (b); and
(b) containing such details relating to the performance of the Monitor’s function as set out in paragraph 6(1)(c) as the Monitor considers appropriate.

I will speak to the government’s amendments (11) and (12) to clause 10 and also to government amendment (13), which relates to clause 29, but they may need to be put separately. The consequential amendment to amendment (10) will omit paragraph (2)(a) of clause 10. Amendment (12) on sheet BD213 implements recommendation 9 of the committee’s report. It makes clear that the monitor may consult with the heads of any statutory agencies established under Commonwealth and state and territory laws, such as the Privacy Commissioner and the Australian Human Rights Commissioner.

Government amendment (13)—annual report—implements recommendation 12 of the committee’s report and expands the reporting requirements to require that the monitor include references from the Prime Minister in the annual report as the monitor considers appropriate. Any sensitive information would
be excluded from the unclassified version of the report, as I mentioned earlier.

Senator LUDLAM (Western Australia) (10.28 am)—I just briefly indicate the support of the Australian Greens for the amendments that have just been moved by the Special Minister of State. As he says, they arise more or less directly from the recommendations of the committee after a lot of deliberations. They certainly saved us some work, because I was anticipating having to draft these myself. They are appreciated and we will be supporting them.

Question agreed to.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.28 am)—by leave—I move amendments (3), (4), (16), (17), (18) and (19) and also amendment (20) on sheet BD213 relating to the long title of the bill:

(3) Clause 4, page 4 (after line 6), after the definition of head, insert:
National Security Legislation Monitor means the person appointed in accordance with section 11.

(4) Clause 4, page 4 (lines 26 and 27), omit the definition of National Security Legislation Monitor.

(16) Clause 3, page 2 (line 4), omit “a”, substitute “an”.

(17) Clause 5, page 6 (line 5), omit “a”, substitute “an”.

(18) Clause 8, page 7 (line 14), before “National Security Legislation Monitor’s”, insert “Independent”.

(19) Part 1 to Part 5, page 1 (line 5) to page 20 (line 15), before “National Security Legislation Monitor” (wherever occurring), insert “Independent”.

(20) Title, page 1 (line 2), omit “a National”, substitute “an Independent National”.

These amendments implement recommendation 2 of the committee’s report, changing the title of the bill which will now be called the Independent National Security Legislation Monitor Act. It is there in order to highlight the independent nature of the monitor’s role.

I do not accept the argument that locating an independent reviewer within the Prime Minister’s portfolio will compromise the monitor’s independence anymore so. In fact, the Inspector-General of Intelligence and Security is presently within that portfolio and no-one would consider that its role is anything other than independent of government. Amendments (3), (4) and (16) to (20) on sheet BD213 are consequential amendments as a result of the name change of the monitor to ‘Independent National Security Monitor’ and as such are uncontroversial. They implement recommendation 3 of the committee’s report. Government amendment (20) deals with the annual report. This amendment of the long title of the bill is in accordance with the amendments we have presently discussed.

Senator LUDLAM (Western Australia) (10.30 am)—The Greens will be supporting these amendments. They do reflect the unanimous will of the committee and the many witnesses who presented evidence, and we appreciate that the government has taken them up.

Question agreed to.

The TEMPORARY CHAIRMAN (Senator Crossin)—Senator Ludlam, this means your amendment (19) will now lapse.

Senator LUDLAM (Western Australia) (10.31 am)—That is correct. We will withdraw amendment (19) in recognition that the government has taken up that recommendation. We felt it was important to ensure that the word ‘independent’ was included in the title of the monitor. I believe that, with the amendments the government has been persuaded to pass by the work of the committee and with the amendments that have been
Wednesday, 3 February 2010

proposed and passed by the Senate with the support of the Greens and coalition senators, we will actually introduce real independence into the functions of the office. I very much look forward to this bill passing into law and to seeing this office up and running.

Bill, as amended, agreed to.

Bill reported with an amendment; report adopted.

Third Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (10.32 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT (RE-REGISTRATION OF PROVIDERS AND OTHER MEASURES) BILL 2009

Second Reading

Debate resumed from 26 October 2009, on motion by Senator Wong:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (10.33 am)—We are debating the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009 in the wake of yet another collapse of a private training college servicing overseas students. This follows a number of closures and a series of other training college related controversies throughout 2009. Indeed, it is fair to say that, under the Rudd Labor government’s watch, the situation with our private international training colleges has really turned into a very unsatisfactory situation which is seriously impacting on our reputation overseas and on thousands of overseas students who find themselves stranded across Australia in the context of some of these closures.

It is a very unsatisfactory circumstance which, all the way back in August last year, the Deputy Prime Minister, Julia Gillard, said she had a plan to do something about. Two days before she announced her visit to India, where she went to have talks with various organisations and the Indian government, she rushed this legislation into the parliament, only to have it linger here for the last six or seven months. There has been absolutely no progress on this legislation for six or seven months, even though the minister very quickly got this legislation introduced so that she could put out a press release and tell the world how she was going to meet with the Indian government and discuss with them the Rudd government’s ‘recent moves’ to improve the quality of education for overseas students in Australia—very recent indeed. This was to include the re-registration of education providers for overseas students and the review of the act which was undertaken by the Hon. Bruce Baird and the international students roundtable in September.

The closure of a college on Monday this week, according to reports, has resulted in more than 2,300 students across Australia finding themselves stranded. Imagine students from Switzerland, Brazil, Colombia, Italy, Germany and France phoning their parents and friends to tell them what it is like to attend an English language training college in Australia. There is no guarantee—even though you have paid $10,000 and paid for accommodation and even though Australia has a reputation as a serious and reliable country. All of a sudden they find themselves facing eviction from their accommodation and no access to the training they have purchased. We have had this legislation lingering in the parliament since August last year. Clearly, the government did not give this sufficient priority; otherwise, the processes
that are to be put in place by this legislation could be well underway by now.

This is an important, albeit long overdue, bill. The coalition does intend to support it with amendments which we believe will improve the bill. In its current form we do not believe it will achieve the objectives that the government says it is trying to achieve with this particular legislation. I note that as a result of the speed with which the bill was introduced, even though it has progressed very slowly since then, there was very minimal consultation by the minister. Considering that re-registration will be carried out by state training authorities, we are somewhat surprised that there was no meaningful consultation with state training authorities to ensure that all of the ducks were properly lined up and that all the i’s were dotted and the t’s crossed. But that is what we have come to expect from this government.

It is important to remind ourselves that we are talking about Australia’s third-largest export industry—$15.5 billion in export revenue—and our largest services industry export. There is clearly much at stake: both the tangible benefits that Australia receives through sharing its educational expertise and the less tangible benefits such as improving its reputation as a quality source of education services. A Senate inquiry canvassed some of the issues that need to be addressed in relation to the quality of providers and to student safety and support networks, as well as to some of the immigration related issues. I commend the Senate Education, Employment and Workplace Relations Legislation Committee on the quality of that report.

This bill goes some way towards addressing the concerns I have just raised, but not as comprehensively as we on this side of the chamber would like; hence the amendments that we have previously circulated, which aim to give more substance to the government’s response. This bill focuses on education providers— institutions that are registered on the Commonwealth Register of Institutions and Courses for Overseas Students. They will have to be re-registered by 31 December 2010. Those re-registered providers will also be required to list the names of their agents and to ensure that those agents comply with regulations relating to them and their conduct. It is a good start, but we think that we will be coming back into this chamber, having these discussions from time to time as problems like the one we experienced earlier this week play themselves out across Australia. What we need is a more serious and more long-term rethink, rather than just another ‘quick, slow fix’. There is, of course, an inherent tension between jurisdictions: between the federal regulation and oversight of migration matters and the state regulation and oversight of institutions of higher learning. Perhaps that is a subject for some rethinking and reform down the line. As often happens, the two branches of government do not necessarily have the same objectives and as a result we have to make do with uneasy compromises and try our best to balance those competing interests. In addition, both the Commonwealth and the states share some responsibilities regarding the quality control, regulation and oversight of those institutions. Until such time as these jurisdictional issues are properly resolved in a more comprehensive and logical manner we have to make do with a piecemeal and ad hoc process of reform.

The coalition will offer two amendments to this bill. Firstly, we will seek to enshrine risk management principles in the legislation, thus pushing the states to commit to a more vigorous auditing regime during the re-registration process. These risk management principles ought to include a focus on the financials of the various education facilities. The process has to look at factors such as the
accreditation level of the staff employed, the length of operation of the various providers and so on. Secondly, we note the Greens’ foreshadowed second reading amendment, which we intend to support in part, which sets out the prioritisation with which some of the re-registration process ought to happen. Clearly, there ought to be a prioritisation of the process of re-registering providers. Essentially, re-registration ought to happen with particular regard to where:

(i) the provider has a high proportion of students from a single country;
(ii) the provider offers only a limited number of education programs;
(iii) the provider has had a rapid increase in enrolments in the recent past;
(iv) the provider has previously breached the national code;
(v) there is a history of visa fraud in relation to student visa applications relating to the provider’s education programs ...

We support that. The reality is that some education providers are attracting students not so much for the education outcome but for the migration outcome that their students might seek to achieve. That is not a satisfactory situation and that is something that will need to be addressed moving forward.

Something that we are very concerned about on this side of the chamber, and which I hope the government is going to address in its second reading reply, relates to the Education Services for Overseas Students Assurance Fund. When there is a collapse such as we experienced again earlier this week—the latest in a series of collapses that have happened on the Rudd government’s watch—then the ESOS Assurance Fund that has been established under section 46 of the Education Services for Overseas Students Act should:

... protect the interests of overseas students and intending overseas students of registered providers by ensuring that the students are provided with suitable alternative courses, or have their course money refunded, if the provider cannot provide the courses that the students have paid for.

Now, the ESOS Assurance Fund is a very secretive fund. It is very difficult to get current information in relation to the financial situation of the fund. It is very difficult to ascertain whether the students who have been the victims of this most recent collapse will be able to benefit from the guarantees that are supposed to be provided by this fund, because the most recent publicly available information only goes to 31 December 2008.

In the year to 31 December 2008, the ESOS Assurance Fund made a loss of $1.3 million. The cash and cash equivalents in the fund had reduced from $3.7 million in 2007 to $1.8 million by 31 December 2008. We are now at the beginning of 2010. To date, we have not received any information about where the financials of the ESOS Assurance Fund stood at the end 2009. I would be interested to hear from the minister whether 2009 has been as difficult and as challenging a year from a financial point of view as the previous year. I suspect that it may have been, given some of the closures and other problems that occurred last year. If the fund had another year like 2008, when it lost $1.3 million, we on this side of the chamber suspect that it might just about run dry and, with what has been happening out there in the world of training colleges, this would be a very serious concern. It would certainly be a concern for many of the students who have now been left to wonder ‘Where to from here?’ after the most recent collapse of a private international training college.

The second amendment that the opposition will be pursuing concerns education
agents. The amendment focuses on ensuring that all education agents have at least received training and are aware of Australian requirements regarding matters such as attendance, work permits and migration etc. This, in turn, means that they should be able to pass on information to potential students. In short, we think that there is a need to professionalise education agents. The overall effect of the amendment is intended to be a bit of crackdown on dodgy agents and shaky institutions whose actions harm overseas students, damage our reputation overseas and make it more difficult for the overwhelming majority of professional and respectable providers to provide education and for agents to carry on their useful work as intermediaries between our education institutions and potential students from overseas.

In summary, we support this legislation. We support what the government is trying to achieve by it. We think that the government has dragged its feet a bit, given what appeared to be a certain degree of urgency back in August. Clearly, the government did not prioritise this legislation appropriately last year and wasted a lot of time in this chamber on a whole series of other matters that were never going to go anywhere. This was something that needed to be addressed. We do not think that the legislation in its current form is quite going to achieve what the government intends it to achieve. We do hope that the government will take a longer term look, once the Baird review has reported on some of the reforms that might need to be pursued. In the meantime, there is a very particular concern on our side of the parliament about the current financial situation of the ESOS Assurance Fund, which we would like the government to address during the debate today. With those few words, I conclude the contribution on behalf of the opposition.

Senator HANSON-YOUNG (South Australia) (10.48 am)—I rise today to speak to the first legislative acknowledgment that our proud international education reputation is at the crossroads, with revelations of mismanagement, misleading conduct and dodgy agents providing false advice and guarantees to prospective students. Over the last 12 to 18 months, we have seen numerous colleges close across the country and unscrupulous education agents operating purely for profit purposes, taking advantage of young people who simply want to get an education and build their careers and who often want to go back to their homelands and invest in their own communities. We have also seen a lack of transparency at both government and institutional levels. All of these issues have heightened the need for greater monitoring and support of the way in which our entire international student sector and educational institutions interact with government at state and federal levels and, of course, across the different departments—the education department and the immigration department—so as to ensure that we have proper monitoring of all of these issues.

While I was going leave it to the end, I think perhaps this is an appropriate place to flag the idea that, given that the international education sector is Australia’s third largest export, it is time that the full attention of a parliamentary secretary is given to this sector. I urge the government to seriously consider it.

As recently as this week, we have seen the closure of another college. With colleges collapsing right around the country, affecting more than 2,000 students, including those in my home state of South Australia, it is clear that the government must step up and toughen business regulations and corporate law so that it is not so easy for providers to simply close the doors when it suits them. Providers should have to acknowledge the effect of such closures on the lives of students who are now sitting in limbo. Many of
these students have paid thousands and thousands of dollars in fees. Many of them have spent even more money getting to Australia in order to take this educational opportunity. We need to acknowledge that these students not only need to be supported and helped through this process but should be given some more guarantees that, when they choose Australia as the place to come to for study, they will also be looked after.

The Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009 seeks to amend the Education Services Overseas Students Act 2000. Things have changed a lot since the year 2000. We know that the education sector has boomed in terms of the international student market. We know that the numbers in the last financial year rose by 19.6 per cent—that is a significant growth in one financial year. It is time that we seriously reconsider how we manage, regulate and protect this important sector, let alone the young people who rely on it. We know that we need to do more to promote students’ services in these institutions. There are stories of colleges that have not been particularly upfront with students about their engagement in their education, how they are able to put that education into practice, what types of services they should expect to be provided to support them through their educational career and what to expect and where to go to when a college closes. There are lots of stories of students who were not able to access the right information and who did not have access to the services they needed to get the best value for the thousands of dollars they were spending here, in Australia.

We should be proud that we have had a reputation as an outstanding international education system here in Australia and we need to be doing more now to protect that reputation, not simply brushing it under the carpet. I am thankful that the government has finally seen the light and decided to do something about tackling this problem by asking colleges to reregister. That is obviously what this bill goes to the heart of, but it does not necessarily deal with all of the concerns and all of the problems that lie within the sector. There is much more work to be done than simply asking colleges to reregister.

The fact that Australia’s international sector has grown by 19.6 per cent in the past financial year highlights the importance of tightening the regulatory frameworks within the ESOS Act to ensure that we are providing the best possible educational experience for students studying here in Australia. We want students to finish their educational experience in Australia and to go and tell the rest of the world what a good opportunity it was, to feel proud about being able to study here in Australia and to tell their friends that Australia is the best place to come and study—that you get a good educational experience and you get a good student experience while you are here. In order for us to do that, we need to make sure we put in the attention and protections that those students deserve.

It is important to note that, while the university sector originally accounted for the initial growth in international students, since 2005 enrolments in the VET sector have grown significantly and within the last 12 months we have seen an increase of 39.3 per cent. That is really significant—almost a 40 per cent increase just in the VET sector. Of course, this is something we now need to be turning our attention to. It is very interesting to see the correlation with the childcare sector, which became privatised and corporatised and expanded without the proper regulatory frameworks, and we saw what happened with the ABC Learning collapse. It is quite similar to what we are seeing happen now in the international education sector.
except that we know the stories that are coming out are far more serious, and we need to acknowledge that and do things to fix it.

While this legislation is a welcome commitment by the Rudd government to reforming the international education sector, the Greens do hold concerns that this bill fails to adequately target the problem areas within the sector, with many areas such as student safety and welfare not included in the initial legislative response. I would really like to see a more speedy response from the government on these issues. The major criticism of the current act is the lack of guidance given in the definition of what appropriate support for students should be. The act simply says that they need to provide support; it does not say what that needs to look like. We really need to see more guidance in this area to ensure that providers do understand their obligations and responsibilities.

Australia’s thriving international education sector has come under local and international media scrutiny over the last few months following a series of reports surrounding violent attacks, particularly on Indian students. This follows calls for better assistance and support for international students that have until now really fallen on the deaf ears of successive governments and opposition parties. Since then, an intense spotlight has been placed on our international education sector, with issues such as visa exploitation and discrimination within employment, student safety, questionable information provided by education and immigration agents and the substandard educational services and support provided by some providers who simply have not really understood what their responsibilities should be in ensuring that students get value for their dollar in terms of not just education but also their experience.

According to statistics from the Australian Education International monthly summary of international student enrolment data, as at June 2009 there were 467,407 enrolments of full-fee international students in Australia on student visas, compared to half as many in June 2002. This is a significant growth and that is why we now need to step up our response to ensure that our regulations and our legislation are apt in dealing with these problems.

There are two new registration requirements under this bill. Item 5 of schedule 1 of the bill states that the provider must be able to demonstrate that their principal purpose is providing education and that they have clearly demonstrated their capacity to provide education of a satisfactory standard. Of course, how do we then decide who we monitor first? While this requirement is fair and reasonable, there seems to be no further detail on how these areas will actually be assessed in a practical sense. While the Minister for Education has stated in her second reading speech that breaches of the national code can result in enforcement action under the act, the Greens remain concerned about the capacity to properly monitor and enforce breaches of the act and the national code without fundamental changes to the regulatory framework.

Time after time, international students said during the inquiry run by the Senate Standing Committee on Education, Employment and Workplace Relations last year that they felt that the government continued to monitor them more closely than the activities of the education providers. Time and time again, students told stories of being caught because they were forced to work half an hour over the 20-hour work limit while their education provider was not providing the quality of education that they should, yet where was the monitoring and compliance of the international education providers? It is
time for us to really consider how we protect our international education sector by not only ensuring that we require a reregistration of all of these providers but also ensuring that we continue to monitor the types of education they are providing and that those who do breach the code of conduct are actually dealt with and that that code of conduct is enforced.

One of the key issues that has been raised by international students and their respective communities is the lack of support provided to students in these educational institutions. Students want to be able to raise issues and question the quality of education and services that they are getting, but they do not know who to go to. There is no real clear avenue of advocacy for them. Given the proposed bill requires that all providers demonstrate their capacity to provide education of a satisfactory standard, the Greens would like to see a commitment through this legislation that this new registration requirement will also require providers to demonstrate that they have a capacity to provide and define adequate student support.

There is no use in simply re-registering education providers if you do not then allow students that support. We need to ensure that if the education is not up to standard then those students have an avenue for advocacy. Obviously we recognise that the Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 that is currently waiting to come back before the parliament would provide some of this support to students. But we are concerned that in the VET dominated sector this issue is perhaps not looked after. We need to see government come up with an alternative where student support and advocacy are fundamental requirements and are provided to international students at all institutions, not just to those studying at traditional universities.

I have said that the re-registration of all institutions is going to be a mammoth task. We believe that the bill could be better targeted to ensure that we are able to prioritise the high-risk areas first and foremost so that we can avoid further collapses such as we have seen this week. Given that the main intention behind the requirement for all education providers to re-register by December 2010 is to restore confidence in the quality of education services for all international students, the Greens are concerned that this provision is not appropriately targeted. While the actual process for re-registration is yet to be formalised, we believe that a more targeted approach that would prioritise high-risk areas of the sector is more appropriate and practical when dealing with the current turmoil in Australia’s international education sector. We need to target and be more strategic in how we do this over the next 10 to 12 months. We cannot allow colleges to collapse, leaving students on the street, simply because we have not got to them yet. We need a practical response. That means indicating which of these areas is high risk.

In discussing re-registration requirements, the Greens also believe that, while it is beyond the scope of this particular piece of legislation, an independent education commission or an ombudsman should be established to define the minimum standards for student support, information and advice provision. This should be available to students on a national level so that they know who to go to. If they have concerns and are questioning the quality of service at an institution, they will have somebody they can go to. It is simply not good enough for the education department to provide a 1800 number; we need somebody to give this the full attention it deserves.

An important requirement contained within this bill is the stipulation that a registered provider must maintain a list of per-
sons, whether within or outside Australia, who represent or act on behalf of a provider in dealing with overseas students or intending overseas students. While the Greens are indeed supportive of this measure—and we think that registration is an important factor for all agents—we believe it should go further and ensure that all education agents, whether operating onshore or offshore, are properly registered. Quality benchmarks should be set at a national level to spell out what is considered adequate information or advice. There is a clear need for sufficient monitoring of education agents operating on behalf of institutions right throughout Australia. As such, we would like to see the government commit to introducing rigid education agent and provider protocols. These need to be developed to pave the way for a more transparent system of monitoring the activities of agents and providers into the future and to avoid the occurrence of the dodgy behaviour that we have heard reports of over the last few months. We need to ensure that students do not get caught out simply because they do not know any better.

The Greens also believe that it is paramount that, where a provider has failed to fulfil its education commitment, students are able to enrol in an equivalent course as soon as possible and that they do not incur any additional costs to do so—given that they have often already paid thousands of dollars in course fees. While we recognise that item 6 of the bill allows for regulations to prescribe the criteria for considering whether a course is a suitable alternative for a student where a provider can no longer offer a particular course, we also believe that in legislating for this requirement there must be a requirement to provide students with access to their full and accurate academic transcript.

Of course, where there is not the ability for a student to be enrolled in a similar course then we need to consider refunding the course fees and other costs associated with attending the institution that has collapsed.

We are concerned that the current investment in the ESOS Assurance Fund is not significant enough. We are concerned that, as was raised by the opposition, those funds are currently depleted. We cannot get to the bottom of exactly how much money is in there, but we know that students are not able to get access to all the refunds that they deserve. We have seen that in the Sterling College example and other cases. I would hate to think that the 2,000 students who are out on the streets today because of the collapse of GEOS over the last few days might be left not only without another course to go to but without the refund of their fees. We need to look at this matter urgently.

It is clear that the students themselves are the worst affected by this worrying flux in the sector, experiencing distress due to the uncertainty around their educational, financial and immigration status. They are put in limbo when these collapses happen. The students that I have spoken to are not just concerned that they cannot get into another course; they do not know whether they are going to be accepted for prior learning in another course. They do not know how much money they will get back from their other associated costs. They are also unsure of their visa status now that they are not enrolled. These are the concerns and anxieties of international students who are caught when a college collapses. We need to do more to ensure that we give some guarantees to these young people. One of the best ambassadors that Australia can have when promoting our international education program is the satisfied international student who goes home and tells their friends that Australia is the place to come to study, not just for the quality of the education but for the overall experience. That is what we need to be
putting our energy into and giving our attention to.

I think it is time that the government seriously consider implementing a parliamentary secretary role for the international education sector. This is Australia’s third largest export. It deserves the full attention of government. It is not good enough to have knee-jerk reactions when things go awry. We need to be doing more to prevent these crises happening in the future. We need to do more to protect our international education sector, not just for the reputation of international students here in Australia but also for the reputation of domestic students when they travel abroad.

Senator FEENEY (Victoria) (11.07 am)—I am pleased to have this opportunity to speak on the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009. This bill makes adjustments to the Education Services for Overseas Students Act 2000 and introduces processes that will increase the accountability of international education providers under the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students, which was introduced in 2007.

I welcome this bill as part of our national effort at both the federal and state levels to ensure the continued success and prosperity of our education export industry. People are sometimes surprised to learn that education is one of Australia’s largest export industries, even when that education is being conducted right here in Australia. We tend to think of an export industry as one that sends something overseas, whether it is wool, coal or opera singers. But the economic effect is the same if people come here from overseas and buy things from us. Tourism in that sense is an export industry but so too is education. Every student who comes here from overseas and spends money on goods and services is contributing to the Australian economy.

This industry is the third biggest for Australia but it is a particularly important industry for my state of Victoria. Education is in fact Victoria’s biggest export industry, earning the state almost $5 billion last year. Victoria is lucky to have some of Australia’s finest universities, including the University of Melbourne, Monash University and RMIT, as well as many fine colleges and secondary schools that welcome and have long welcomed international students into their ranks.

We are also lucky that Melbourne is one of our most livable cities, one of our most multicultural cities and a city that has prided itself on offering a warm welcome to overseas students. Surveys of international students consistently show that the majority are very satisfied with their courses and their living experience in Victoria and that they would recommend Victoria to their friends. Victoria has a reputation as one of the world’s most desirable places to get an education. It is extremely important that we all work to preserve that hard-won reputation.

There are currently more than 160,000 international students studying in Victoria. That is nearly 30 per cent of all the international students in Australia, meaning that Victoria is getting more than its proportional share of the education business. Victoria’s international education industry has almost doubled in the last few years, defying the global downturn. International students in Victoria come from over 100 countries, but the largest markets for our educational services are India, China, Malaysia, Hong Kong and Indonesia. There are almost 50,000 Indian students enrolled to study in Victoria, and that is the largest single national component.
Over the past year, two issues have arisen as possible threats to the success of our education industry. The first is the recent spate of violent attacks on Indian students in Melbourne, a subject that I will return to shortly. The second is the increasing problem of students and their families being defrauded by dishonest education providers or let down by incompetent providers. That problem is the subject of this bill.

Like any industry which is both relatively new and growing very rapidly, the education export industry has, unfortunately, attracted a number of operators who are dishonest or incompetent or even both. There have been a number of unfortunate incidents in which students and their families have been defrauded, in which colleges have suddenly closed and students have been left stranded and with no way of either getting their money back or completing their courses. These incidents are publicised in the students’ home countries and that has the further effect of damaging our reputation as a country, damaging the reputation of our education industry and helping our competitors, such as the US, Canada and New Zealand.

This government is determined to put in place a regime that minimises this risk to the success of our education export industry. Last year the government announced that the Hon. Bruce Baird, the former Liberal member for Cook and, before that, a New South Wales state minister, will head a review of the Education Services for Overseas Students Act. In the meantime, this bill will require the re-registration of all institutions currently registered on the Commonwealth Register of Institutions and Courses for Overseas Students. They will have a year to re-register. Re-registration of all providers will serve to restore confidence in the quality of the Australian international education sector and to strengthen the existing registration process by reducing the number of high-risk operators currently in or seeking entry to the sector. To weed out such high-risk operators, two new registration criteria are introduced in this bill. First, the provider must have the principal purpose of providing education and, second, the provider must have a demonstrated capacity to provide education that is to a satisfactory standard.

The bill also provides processes that will increase the accountability of international education providers under the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students. The bill also makes international education providers’ use of education agents more transparent and more accountable. To become a registered provider of international education services, an operator will need to demonstrate that the services it provides comply with the requirements of the national code. In recommending a provider for registration, the state or territory authorities must also be satisfied that the provider is fit and proper to be registered.

I welcome the provisions of this bill. Safeguarding our export education industry is not just the responsibility of the federal government or of this parliament. The states and territories also have an important role to play. As I have already noted in my remarks, Victoria has a particularly high stake in protecting the reputation of this industry, since it is the largest provider. So I am pleased to see that the Brumby government has already taken firm steps to crack down on bogus and incompetent operators in this field. In 2008 the Brumby government set up a task force to examine these problems. The task force was led by the Parliamentary Secretary for Industry and Trade, the Hon. Marsha Thom- son, and was responsible to the Minister for Skills and Workplace Participation, the Hon. Jacinta Allan. The task force included prominent Victorians such as George Lekakis, Chairman of the Victorian Multicul-
tural Commission; Julie Moss, National Chair of the Australian Council for Private Education and Training; and Wesa Chau, from the Australian Federation of International Students.

The task force reported to the Victorian minister in March last year that there was a perception among some full fee paying international students in Victoria that they were being exploited on the one hand and indeed neglected on the other. Some felt they were being treated as cash cows by the industry and some had complaints about service providers and the quality of education they were being offered by some of these providers. These complaints rarely related to Victoria’s major universities or to our many well-established colleges or schools but related mainly to smaller private providers, mainly business and language colleges.

As a result of the task force’s work, Premier John Brumby was able to announce in September a $14 million plan to address the concerns expressed by students and others in the international education industry and to secure that industry’s long-term future. This plan called Thinking Global: Victoria’s Action Plan for International Education is designed to ensure that Victoria will continue to build on its status as a leading destination of choice for international students. The plan includes a $9.8 million commitment for a new International Education Long Term Growth package designed to drive sustainable growth in the sector, $2.7 million for the International Students Connections package to build on existing support services and information provision to international students in Victoria and $1.4 million for the Quality in International Education package, which is designed to ensure that Victoria’s reputation as a world-class study destination is maintained. This last provision is directly relevant to the topic of this bill since it provides for rapid audits of education and training providers who are suspected of engaging in unsound practices.

The Victorian minister, Jacinta Allan, said in September last year that Victoria was determined to maintain the high quality of Victoria’s providers and to improve the services offered to international students. The minister made it clear that rapid audits of suspect providers would be conducted in tandem with Commonwealth government agencies and authorities. The Victorian minister also said that Victoria would build on existing support services and improve information for students about living in Melbourne and would work with the industry to introduce a new student buddy system to support new arrivals in their early months settling into a new country and a new environment.

Victoria is also responding to the other major area of concern in recent times. Of course, I speak of the spate of attacks on Indian students in Melbourne most particularly. All violent attacks on innocent people, whatever the motive, must be and are condemned. The police and state government must do everything they can to stop them. But it is difficult to find out exactly how many of these attacks there have been in Victoria or to determine whether they have been specifically targeted at Indian students. It is possible that some or all of these attacks have been racially motivated, but it is also possible that they are simply a subset of violent attacks on people travelling alone at night on public transport.

For example, in a typical incident in May of last year, four teenagers attacked, robbed and bashed an Indian student who was going home on a Werribee train after working a late shift at KFC. The teenagers from Hoppers Crossing and Tarneit in the western suburbs of Melbourne later faced the children’s court charged with offences including intentionally causing injury, recklessly causing injury and
robbery. Was this attack motivated by racism or was it robbery of a person travelling alone on a train at night? It is, unfortunately, impossible for us to know. But the fact is these attacks have happened and they have received a great deal of adverse publicity not only here in Australia but also profoundly in the Indian media. The perception that Melbourne is no longer a safe place for Indian students to come to and study is now widespread in India and is damaging our education industry directly. The Victorian government and the Victoria Police have been working with the Indian student community in Melbourne to stamp out these incidents and to reinforce the fact that, for most students, most of the time, Melbourne is one of the safest places in the world to live, work and study. Victoria has moved to bring in stiffer sentences for attacks that are found to be racially motivated. In September last year Premier Brumby visited India to reinforce this message. Speaking at a college in New Delhi, the Premier said:

... we are doing everything in our power to ensure the actions of a very small and ignorant minority do not undermine our relationship ... and the reputation Melbourne has as one of the safest cities anywhere in the world ...

Speaking about the new sentencing laws, the Premier said:

This is designed to send a message to the community ... that if an assault has occurred because you hate someone because of their colour, their skin, religious belief or language, then that is an additional factor, which will earn you a tougher penalty when it comes to sentencing ...

His visit and his comments were featured on Indian television news bulletins. India is a country with which I have close family connections. In fact, I was there only a few weeks ago and it was very apparent to me that sections of the Indian media are playing up the threat to Indian students in Australia in an irresponsible way. It is fair to say that the manic behaviour of the media does not exist alone in Australia but is a trait shared worldwide. The Indian media were certainly playing up the fact that Indian students were at risk in Australia. That media attention did not occur in a sober or in a factual context, but it is a fact that in the subcontinent of India the message has been spread far and wide by the Indian newspapers and television that there has been a spate of racist attacks in Australia.

We must take on the task not only of dealing with those allegations and dealing with racism if and where it exists but also of making sure the record is accurate. I note that today a news report in AAP reveals that the Victoria Police have made significant progress in at least one of the cases that was particularly high profile. This news report says:

An Indian man who said he was set alight by assailants near his Melbourne home last month accidentally burned himself while torching his car for an insurance claim, police allege.

Jaspreet Singh, 29, of Grice Crescent, Essendon, in the city's north, faced an out-of-sessions hearing early this morning before a bail justice at St Kilda Road police complex charged with making a false report to police and criminal damage with a view to gaining a financial advantage.

The case gained international headlines among a series of attacks by white Australians on Indian nationals in Melbourne.

I leave that report there. I simply make the point that, amidst the hysteria and amidst the allegations, there are cases where these unfortunate incidents are demonstrably not racist attacks. Nevertheless, that does not change the fact that we must move to protect Melbourne's and Australia's reputations as destinations for overseas students and, while dealing with those allegations of racist attacks with the utmost seriousness, also keep an eye on reality and the facts on the ground.
The ACTING DEPUTY PRESIDENT (Senator Crossin)—Before I call Senator Macdonald, I am going to call Senator Hanson-Young again to move her amendment.

Senator HANSON-YOUNG (South Australia) (11.22 am)—by leave—I move the Greens second reading amendment, which I forgot to do when I spoke earlier:

At the end of the motion, add “but the Senate is of the opinion that the Government should:

(a) prioritise the re-registration of providers by starting with those providers considered to have a high risk profile having regard to one or more of the following factors:
   (i) the provider has a high proportion of students from a single country,
   (ii) the provider offers only a limited number of education programs,
   (iii) the provider has had a rapid increase in enrolments in the recent past,
   (iv) the provider has previously breached the national code, and
   (v) there is a history of visa fraud in relation to student visa applications relating to the provider’s education programs,
followed by all remaining institutions; and

(b) establish an independent Education Commission to foster best practice in:
   (i) visa application processes,
   (ii) quality benchmarking of education programs, and
   (iii) monitoring of providers and their compliance with the national code”.

I also seek leave to table a document from Minister Gillard in relation to our amendments for the committee stage that were circulated and let the chamber know I will not be moving those amendments as a result of the arrangements.

Leave granted.

Senator IAN MACDONALD (Queensland) (11.23 am)—The Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009 before the Senate chamber today highlights yet another failure of the Rudd federal Labor government. I want to speak at some length about that failure. However, before doing that, I want to comment on the remarks made by the previous speaker, Senator Feeney, which again highlighted the failures of Labor governments throughout Australia. Senator Feeney quite clearly said, and I agree with him, that our streets in Australia are not safe. This has all happened on the watch of state Labor governments right around our country. I hear Labor politicians saying: ‘There’s nothing you can do about it. We just get our premiers up to smile at the TV cameras and say things.’

I have just returned from a week in Singapore as part of the Australian delegation to the Asia Pacific Parliamentary Forum, and Singapore, a nation of almost five million people, covering an area of about 40 kilometres by 20 kilometres, has no crime. It is a multiracial society of Chinese, Malays, Indians, Europeans and others, and crime in Singapore is non-existent. Why? Because Singapore governments have been tough on crime. Anyone can walk the streets of Singapore late at night, as I did with my wife, travel on public transport, including the underground, late at night without any fear of crime. Could you do that in Melbourne? Senator Feeney has assured us that you would be mad to even attempt it. Why? Because Labor governments are simply soft on crime. We know they are soft on border protection. We have enormous numbers of ille-
gal immigrants coming into Australia every day, such as in last night’s incident, where a record number of people actually sailed into the bay of Christmas Island before the Australian government was even aware they were around.

In fact, while I was in Singapore, in the course of the parliamentary forum I was attending I raised the question: what is Singapore’s view on illegal immigrants? The answer given to me was slightly in jest, but there was some merit in it. I was told Singapore have a very humane response to boat people: they give them food, they give them water, they give them fuel and they give them a great big map with a big X marked on Australia! That is how Australia’s border protection regime is seen overseas. It is a joke. Since Mr Rudd has been in power, it is clear that Australia has gone soft on border protection. Senator Feeney’s contribution to this debate again showed that Labor state governments cannot make our cities safe.

I also noted that in Senator Feeney’s contribution he was saying that this bill will allow for rapid audits of education providers and therefore will weed out the dodgy operators. Now, why would anyone from the Labor Party be talking about rapid audits and urgency? This bill was introduced into the parliament on 19 August 2009, which just happened to be two days before Ms Gillard, the Deputy Prime Minister, made a highly publicised visit to India to go and tell the Indian government that Australia was doing something about the safety of Indian nationals in Australia and about the provision of quality education services in Australia. Two days before Ms Gillard went on her highly publicised, politically charged visit to India, she introduced this legislation into the federal parliament.

Let us see how good my arithmetic is: 19 August is, what, 5½ months ago? For 5½ months the Labor government have dillydallyed with this legislation that might have had some impact on those dodgy education providers. But what did the Labor government do in this parliament? They sat on their hands. Mr Rudd was more interested in travelling the world, as he regularly does, building up his world profile so that he can become Secretary-General of the United Nations when he is thrown out of office in this country. He spends all of his time worrying about his image abroad, without paying very much more than lip service to the safety of international students who come to Australia and the safety of the money that they pay to education service providers in Australia. Is Mr Rudd worried about those international students coming to Australia or is he more worried about his international jaunts on the world stage?

Instead of dealing with this legislation we had the farce of the Labor government trying to push through before Copenhagen that stupid, useless and destructive piece of Carbon Pollution Reduction Scheme legislation. Everybody knew that the world would not be following Australia’s lead at Copenhagen. In fact, everybody of sense in Australia knew that nothing Australia did would have any impact on what happened in Copenhagen. In spite of the assurances of the failed climate change minister, Penny Wong, and Mr Rudd, we knew it would have no impact on what anybody else did. We also knew that, if that legislation had been passed before Christmas, Australia would have been out in the front exporting the jobs of Australian workers and unionists overseas.

What did we do in this country? We spent months dealing with that useless piece of legislation instead of dealing with this piece of legislation, which is good legislation and should in fact be passed. It should have been passed back in August when it was introduced. If it had been passed back in August...
when it was introduced then some of the problems we are seeing today may not have occurred.

I read with great distress that in Cairns in Far North Queensland, which is the area I come from, 150 students who were enrolled at the GEOS Cairns English language school have lost their money and are without an English language school provider. The several staff who worked at that school in Cairns now do not have a job. So there will be 150 fewer mouths to feed and fewer beds to provide in the Cairns region.

Because of the Labor government, the Cairns region is at the present time doing it very tough economically. We had a huge increase in the passenger movement charges by the Rudd government in the last budget, which has certainly not encouraged international tourism to Cairns. We had a bungled advertising campaign for Australian tourism, which has not assisted Cairns at all. We had a change in the workplace relations laws which reduces the flexibility for employers to employ people in the Cairns region in the tourist industry, which requires absolute flexibility. Under Mr Rudd’s regime that has all gone.

We have the fiasco in the Cairns shipbuilding industry, which has been around for 50 or 60 years. On the eve of signing a contract to build Australian warships the Labor government in Queensland, with the acquiescence of the federal Labor government, had that contract pulled from under their feet, resulting in the loss of some 300 skilled trade jobs and other jobs in the Cairns shipbuilding industry. A shipbuilding industry that has built many of Australia’s warships over the last 30 or 40 years is now defunct because of the actions of the Rudd Labor government and the Queensland Bligh Labor government. It is an absolute disgrace.

On top of this we now have this English language school in Cairns folding up shop. This is the very last time you need this. One thing you do need in Cairns is an English language school, because a lot of international tourists come in and we need multilingual people working in the tourist industry. This will be a real blow to Cairns.

Had this legislation been dealt with in August last year, like it should have been, then perhaps this catastrophe could have been avoided. But no, Mr Rudd wanted to wander around the world and spend weeks and weeks debating the Carbon Pollution Reduction Scheme, which everybody knows is a failure and will never happen in this country or in any other of the larger emitting countries. We wasted all of our time on that and this important legislation was left languishing on the table. It should have been debated back then and it should have been dealt with at that time. Then we may not have had these problems we are now experiencing.

I will return to the specific parts of the bill later, but while I am on this subject I want to make the comparison of some of these private tuition schools. Many of them are very good I have to say. I certainly hope that the collapse and the problems that some of them are having, the inaction of the Rudd government in getting this bill through and the paucity of the enthusiasm of state Labor governments to deal with crime, do not impact on some of the magnificent educational institutions we do have in Australia at the present time.

I particularly want to mention James Cook University, which is renowned worldwide for its marine science courses and is getting an increasingly good reputation as a trainer of would-be doctors for Australia and, indeed, the world. I am told that the Queensland health department has said that James Cook University medical students were the best
prepared clinically trained students in Queensland and perhaps in Australia. That is because the James Cook medical school training is a six-year, not a five-year, program and has longer placement programs, which start in the first year. It has compulsory rotations and students work in areas of workplace shortages at some stage in their training. The additional year of training gives students the opportunity to sort out weaknesses. James Cook University is fast getting the reputation of being the pre-eminent university in the tropical world. Of course we know that the world in the tropics, between the Tropic of Capricorn and the Tropic of Cancer, covers more than a third of the globe and a lot of people. James Cook University, with its emphasis on tropical medicine and Indigenous health, is fast gaining a reputation that is being noticed in Asia and by international students everywhere.

While I am talking about James Cook University and medicine and as I was talking a little earlier about Singapore, can I say that whilst I was in Singapore recently at the Asia-Pacific Parliamentary Forum I took a little time out to go and have a look at James Cook University’s campus there. It is a fabulous university in Singapore, training mainly foreign students—that is, foreign to Singapore—at that campus, but dealing in business courses such as the Master of Business Administration and also, interestingly, in psychology courses, which are being increasingly noticed around the Asia-Pacific region. James Cook University at Singapore is a very well run university. It is a credit to Australian university administration and teaching and it stands in stark contrast to some of the problems that we are seeing with these other providers which are highlighted by the bill currently before the chamber.

I understand from Senator Cormann, who has responsibility for this bill for the opposition, that we will be supporting it and we would wish it a speedy passage. I hesitate to use the words ‘speedy passage’ because it is now six months overdue. Had Ms Gillard had any semblance of ability and competence as a minister, we would have been dealing with this far before today. Had we dealt with it back in August, instead of worrying about Ms Gillard making those visits to India and Mr Rudd walking the world stage, as he likes to think he does—had we had them concentrating on what they are paid to do, and that is to legislate and administer effectively in the education area—then perhaps some of the problems that we are currently experiencing might not have existed. But as Senator Cormann has so eloquently said, and for all of the reasons he mentioned, I will be supporting the bill and urge the Senate accordingly.

Senator WORTLEY (South Australia) (11.41 am)—I welcome the opportunity to speak to the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009 and, unlike the previous speaker, Senator Macdonald, I intend to address the substance of the bill, because it is a very important one. This bill will enhance Australia’s ability to deliver on quality education services to overseas students—the students who contribute to our multicultural society while gaining skills and knowledge here; the hundreds and thousands of students from around the globe who choose Australia as their study base each year, enhancing our social fabric. The Rudd Labor government’s commitment to action on education—primary, secondary and tertiary—is, in my view, unparalleled in recent history. In delivering on the commitment so thoroughly endorsed by the electorate two years ago, the Rudd government is returning integrity and confidence to the education sector—confidence that, particularly in the tertiary arena, was so degraded by our predecessors, who neglected this vital
component of our national life and, indeed, of our economic and social future.

An OECD report on higher education released only one month before the last election found that, while Australia’s public spending on higher education remained well below the levels of other developed countries, we had the highest proportion of international students of all developed countries. Of the students on campus at that time, 17.3 per cent came from overseas and almost all of these students paid, and continue to pay, full fees. Australian universities now depend significantly on the international student dollar. We welcome these students, including in my home state of South Australia. South Australian institutions including TAFE, UniSA, Flinders University and the University of Adelaide all have international students attending. Last year in South Australia we welcomed a record enrolment of more than 33,500 international students from more than 130 countries across our educational sectors—higher education, vocational education, high schools, English-language studies and foundation courses.

Economic statistics show the education of overseas students is an export industry. It is now our third-largest export. Overall, it brings more than $15 billion into our national economy. BankSA's economic bulletin, Trends, which is compiled in conjunction with Access Economics, addressed this very matter in its November 2009 issue. It discussed the impact of international students specifically on the local economy, stating that, in 2000, international students represented 13 per cent of the higher education student population in South Australia. By 2007 that share had risen to more than 28 per cent. International students, and visits from their friends and families, contribute $680 million a year to our economy. International student activity contributes more than 6,000 full-time equivalent workers to the state’s employment base. Education related exports accounted for 38.7 per cent of all service exports by 2007-08. In both 2007 and 2008 there was strong growth in enrolments in the vocational education and training sector and in the English language intensive courses for the overseas student sector.

Clearly, it is in our economic interest to ensure that the system is appropriately managed and regulated. However, the provision of education services is not only a financial exercise. It is incumbent upon us, as a government and in partnership with providers, to ensure the provision of a high-quality experience and a safe environment for those who entrust us with their hopes, their professional aspirations and their family's hard earned dollars. It is the case that the sector has grown so rapidly across Australia in recent years that the necessary checks and balances have not, in some instances, been appropriately applied. This means that in a minority of cases unscrupulous individuals and organisations have been able to take advantage of students for personal gain. These operators risk the future of the students they attract to these less-than-reputable services and institutions. This is, of course, unacceptable.

The entire legislative framework of our education services for overseas students is under review. The review of the ESOS legislative framework, led by the former member for Cook the honourable Bruce Baird, is examining the adequacy of the ESOS framework in four key areas: (1) supporting the interests of students, (2) delivering quality as a cornerstone of Australian education, (3) effectively regulating and (4) sustaining the international education sector, with the aim to ensure we continue to offer world-class international education in a changing environment. The Sydney Morning Herald reported that Mr Baird said:
… the review was critical for securing the long-term credibility of Australian education in the international marketplace.

The legislation as it stands aims to protect the interests of overseas students by way of a regulatory regime, minimum standards, tuition, financial assurance and the like. It also improves our migration laws by ensuring that providers collect and furnish information pertaining to student visas.

The bill clarifies and/or adjusts certain provisions for greater certainty. It rectifies other provisions now identified as having the potential for inequitable or unreasonable consequences. It introduces protocols and procedures that will improve accountability and put in place disincentives for the use of education agencies that are less than reliable. The bill will achieve these aims by providing for the re-registration of all institutions currently appearing on the Commonwealth Register of Institutions and Courses for Overseas Students by 31 December 2010; requiring satisfaction by state and territory authorities with regard to the proper purpose and capacity of the provider; requiring the publication by providers of the details of agents representing and promoting the services of those providers; providing for requirements for compliance concerning agents for providers; providing for the discretionary removal of the prohibition on collecting moneys where a course is suspended; ensuring the recognition of conditions imposed on providers at the state or territory level by the Commonwealth; allowing certain exemptions from the provider default refund requirements—for example, where a provider is merely changing its legal entity—and clarifying the present criteria relating to suitable alternative courses.

These measures will augment and improve the protections already established for both the industry and the students, whose interests are so important to us in so many ways. Without doubt, a strong and appropriately resourced education sector is vital to Australia’s future both locally and in terms of our international competitiveness. One cornerstone of our future wellbeing as a community and of our economic security now and in an increasingly uncertain global environment is investment in education. This investment, which underpins our reputation as a quality exporter of education services, must be protected. It cannot be compromised. The Rudd Labor government is determined to act on this country’s needs now and into the future. The measures outlined in the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009 put that determination into achievable form. As the Deputy Prime Minister wrote in the *Sydney Morning Herald*:

> Overseas students have generally thought Australia is a great place to study, and it is vital that reputation be secured.

… … …

We want to make sure those who come here enjoy their time in Australia and get the quality education they seek. When they do, they become phenomenally effective ambassadors for Australia.

Ms Gillard also paraphrased former Monash University Vice-Chancellor Richard Larkins’s statement:

> … many senior political, business, professional and public service roles in South-East Asia are filled by graduates of our universities, or by the parents of those studying here.

The advantages of this exchange go beyond the multicultural environment that is so much a hallmark of our country today, to the trade, diplomatic and security ramifications and relationships that are so important for our future. In closing, I recommend the Education Services for Overseas Students Amendment (Re-registration of Providers
and Other Measures) Bill 2009 and look forward to its passage through this chamber.

Senator BOYCE (Queensland) (11.53 am)—As Senator Wortley just pointed out, the provision of education to overseas students in Australia is our third largest export industry. It brought in $15.4 billion in 2008 and one would have thought that on that basis the Rudd Labor government, which we are told is keen to protect this industry, could have acted in a somewhat less leisurely fashion than the six months it has taken them to bring this bill, the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009, to the stage of being passed.

The overseas students industry is of major importance to Australia and we need to preserve it, but it is right now at risk, and has been for almost 12 months, of some dubious and unscrupulous practices by a minority in this sector—and I emphasise by a minority in this sector. The majority of private and government and tertiary providers of education to overseas students in Australia are reputable and interested in education. There are others who are more interested in profit. We have seen in the past 12 months a series of high-profile failures in that private college system. GEOS Oceania, which operated English language colleges in Melbourne, Sydney, Adelaide, Perth and, in Queensland, Brisbane, the Gold Coast and Cairns, collapsed last week. The administrators, Ernst and Young, have announced that because of the financial position the colleges will not reopen. Total debts owed to students and other creditors are estimated by the administrators to be about $10 million. More than 2,300 students and 390 staff throughout Australia have been left in limbo, or worse.

The consumer provision protections that already existed in this legislation, passed under the Howard government, meant that the students in these colleges should be given places in other institutions. The administrators are now working with the federal Department of Education, Employment and Workplace Relations and relevant state and territory departments to make these alternative arrangements. But to say that the education of these students has been interrupted is an understatement. It is not just their education and their lives that have been affected but also their families’ gross concerns have been developed by this failure.

Other international schools such as Sterling College and Melbourne International College went under in July. Four schools—Meridian International School, Meridian International Hotel School, International Design School and the International College of Creative Arts, which had 13 campuses—collapsed last November, yet there has been legislation waiting to be passed since August. The Meridian collapse left 3,400 students stranded. Meridian was a Chinese owned company and its owners simply decided to pull out of the Australian market.

A financial audit of the GEOS operation by the Victorian Registration and Qualifications Authority in December last year raised concerns about their financial viability. But nothing happened in time to save those 2,000-plus students and the 400 or so staff. The Victorian Registration and Qualifications Authority is reported to have been in talks with the company back then to have them establish a trust fund to protect students, as well as to reach an agreement to shore up funds for the local operation. Those talks have come to nothing and a collapse has ensued. There was no legislative backup for the work that the Victorian authority was trying to do. The Australian newspaper has reported:

According to industry sources, GEOS’ local woes may relate more to the global operations of the Japanese parent company which was beset by...
rumours last year that it had been late in paying
staff. That has prompted suggestions that the Aus-
tralian operations may have been used as a cash
cow.

Clearly, as the coalition amendments—which
Senator Cormann will move for us soon—
indicate, there needs to be a risk manage-
ment approach to providers to ensure that
Australian private colleges cannot operate
simply as profit centres for overseas organi-
sations. Clearly, there needs to be a scheme
whereby sufficient operating funds are re-
tained by the colleges so that students’
dreams are not simply exported, along with
their funds, by the overseas owners of some
of these colleges.

In fact, the rotten apples in this industry
have led to the need for a radical review of
the whole business of recruiting foreign stu-
dents to Australia. The system has been open
to rorting. There have been unscrupulous
recruitment agents preying on vulnerable
potential students and their families who are
desperate for a better life for their children
and see that as potentially available in Aus-
tralia at colleges which offer, in the end, little
more than the very barest of education—and
I do not use that word lightly—no matter
what their accreditation currently says and
no matter what recruitment agents tell these
families and students.

To be honest, there are students, and their
families, who openly admit that they are ex-
ploting the current system to achieve their
dream of living permanently in Australia.
Speaking at the Senate inquiry into the wel-
fare of international students in September
last year, a senior industrial officer from the
ACTU, Ms Michelle Bissett, succinctly spelt
out the existing situation. She said there had
been:

... unscrupulous practices by migration agents, by
some registered training providers and by some
employers. These practices have resulted in ex-
ploration of international students tarnishing our
education reputation. Even though they might be
migration issues that have come into play, it is
having a negative effect, we believe, on our edu-
cation reputation. The migration pathway that has
been opened up for international students has led
to a growth in training organisations delivering
training, not for the purpose of skill development
but for the purposes of migration ...

Recently I was introduced to a young Indian
woman student in Brisbane by a senior elder
of the local Sikh temple. The young woman’s
story is typical of many. She comes from a
small rural village in the Punjab. Her parents,
who are poor farmers, borrowed heavily so
that they could raise the $10,000-plus re-
quired for her to pass the International En-
glish Language Standard Test and to pay for
the first six months tuition fee at a private
college in Brisbane, and to buy her ticket to
Australia. It was a massive amount of money
for this family to raise, but attached to it
were their dreams of a better life for their
daughter and, hopefully, for themselves. This
woman was sent by her parents to a ‘cram-
ing school’, as she described it, run by a
recruitment agency in the Punjab, so that she
could learn sufficient English to pass the
International English Language Standard Test. Yet during our chat she acknowledged
that her English was poor and she frequently
had to defer to the temple elder for a transla-
tion of my comments and questions. She was
quite open about the reason she had come to
Australia. She freely admitted that it was to
get ‘PR’. In Australia this means public rela-
tions. In the world that this woman moves in,
PR means permanent residency. No-one even
bothers to spell it out because everyone
knows that the pot of gold at the end of the
rainbow is PR—I had to query her on that! In
fact she even admitted that she did not par-
ticularly want to study hospitality, which is
the course she was doing, but had been told
by the college agent that it was the best
course to guarantee her PR. She is unable to
get a job in the hospitality industry, primarily
because of her poor English language speaking skills. She is under a lot of pressure from her parents to find work, as she has three more semesters of college, at $6,700 per semester, to pay for as well as her current rented accommodation and the basics.

This young woman and the temple elder both advised me that there were very limited opportunities for work for Indian students in Brisbane, a fact that certainly was not spelt out before this young woman came to Australia. I was told by this respected elder and by the young woman that even the owners of some Indian restaurants exploited hospitality students from their home country, paying them as little as $2 an hour to wash dishes and the like, knowing that they had to meet the work hours criteria set down by their courses. This young woman is in a desperate situation. She is locked into a course that she believes is not educative and is ultimately useless, but she and her family cannot afford even this without further severe financial hardship. She cannot find a job and, because she has no money, she spends all her time with other Indian students speaking Punjabi, which gives her very limited ability to improve her English.

Students such as this young woman are the innocent victims of their parents’ dreams of a better life, and a system that has degenerated so much that it allows those dreams to be exploited. This young woman and her family are now in a desperate position, having committed themselves to a huge debt. Because she cannot get a job, it is unlikely that this young woman will be able to complete her course, which will destroy any chance of permanent residency and, therefore, citizenship.

It is clear from her story that the system now in place, which allowed her to arrive here full of false hopes, is deficient. In fact, the current system is openly and cruelly rorted by some unscrupulous agents in India and some private colleges with whom they work here. What is the future for her and many other students like her? How many of these students trapped in those circumstances are being forced into jobs that exploit them? They are working for $2 an hour, if they are lucky. In some cases, they are even being driven into prostitution. Both the young woman student and the Sikh elder that I met said this was happening now in Brisbane and throughout Australia, from their contacts within the community.

The government therefore has an urgent responsibility—not a leisurely one—to ensure that the existing system is cleaned up. For a start, the English proficiency test must be administered credibly, not by those who profit from passing as many students as possible with little oversight of the skills of those people when they finally arrive in Australia. The system needs to acknowledge that no-one can learn or be educated when they are alone, frightened and impoverished. There must be a safety net and support system to ensure that students like this young woman, from small rural villages in India, do not arrive in Australia bewildered and afraid in a radically different culture with poor language skills, meagre funds and no friends. There is more to education than providing the course, and we need to ensure that the providers of those courses meet sufficient standards to provide real education, not just an adult standing in a room.

Our national reputation in India, as other speakers have noted, is already under a cloud because of attacks on Indian students, which are certainly, in my view, partly racially motivated. The coalition are committed to stamping out fraudulent practices in this industry by raising accountability. One of our key proposals, apart from the amendment I mentioned earlier regarding risk management, would be to improve the service by
education agents by requiring them to take a training course—a real training course. Agents must provide accurate and reliable information to prospective students so that their expectations are not unrealistic. When I asked the young woman what she knew about Australia before she got here—what she had been told about Australia—I heard that the reality for someone from a rural village with very low English skills was vastly different from the picture that she had been sold about what she would get when she came to Australia.

We in the coalition are also concerned by the current operation of the default fund for reimbursing overseas students if their provider ceases operation. This fund reimburses students when the fund manager is unable to secure a suitable alternative training place. Our concern is that, given the spate of provider closures, the ESOS Assurance Fund must be close to being exhausted. But, of course, how would we know? There is no open accountability here. We seek to improve the accountability and transparency of the fund by requiring the fund manager to provide the Minister for Education with a written report in each instance of provider default where a claim is made on the fund. We believe that the minister should be required to table that report in parliament.

There is a very strong, robust and well-credentialled private education industry in Australia, but there are some rogues. It is a shame that these rogues have so polluted the development of private education that we need to proceed down this path—but we certainly must and we must do so urgently. It is important that we re-establish the faith and trust in our system of students such as the young woman who came to my office. We are talking about moves that will assist in the future but I think we also need to look carefully at what assistance we can offer some of the people who have, basically, been stranded in Australia by the lack of accountability and the lack of honesty—straight-out honesty—of some providers and some recruitment agents in the past. There are people now in Australia who need our assistance. This needs to be looked at by the government, who, as we pointed out earlier, could have put this legislation through six months ago but did not. There are more people being trapped every day that this legislation is not in place and is not implemented. I urge the government to proceed with a little more haste in the implementation of this legislation than they have with the passage of it.

Senator XENOPHON (South Australia) (12.11 pm)—Australia has long been promoted as a high-quality study destination for overseas students. As of June 2009 there were 467,407 enrolments in the higher education, vocational education and training, secondary school, and English-language sectors by full-fee-paying international students on student visas. This is compared to just 204,401 in June 2002, so there has been a massive expansion of the sector.

Indeed, Australia has progressively opened its education system to overseas students, making it more attractive and more accessible to students from India, China, Thailand, Korea, the United States and Indonesia, to name but a few nations. Today, it is a $16 billion a year industry and, unfortunately, because it is such a lucrative market it is becoming increasingly susceptible to dodgy operators. There have been extensive reports of substandard education services and of questionable practices by providers and by education and immigration agents. Last year, a number of private colleges closed down without warning leaving overseas students, who had been promised and who had paid for a high-quality education, with nowhere to go. In yesterday’s Age, a report written by Sushi Das said that:
AUSTRALIA’S international education industry has suffered another massive blow with the collapse of eight English language colleges, leaving 2300 foreign students around the country in the dark over their future.

That includes a 530 students in Melbourne, the largest group, and 130 in my home town of Adelaide. That indicates the magnitude of the problem. I acknowledge what Senator Boyce said in her contribution: that there are people whose families have put their life savings—who have borrowed money—to giving their children an opportunity for a high-quality education here in Australia. We have heard stories of families in India who have done so and, indeed, of families all around the world who have made huge sacrifices for their children to come here. We owe them a duty of care to ensure they have not only a high-quality education but that they are able to complete their courses and that rigorous standards apply to those courses.

Last year 12 private providers collapsed displacing around 1,700 students and the report in the *Age* yesterday indicates that 2,300 students were affected—that is, around 4,000 students in just the last few months. Quite simply, those students turned up for school one day and the doors were locked. The studies they left their family and friends for—the education they travelled to Australia to complete—were declared over; often without notice.

The ESOS Assurance Fund, which was established in 2000 to protect the interests of current and intending overseas students, paid out a very significant $4.2 million in refunds in the 18 months to June last year to students whose providers could not provide the course or courses that the student had paid for. At the rate of these closures, the fund faces being potentially emptied out; it needs to be topped up. I note that the 2010 contributions to the fund have been increased to a total of 0.189 per cent of a provider’s annual fee income and that a range of new levies to support the solvency of the fund over the next six months have been introduced. This is a positive step as it will mean overseas students will have greater protection and option for recourse. However, it also acknowledges that there is a serious and increasing problem in this industry. I think many senators would have seen the *Four Corners* expose on this industry a few months ago in terms of the problems with service providers and how the system has been rorted by some dodgy operators, which of course casts a pall on all those very good operators out there who provide high quality services.

Further, I believe it needs to be acknowledged that, when an overseas student moves to Australia to study, they incur significant costs such as travel, rent and fees associated with organising visas, for example. That is why I will be moving an amendment to this bill which will call for the minister to have the power to regulate for certain consequential costs to be accounted for by the provider and thereby the ESOS Assurance Fund. I do not think it is enough that the compensation is simply about the fees involved. There are consequential losses that a student can incur, and that ought to be taken into account. It ought to be a priority of the government to give a level of assurance and comfort to overseas students and their families to know that, if something goes wrong, there is a backstop and adequate compensation for those students who have been left in the lurch.

There have been claims by overseas students that agents and colleges promising them high-quality accommodation and jobs on arrival have misrepresented the true cost of living in Australia. Indeed, these sorts of reports, along with the negative image in terms of some of the attacks against students, have damaged our reputation overseas. I believe this legislation gives us an opportunity
to do more. One of the great pleasures of my role as a senator has been to advocate for overseas students. I have dealt with a number of Indian students. I think we need to strengthen laws so that we can ensure that students get the guarantees, the assurances and the legislative protection they require when they enrol in courses.

Just last weekend, India’s junior external affairs minister advised students to avoid travelling to Australia. I think that warning is unfair but I also think we have an obligation to work hard to overcome negative perceptions and to do all that we reasonably can to strengthen our bond with countries where we have a strong overseas student component.

Australia prides itself on being the land of opportunity and a place where education is accessible to all. To lose overseas students because of these unscrupulous businesses—you certainly could not call them education providers—would be a real shame. It would impact on our reputation as an open and fair country and as a country of opportunity. It would also impact on our economy, with a cost to Australian jobs. However, the primary concern has to be to ensure that these students get what they are paying for.

I commend the government on introducing this bill, which will strengthen Australia’s reputation for quality education and services and give greater assurances and support to overseas students and their families who pay significant amounts of money for their children to come to Australia for a world-class education.

I understand from the minister’s office that the Baird review into the Education Services for Overseas Students Act will be handed down at the end of next month and I look forward to reading the recommendations. I believe it is important that the government yet again undertakes to open up this act, shortly after the Baird review, to ensure that we have an opportunity to implement recommendations that would involve strengthening the act. I presume that is what the Baird review will do. I presume that the whole intent of the Baird review is to have a more robust system in place to ensure that we can give further guarantees and assurances to our overseas students.

I look forward to introducing my amendments to protect students further from the costs of dodgy operators in this industry. I also hope that my proposed amendments, if they do not pass, will be considered as part of the Baird review. It is important that this legislation is seen as a starting point for our overseas students and that we are doing more to give them the guarantees and the assurances they deserve. The next step ought to be further reforms to this sector, once the Baird review is handed down.

Senator BILYK (Tasmania) (12.19 pm)—I rise today to speak to the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009. We all know how important a good education is and, because of its importance, it is essential that we have strong legislation to ensure that all Australians receive the best education possible. We also have an obligation to international students studying in Australia to give them the best possible education while they are in our country. To that end, I am pleased to stand today to speak to this bill, in full support of the Rudd Labor government’s measures to establish a regulatory regime for the provision of international education by establishing minimum standards of tuition and financial assistance. This amendment bill ensures that the use of education agents by international education providers is both transparent and open to accountability.

I also look at this issue from a different perspective. A few years back, my son spent
a year studying in Japan and so it is easy for me to comprehend how visiting students would feel overwhelmed when they first arrived in Australia. They need to deal with many day-to-day issues such as finding accommodation, learning the language and about our culture. They also need to learn about transport, usually the public system, and where to shop for food and other such day-to-day issues. Some may need to find employment to support themselves and to help pay for their tuition fees. There would be the issue of making friends and building a network for support. And then, as I said, they would have to work their way through the process of getting to college or university and finding the right lecture theatre, which is not always an easy task for natural born Australian students to do.

This bill seeks to improve the education system in place for international students. As a government, we have an obligation to ensure our education system is of high quality. This bill is one of the many steps that has been and will continue to be taken by the Rudd Labor government to strengthen that system. The Rudd government recognises the fact that there is always room for improvement and has been listening to what stakeholders want and need. The overseas education sector was responsible for putting $16.6 billion into our economy in the previous year. At a growth rate of 14 per cent per annum since 2002, this sector of the economy remains in good shape despite the global financial crisis. But this is not the only benefit to Australia of having a strong international education industry. The links between nations and the diplomatic networks are also very important, as is the opening up of new opportunities for trade or international business. The benefits we receive from these students are immeasurable and I firmly believe we are all the richer for their contribution to our society while they are in our country. In general, most education providers are highly regarded organisations that provide excellent qualifications and take an active interest in the welfare of their visiting students. Unfortunately, however, not all are like that.

I was able to listen to the beginning of Senator Cormann’s speech and I must say that I was surprised by his comment that the Rudd government was not giving this issue a high priority. I think that is a little bit disingenuous and I think there was a bit of spin there because towards the end of last year we were actually trying to move this bill as a non-controversial bill and the opposition would not allow that to happen. So we could have actually had it through the Senate quite a bit quicker.

I would like to take this opportunity to commend the Minister for Education, the Hon. Julia Gillard MP, on developing the international student roundtable initiative last year—just one of the initiatives that the Rudd Labor government has implemented. Up to 30 students participated in the roundtable and the Australian government met the costs of travel and accommodation for the selected participants. This roundtable was designed to reflect the wide diversity of nationalities and cultures of the 190 countries that provide the international students studying in Australia each year. It is important that the international students had an opportunity to discuss issues affecting their experience in Australia and to put forward their ideas on how to address these concerns. Of course, some of these concerns involve the issue of some training providers not doing the right thing. This roundtable, as I said, is another step in the Rudd government’s commitment to achieving the best possible education for all international students.

On 2 July last year, the Prime Minister and all state and territory leaders came together to announce the development of a
comprehensive National International Students Strategy. This strategy will:

- improve the experience for international students through better information before they arrive and then once in Australia;
- improve the engagement of international students with the broader Australian community;
- improve the safety of students through State and Territory police services;
- enhance general educational offerings that develop cultural understanding, tolerance and language skills; and
- ensure the quality of education providers.

The COAG agreement was developed from the Commonwealth, state and territory education ministers meeting on 12 June, where ministers also agreed to:

- provide comprehensive information about studying and living and working in Australia;
- target audits of education providers to quickly address any issues of the quality of education and training providers;
- design and implement the announced Tertiary Education Standards and Quality Agency (TESQA); and
- bring forward the review of the Education Services for Overseas Students (ESOS) Act which governs education providers to commence in 2009-10.

The Minister for Education, the Hon. Julia Gillard MP, also announced that Mr Bruce Baird would head up a review into the Education Services for Overseas Students Act 2000. Mr Baird handed his interim report to the government in December following an extensive consultation process with stakeholders. As well as education providers, the consultation process included receiving about 150 written submissions, discussions with embassies and also consideration of the recommendations of the international student roundtable. The review examined the tightening of registration requirements, the need to provide students with better information and the importance of sound complaints mechanisms.

I must just point out here that there is an obvious link, which has been mentioned by other senators in this place today, between education and migration. Yes, there have been some unscrupulous providers linking permanent residency to studying in Australia, but the Rudd government has never made that link. It is the unscrupulous providers that have done that.

This bill requires the reregistration of all institutions currently registered on the Commonwealth Register of Institutions and Courses for Overseas Students. It will also provide clarification of some provisions and introduce processes that will lead to better accountability by international education and training providers under the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007. This bill is also designed to make a more transparent system for when international education providers use education agents.

The national code consists of nationally consistent standards to protect overseas students and the delivery of courses to those students by registered providers from the Commonwealth register. It is important to note that students must be studying a registered course to be eligible for a visa. So the course has to be registered for a student to get a study visa. The national code is legislated under the Education Services for Overseas Students Act 2000 and in order to be registered an education provider must show that it complies with that code. Also, the relevant state or territory must be satisfied that a provider is fit and proper for the purpose of education before recommending registration. This bill is designed to restore public confidence in the quality of the international education sector and to reduce the
The number of high-risk providers currently registered or seeking registration.

Under this bill, two new criteria for registration must be met. Firstly, the provider must have the principal purpose of providing education and have demonstrated the capacity to deliver education of a satisfactory standard. We must be certain that the educational institutions providing courses to international students are able to legitimately advise potential students that their courses are of the highest possible standard. We also need our international students to know that the Australian government is committed to them and to protecting their interests. State governments have already begun the process of auditing providers and providers will be required to show that they have the best interests of the students at heart and are not motivated solely by the idea of profits. It is the aim to have all providers classified as high risk assessed for reregistration by 30 June 2010. As with any area, the majority of people and providers are, as I have said, doing the right thing. But there is always a small group that is not acting appropriately.

As the government, we have a responsibility to ensure that operators that are not doing the right thing are penalised and the inappropriate behaviour is rectified. This bill is just one step that is necessary to clean up the international education sector, which has grown considerably and quickly.

The number of international students in higher education has grown from 21,000 in 1989 to over 250,000 in 2007 and there were over 500,000 enrolments in 2008-09, with most of the growth appearing in the vocational education and training sector, commonly known as the VET sector. International student enrolments in private VET colleges increased 60 per cent from 2005 to 2008. We have one-tenth of the world market for higher education and are the third most popular country—behind the United States and the UK—for English-speaking destinations. So you can see why it is important that education providers are clear on what is expected of them. They need to know that failure to meet those expectations will lead to them being shut down or penalised.

Under the national code, breaches can be penalised by conditional registration, suspension or cancellation of registration. This bill will require education providers to maintain a list of all people who are involved with overseas students or potential students. This will include people both within Australia and overseas. Publication of that list will be required as prescribed by the regulations. The interests of the students will be further protected by ensuring that agents have undertaken the prescribed training and that those agents are registered in their home country if that is required by law in that country. These regulations may also require providers to host a website that would enable students to make anonymous comments about their experience with agents. Obviously, we do not have jurisdiction over education agents overseas but we can try to ensure that they are ethical in their dealings. We have an obligation to the students to ensure that the agents are acting ethically and to make sure that Australian institutions do not use agents that put ethics last on their list.

This bill will strengthen the effectiveness of suspensions imposed on registered providers and will reduce the financial detriment that a provider may suffer as a result of a suspension. As a result of this bill, the minister will have the discretion to enable providers to solicit or accept money from students during the course of their suspension, because a suspension is not a closure and so we do not want educational institutions to go broke because they might be under suspension. The minister will be able to adjust the sanction based on the level of the breach and
by taking into account other individual circumstances.

This bill will facilitate national uniformity in the regulatory actions taken by federal, state and territory education authorities involving the delivery of courses to international students. Under this proposed legislation, it will be possible for conditions imposed by state or territory authorities to be recognised and adopted by the Commonwealth at the time of effecting registration or at any stage following the registering of the provider on the Commonwealth Register of Institutions and Courses for Overseas Students. This bill will also provide discretion to modify the duration or circumstances in which imposed conditions are to apply. As a result of this bill, the financial and regulatory burden on providers will be minimal in situations where the institution is making changes that will improve their business operations. This is only the case if the delivery of courses and outcomes for international students will not be affected. This bill will enable the regulations to prescribe the criteria to be taken into account when considering whether a particular course is a suitable alternative to the obligation otherwise imposed on a registered provider to give a refund of fees paid by a student.

Once this bill has been passed, the Commonwealth, states and territories will continue working with education providers to ensure the education system is working efficiently and effectively. So far there has been great cooperation between all parties and the government looks forward to that continuing. We owe all students, both Australian students and those from overseas, the best possible opportunities in education. It is our responsibility to care for these students while they are in our country, to value the contributions that they make to our economy and our society and, as well, to ensure that they get the best education they can. They deserve nothing less than that. Ours is known as the land of the fair go, and that is the minimum we should be accepting from the educational institutions. The Rudd government is committed to achieving this. I commend the bill to the Senate.

Senator EGGLESTON (Western Australia) (12.35 pm)—I would like to make a few remarks about the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009 because ensuring that standards for overseas students are maintained is very important. The international student education sector has become very significant for Australia. It is very important that our reputation not be sullied or damaged, as has been happening with the collapse of so many institutions and with other events to do with education in the last year or so. It has been said that providing educational services to overseas students has become a very important export-earning industry for Australia. I believe that in fact the value of the sector to the Australian economy is something like $16 billion per annum, so it is actually a very significant part of our economy in terms of the service provision sector and I think it is very important that we move quickly to rectify some of the problems which have been occurring.

There is no doubt that education, apart from its obvious benefits in providing training to people from countries where that kind of training is not available, builds bridges of friendship between Australia and, in particular, its Asian neighbours. I remember attending a meeting of Australian university alumni a few years ago in Surabaya, Indonesia, where there were ex-students ranging from those who had come to Australia way back in the 1950s under the Colombo plan to those who had only graduated from Curtin University of Technology the year before. It was quite obvious that for all of these students
the experience of having spent time at an Australian university had added greatly to their understanding of Australia and its culture and built up quite important links. For example, at that time four members of the Indonesian cabinet had Australian degrees, and that simply underlines the fact that education does provide a means of better understanding Australia among our Asian neighbours. Of course, the reverse is true too: it means that Australians get to know more about our Asian neighbours and the people who live there and allows them to form friendships. As a result, there is better understanding between the Asian countries concerned and Australia.

I understand that there are now over 450,000 international students in this country. The Chinese are by far the biggest group with over 120,000 students and there are some 27,000 from India and about 23,000 from Indonesia. In Perth we see a lot of Indonesian students, many of whom it seems go to Curtin University of Technology. In fact, one of the children of the President of Indonesia, Susilo Bambang Yudhoyono, is a graduate of Curtin University of Technology in Perth. But, while having overseas students here brings great benefit to Australia, the recent collapses of teaching institutions have very much sullied Australia’s reputation. Registration of providers not reregistered will be cancelled under this bill, and the purpose of this measure is said to be to restore consumer confidence in the quality of education services provided across the entire international education sector. That is a very good objective of this government. As I said, the collapse of colleges very much tarnishes Australia’s international reputation, and I certainly support calls for national registration in this sector to ensure high standards of education, to provide fairness to students and to protect Australia’s international reputation.

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Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (12.42 pm)—I thank senators who have spoken on the Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009, and I seek to respond to some of the matters that have been raised. The questions that have just been put to us by the last speaker, Senator Eggleston, in quite a conciliatory way highlighted the substance of the issues that we are seeking to deal with. The issue here is an industry that has grown dramatically since the late 1980s to the point where it is now our third largest export industry. Economically, it contributes dramatically to this country. But, more importantly, in per-
sonal terms it contributes very significantly to Australia’s international reputation and, in the long term, I believe that this industry provides the basis for relationships that should extend for generations to come. Therefore, it is critical that appropriate regulatory arrangements be in place to ensure that the quality of our international reputation is second to none and that allow this country to be proud of its educational attainments. In fact, the future of this industry rests on its quality and its reputation for delivering very good experiences to students when they are in this country.

So I was somewhat surprised when I heard some of the comments made by some other opposition senators. In a chamber that is renowned for its hypocrisy, we have risen to new heights on this question. We have heard that the problems in this industry have only just arisen. I have been in this chamber for a fair while and I can say that I have taken a keen interest in this industry throughout the period during which I have been here. I can remember Amanda Vanstone’s ships of fools, I can recall the Russian training programs, I can recall the joint international colleges and distillery companies that were run out of post office boxes, I can recall the infamous Greenwich University and I recall the actions of the previous government in refusing to deal with these issues.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Ovarian Cancer

Senator POLLEY (Tasmania) (12.45 pm)—I want to talk today about the alarm I felt when I was reading startling statistics associated with ovarian cancer after receiving information from a peak awareness body. The resources Ovarian Cancer Australia provided were most informative and I owe some references in this speech to that information. I would also like to note the report that I had the privilege to work on with the Senate Standing Committee on Community Affairs. In 2006 we brought down the report Breaking the silence: a national voice for gynaecological cancers. I see Senator Johnston nodding. This chamber was deeply affected by the passing of a former senator from this terrible disease and, unfortunately, I am sure we can all recall family and friends who have been affected by this terrible form of cancer.

Like many in the community, I had certain views about ovarian cancer, such as that it received the same attention as breast cancer and cervical cancer. I assumed there were regular, simple tests that could be conducted to detect possible abnormalities that might lead to ovarian cancer in its earliest stages until I took part in the hearings of that community affairs committee inquiry. I was reminded of that when receiving the information recently from Ovarian Cancer Australia. I assumed that, although it would invariably take some lives, they would be in the minority and that a woman diagnosed with the disease stood as much chance of good health and survival as the victims of other sorts of cancer. But I was rudely and deeply shocked when I realised that each and every one of these assumptions was quite simply wrong.

Ovarian cancer is one of the most lethal gynaecological cancers there is. However, this is not due to the cancer being difficult to treat. In fact, early detection and treatment results in a 90 per cent full recovery rate. The tragic loss of lives comes down to timely detection, because the symptoms of ovarian cancer are often ones that women experience in a number of low-level health complaints. Detection normally does not occur until the cancer is well advanced, and it is this sorry fact that brings the statistics into frightening
reality. In 2008-09 approximately 1,500 women were diagnosed with one of the four types of ovarian cancer in Australia. Sadly, another 850 lost their battle. That is one woman every 11 hours: a family left without a mother; a husband left without his soul mate; a daughter leaving her parents broken-hearted. Ovarian cancer rates as the eighth largest cause of cancer diagnosis in this country, yet it is the sixth largest killer of women by any means. The onset of ovarian cancer can be linked in part to genetic disposition, which increases a person’s likelihood of experiencing the disease. It can also be linked to one of several risk factors: ethnicity, standards of living and issues related to reproduction and contraception. Exposure to fertility drugs, a high-fat diet, weight and contact with some substances can all contribute to the possibility of developing ovarian cancer. However, you can also be of any age, of any ethnicity and from any background and possess all or none of the identified risk factors and still develop this disease. Teenagers, young women and older women have all been known to develop ovarian cancer, and that is what makes this a truly terrifying and indiscriminate form of cancer.

Sadly, if any female in this chamber were diagnosed with ovarian cancer tomorrow her chances of survival after five years would be only 42 per cent. These are terrible odds that would condemn any woman to five years of uncertainty and despair over whether she would be one of the lucky or unlucky ones. Treatment will often include surgery that removes part or all of a woman’s reproductive organs, either reducing—or, indeed, completely ending—their prospects of having children in their lifetime. This may seem unimportant to a third person when considering the importance of treatment and cure over reproduction, but it adds to the terrible emotional turmoil a woman and her family would experience when undergoing treatment. Not only must she fear for her own longevity but she must also mourn the loss of children she may never have. If I were given a 58 per cent chance of being struck by lightning in the next five years, I would probably stay indoors. If it were a 58 per cent chance of being killed in a car accident, I would probably walk everywhere. So imagine being given a 58 per cent chance of a cancer taking your life. It is an unimaginable scenario that 1,500 Australian women find themselves in each year in this country. And the most frustrating and maddening part is that the mortality rate is only this high because we know too little of the symptoms of ovarian cancer and attribute them to more common ailments.

No woman wants to be seen to be exaggerating their health complaints. We all have so much to do from day to day that a bit of soreness here or indigestion there is simply buried beneath the multiple other conflicting priorities in our lives. We downplay the importance of minor symptoms because we simply do not have the time in our lives between work, family, domestic responsibilities and everything else to visit a doctor and voice our concerns. What adds to this is the increasing inability of people in some areas of Australia, particularly rural Australia, to access GPs. Additionally, too often we rely on doctors to monitor us and flag possible health issues on our behalf. There is often an assumption that all the knowledge we need in this world is held by someone else and that they will let us know what we need to know when we need to know it.

The reality of ovarian cancer mortality rates is testament to the fact that we must arm ourselves and our loved ones with knowledge and not be afraid to ask questions or get advice. We must never feel too silly or shy to ask what we may feel is a stupid question when it comes to our health. We are the
best defence against our own possible illnesses and injury and no woman should ignore the importance of knowing what they need to know to protect their health.

Unfortunately, ovarian cancer has not had the exposure of many other innately ‘female’ cancers. Kylie Minogue brought breast screenings into high demand and self-checks became an important and recognised part of a woman’s routine. The death of British celebrity Jade Goody from cervical cancer almost a year ago brought the harsh reality of that particular cancer to the fore. The passing of Jane McGrath from breast cancer caused an international community to mourn the loss of a woman whose death showed us that it could happen to any of us. Both were mothers, wives and daughters. But ovarian cancer has not had the same exposure. It seems a sad and sorry reality that it requires a high-profile brush with cancer to get the rest of us to understand the seriousness of a disease of this form. It should be real to us regardless of who has suffered from it. Eight hundred and fifty women a year in Australia prove the fact that this form of cancer is dangerously real. We are the only means of preventing ourselves from joining them.

Knowing the symptoms is the best form of early detection. As yet there is no reliable test for the early detection of ovarian cancer, nor is there a regular screening program as there is for breast cancer. Ovarian Cancer Awareness Month—this month—organised by Ovarian Cancer Australia, is focused very much on encouraging women to know the symptoms. The symptoms may be common, but the key is that if these symptoms are new to you, if they persist for more than two weeks or if you have them every day let this be the trigger for you to seek medical advice. A doctor may be able to attribute these symptoms to a minor complaint, but if not it will help lead towards early detection and greatly increase the chance of survival.

This is where the awareness campaign being promoted by Ovarian Cancer Australia is of the highest importance. We must push past the lack of knowledge that we as a society generally have about ovarian cancer. We must also push beyond the mentality that minor health complaints are only ever minor. Arming our mothers, wives, girlfriends, daughters and friends with the knowledge about this most lethal of cancers is surely the best way of arresting the alarming statistics. Rather than listing the possible symptoms, I would instead encourage all women to view the ‘symptom diary’ on the Ovarian Cancer Australia website. This can be found at www.ovariancancer.net.au. I urge people to share this information and check out the website. I visited it again before I came into the chamber. It is about arming ourselves with the knowledge which I believe will dramatically reduce the statistics.

Ovarian Cancer Australia and its website provide invaluable resources for people dealing with the disease or those who have concerns. It is about getting to know the symptoms. I am genuinely moved by the efforts of people and groups in this country who advocate and raise awareness of issues that are close to their hearts. Ovarian Cancer Australia is the only consumer representative group for sufferers of this cancer in Australia. They do a stellar job of providing practical and pertinent information for any person with an interest in this disease.

Ovarian Cancer Awareness Month will culminate in a day of focus on 24 February. People are encouraged to purchase and wear a teal ribbon, as I will be doing, to promote this cause and raise much needed funds for awareness and support programs for sufferers, their families and their carers. Increased awareness of the disease will greatly serve to support the efforts of clinical trials and research groups. Clinical trials are working to increase our knowledge of such areas as en-
environmental and genetic risk factors for ovarian cancer, the genetic changes that can influence the growth of the cancer and its responsiveness to treatment and, finally, methods for improving the diagnosis of less common forms of ovarian cancer.

Research is largely focused on identifying the changes that can lead to development of cancer, improving treatments through predicting the response of the disease to treatment and, finally, improving the support pathways for patients and their families who are impacted by this deadly disease. With so much hope of reducing the sad statistics of ovarian cancer through a simple campaign of self-education, I hope that we can all find time this month to teach ourselves and our family about the importance of this health issue.

Veterans Affairs

Senator JOHNSTON (Western Australia) (12.57 pm)—Today I would like to address an important issue for the coalition, the opposition. It is particularly important for me and my opposition colleagues engaged in defence portfolios. I pause to commend the member for Greenway for the outstanding work in the engagement of veterans that she has undertaken whilst shadow minister for veterans affairs, Louise Markus, Bob Baldwin, Stuart Robert and I are determined and committed to the cause of equity for veterans and the ex-service community generally.

Australian veterans have been the subject of a very cruel deception by the Rudd government and by the current Minister for Veterans’ Affairs. Former members of the Australian Defence Force are of course icons within our communities and have given great service to our country—loyal service and, I might say, service which was acknowledged and very well expressed by our current Prime Minister in the Australian Labor Party’s election 2007 policy document, when he said, at page 3:

There is perhaps no greater duty that we as a nation and as a parliament have than to honour, remember and express our gratitude to those Australians who have served in the defence of our nation …

Those are very fine words. I now understand, as do many veterans, that when it comes to the Prime Minister and the Minister for Veterans’ Affairs it is foolish to judge them and rely upon them based upon what they have said. They must, however, be judged by what they do.

Further within the policy document of 2007 it states:

A Rudd Labor Government will provide a fresh approach to veteran’s affairs, and a fresh leadership team, which is dedicated to working in partnership with the ex-service community on the issues that concern them. Labor will work hard to achieve six goals for veterans …

And the six goals were enumerated. The first was:

To restore the value of compensation and prevent further erosion due to unfair indexation.

That was on page 3. This statement is a categorical rolled-gold promise to veterans that Labor would make positive changes to the value of their compensation and protect it from inflation and diminution from inadequate indexation.

The promises continue throughout the document. On page 5 it states:

A key concern within the veteran community is the impact of rising costs of living, and the erosion of their entitlements over time due to unfair indexation arrangements under the Howard Government.

On page 5, it further states:

To help combat this, Labor committed to index all disability pensions and the domestic component of the War Widow’s Pension to movements in the Consumer Price Index (CPI) or Male Total Aver-
age Weekly Earnings (MTAWE), whichever is the greater.

Further to this, in two press releases on 6 and 7 May 2007 the then Rudd opposition left no doubt as to their intention and promises. I have the document containing the joint statement of Kevin Rudd MP, federal Labor leader, and Alan Griffin MP, shadow minister for veterans’ affairs. In that document they say:

A Rudd Labor government will restore the value of the Special Rate Disability Pension (TPI and TTI), Intermediate Rate and the Extreme Disablement Adjustment Pensions by indexing the whole of these pensions to movements in Male Total Average Weekly Earning (MTAWE) or the Consumer Price Index (CPI), whichever is greater.

In a separate press release on 7 May Alan Griffin said:

A Federal Labor government will restore the value of the Special Rate Disability Pension (TPI and TTI), Intermediate Rate and the Extreme Disablement Adjustment Pensions by indexing the whole of these pensions to movements in Male Total Average Weekly Earning (MTAWE) or the Consumer Price Index (CPI), whichever is greater.

So there is the encouragement.

When in opposition, the now minister criticised the Howard government for failing to release the military superannuation review. In a press release on 6 September he attacked Minister Billson. He said:

It is understood that Minister Billson has had the report since July 2007. He has since ignored calls from the ex-service community and Labor to release the report for public consideration.

This review will provide vital information for former and current defence personnel regarding the operation of the military superannuation system and how it can be improved. They are entitled to know what the review says and what the government will do about it. Instead, the government is sitting on the report.

He went on to say:

There are a number of outstanding issues relating to military superannuation, including, the indexation method for defence superannuation pensions …

And so it went on.

The point about this is that these various complaints—he made another one on 8 October—similarly complain of the delay. The delay was in fact some 10 months, which included an election and caretaker period. Minister Griffin commissioned the Matthews review of pension indexation arrangements in Australia. The minister, the same one who had attacked the Howard government for delay, sat on this report for some eight months without releasing it. The point about this is that, when in opposition, it is all very well to say these things to people—people on fixed incomes and people with disabilities, as veterans—and tell them you are going to do something about it when you are elected. You sucker them for their vote. It is absolutely no surprise that the Rudd government has reneged on these promises and postures. This has been one of the most cruel and callous betrayals of veterans in the history of public affairs in this country.

Mr Tanner, in fact, delivered the news. In his press release he said:

The Rudd Government is satisfied, after considering Mr Matthews’ report, the purpose of indexation of civilian and military superannuation pensions should continue to maintain the purchasing power of the pension.

He continued:

… we are satisfied that the CPI is the most suitable index to protect Australian Government superannuation pensions against inflationary price increases available at this time.

There is the slap in the face. Having promised them the sun and the moon, Mr Tanner says, ‘Sorry boys, we are not giving you a cracker.’
My allegation is of a serious breach of faith and trust by the Prime Minister and the Minister for Veterans’ Affairs, and this is supported by four members of the government. Indeed, they wrote to Mr Tanner disclosing their disappointment. I propose to table this document and the response from Mr Tanner. The members of the government were Mike Kelly, the member for Eden-Monaro, Bob McMullan, the member for Fraser, Kate Lundy, a senator for the ACT, and Annette Ellis, the member for Canberra.

In this document these four members, having seen the Matthews report and the response to it, say to Mr Tanner that they were shocked—as shocked as veterans are, I would say, because that is what jumps out from the pages of this document. The document states:

Understandably, there is a huge disappointment in both the findings and the government response announced on the same day. It had been widely expected that the recommendations would have supported a change to the method of indexation of these pensions to that of which is high, MTAWE or CPI, consistent with the pension, following the earlier Senate and other inquiries.

It further states:

Significantly, many people genuinely believe that prior to the 2007 election the ALP had committed to determining a fairer method of indexation, and a review would provide the direction. So the immediate acceptance of the recommendation of no change in government response is being seen as a reversal of the pre-election position espoused by the ALP in the campaign material.

These are not my words. These are the words of two parliamentary secretaries, a senator and the member for Canberra getting stuck into their minister for sucking the veterans community into believing that they were honest and straight up with them when they made these promises. The document continues on from there.

I seek leave to table the letter from Kelly, McMullan, Lundy and Ellis and the reply by the Hon. Lindsay Tanner.

Leave granted.

Senator JOHNSTON—Their deceiving of veterans does not end there. On 12 September 2008 Treasurer Swan said on ABC radio in Brisbane that the DVA disability pension would be included in the Harmer review. Again, I say that it is no surprise that the disability pensions were not ultimately included in that review. Bluntly, where do these people get off making reckless statements to people on fixed incomes and disability pensions only to contemptuously fail to deliver?

What has the minister and the Rudd government actually done for veterans and their families? They have provided a massive amount of paper shuffling for lawyers, mates and academics. The government has commissioned, firstly, a review of advocacy services; secondly, a review of military compensation; thirdly, a review of Gulf War syndrome; fourthly, a review of the Clarke review—that is a nice one: a review of a review! Fifthly, the government has commissioned a review of mental health care in the ADF and beyond—the Dunk report; sixthly, an inquiry into the F111 deseal/reseal issue; seventhly, the Timor-Leste family study; and, lastly, the Prime Ministerial Advisory Council on ex-service matters with inquiries held in each capital city. So there has been this magnificent, sensational series of laser and light shows designed to make the Rudd government look interested in veterans affairs. The truth is completely and utterly the opposite. Veterans and their families have been fobbed off, deceived, misled and suckered for their vote.

This is the government which has taken Australia from a position of having $20 billion in the bank to a deficit of $48 billion this
year. Almost $70,000 million has been expended in a little over two years on a $900 payment to all and sundry. School halls have been provided to schools that do not need them. Pink batts are available to every uninsulated house—and we know how well that is running. There are laptop computers and trips to Bali and Copenhagen for all and sundry, and bureaucrats and advisers—and not a cracker for veterans. We still have the $43 billion Australian Broadband Network to come, with no business plan.

Mr Tanner and Mr Rudd and Mr Griffin say that living up to the promises they gave will be too expensive. They are happy to spend everybody else’s money on everything else, including themselves. This is nothing more or less than a glib con and a betrayal of the legitimate expectations, as fuelled by the Prime Minister, of all veterans. This callous treatment of veterans fits squarely with a number of misrepresentations made before the 2007 election: ‘I’m a fiscal conservative,’ ‘I’m an economic conservative,’ and ‘We will take the Japanese whalers to the International Court of Justice.’ These were of the same ilk—representations with not a shred of intent to live up to them.

The message that I have for veterans today is that, whilst you may not have been entirely happy with the Howard government, you were not openly and cruelly deceived. You were not treated as some electoral doormat, as some gullible mob of innocent believers and victims, to be abused and suckered. We did not do that, and we will not do that.

Given the deficit and the level of borrowings of this government, it must be said that meeting the equitable resolutions that veterans seek in the reform of their entitlements indexes is now further than ever from becoming a reality. It has disappeared over the hill in the deficit style of reckless spending of this completely profligate Rudd government. The Rudd government has in fact spent all of the money—and not a cracker for veterans. My commitment and that of my colleagues is to relentlessly argue the case for these amendments if elected to government, when we would have some control over the national accounts, which I must say are now totally out of control.

Green Loans Program

Senator MILNE (Tasmania) (1.11 pm)—I rise today as a passionate supporter of energy efficiency and renewable energy to say how absolutely appalled I am at the maladministration of the Green Loans Program by the federal government. It is time there was a full and thorough investigation into what is actually going on. The Greens want to see the transformation to a low-carbon economy. We want to see the community reducing their energy use and increasing the energy they use coming from renewables. We brought out our own scheme to retrofit all of Australia’s houses, first of all using an energy assessment of how people could save energy and then arguing that the Commonwealth should pay upfront for those technologies that have a payback period of 10 years, and then we promoted a scheme for how that money could be paid back.

The Rudd government picked up on some of the Green ideas about going out and having home assessments. I agree with that—that is exactly what needed to happen. The government’s scheme was for a Green Loans Program. It was planned and funded for sustainability assessments for 360,000 homes over four years from 2009 to 2013. We were supposed to be having that rolled out and creating new green jobs, all of which I totally support. The tragedy here is that the mismanagement is such that people have been misled, people have lost their cars and people are losing their businesses because, once
again, the Commonwealth has so badly failed to administer this program properly.

Let me start with the first thing. The government said that this would be restricted to between 1,000 and 2,000 assessors. So people making a decision about going into a small business or getting training and paying for that training themselves assumed that there would be sustainable, equitably provided work for over four years. They made a decision to pay for their own training in that context. The Commonwealth also made promises about providing properly accredited training, and quality control over that training, so that you would see everybody being able to offer a pretty uniform product to consumers and households across the country. But what has happened? What has happened is that this has been a botch-up from the beginning, and that is the most generous thing you can say about it.

Now we have rorting occurring in this program. I want to go through why. First of all, the 1,000 to 2,000 assessors has now blown out to 5,000 people who have been trained and have their accreditation and another 5,000 people who have done the training and are awaiting accreditation. That is 10,000 people. The government promised there would be sustainable work and, given the level of funding for this program, there would have only been sustainable work for 1,000 to 2,000 assessors.

So how is it that the Commonwealth, having made that promise, has allowed the numbers to blow out such that there is not sustainable work for the people who have made this investment in their own training and this investment in trying to get a new and worthwhile career in a green job? The Commonwealth was told that this was the situation. The Association of Building Sustainability Assessors told the Commonwealth and requested a cap on accreditation from 30 September last year, so it is not as if they did not know. The assessors association came and said, ‘This is blowing out badly. You have to put a cap on it.’ They did not put a cap on it at that stage, and we now have 10,000 people expecting to have this work when the program is not funded for them. That means that people are going broke.

To make it even worse—and the Senate will remember that I raised this issue last year in September—the Commonwealth had promised to provide an online booking service for the assessors who would go out, do the assessments and put in the information. They promised to get this scheme running properly. I raised in September the fact that the software was not working at that point. Assessments had been done but reports had not been issued. Hardly any green loans had been issued. It was a complete mess. The minister told me in here that it was all sorted out, that the software was fixed and that all of the issues around the invoices and paying the assessors were fixed. Well, it was not fixed. They have never had their online booking service. They are still relying on a call centre.

I want to go through for the Senate what has happened over the last couple of months. The Department of the Environment, Water, Heritage and the Arts call centre unexpectedly closed for 14 days over Christmas with just one day’s notice. This left assessors with no work for two weeks. When the call centre was due to open again, software issues caused it to remain closed for another two weeks. That is a month without work for people who had planned for this to be their income. When the DEWHA call centre finally opened four weeks after Christmas, the software was very unstable and for two or three days assessments were allowed to be booked by email. The emailing of assessments was then stopped.
Call centre staff consistently told assessors that they could proceed without booking numbers, contrary to the advice from Green Loans staff. Many assessments that were emailed have never been acknowledged or confirmed. Some assessors have proceeded with assessments without booking numbers, believing that DEWHA would pay them. They were advised on 1 February that all assessments must have a valid booking number before proceeding. Some assessors cancelled assessments because they did not get confirmation; some assessors, having received a booking number, arrived to conduct an assessment to find that another assessor had already conducted the assessment.

Currently, the call centre has extended call wait times, which are regularly 45 minutes or more. They restrict the assessor to five assessment bookings per call, randomly choose not to talk bookings, say that they will call back to solve issues but never return the calls and were closed to all bookings on 1 February. No-one can leave a message. The average number of assessments able to be booked per week is in the range of five to 10. There have been six weeks of no work or sporadic work for assessors.

The other issue here, and it is a very big one, is that the Commonwealth allowed several large companies to get involved in the act. This should have been stopped before it began. The Commonwealth should have accepted that this was a big risk. These are very large corporate training organisations. One of them is Fieldforce. I have been told that Fieldforce has a direct IT link between their call centre and DEWHA’s booking database, so they do not have to engage the call centre at all. How is it that there is a special arrangement for Fieldforce that does not apply to all the other small business people, who have to go through the call centre and who are told that they cannot have any more than five bookings a day, which has now become a week? Fieldforce can busily book as many as they like with a direct link. How is that possible? That is discriminatory and unfair.

Worse still, the Commonwealth said that there were rules to do with this program and one of them was in relation to promoting the business of particular companies. The assessors were told that they were not allowed to go into a home and spruik for one company or another or one product or another in relation to what they were recommending in terms of the assessment. Now we discover that in fact Fieldforce is offering bonuses to the assessors working for them in relation to what they provide to the consumer. I am also aware, for example, that Fieldforce is using telemarketing companies to cold call and canvass businesses. That was not part of the rules. The assessors were told that they were not allowed to do that. Assessors have now become so desperate that they are buying bookings from the telemarketers.

This is a huge rort of Commonwealth money. Equally, this is about putting small business out of business—people who are self-employed and who have made decisions to change their jobs to go into this, because it is a very worthwhile thing that assists in the transformation to a green, low-carbon economy. It should provide worthwhile work and experience in the long term. But I have never seen such mismanagement. We saw mismanagement when it came to the photovoltaic rebate: one minute it was means-tested; the next it was stopped without notice. Then we have the renewable energy target, which has been crowded out by energy efficiency technologies and the multiplier such that it is not working properly. Now we have the Green Loans scheme.

You would have to think that either the bureaucrats overseeing this are incompetent or the ministers are not actually looking at what is going on. Why isn’t Minister Garrett...
overseeing this program? When is he going to start explaining why they allowed the blow-out in the number of assessors? Why has he allowed these big training companies to come in and why do they have special rules for them that do not apply to small business people? Why is it that he has allowed this complete failure of their call centre and the failure to have the online booking service up and running as they said they would? At the rate things are going, this program is going to probably run out by March this year in terms of the number of assessments, and there has been no quality control. Some people are going into houses and doing an assessment in half an hour, ticking the boxes and saying, ‘Here you go: I’ve done that assessment.’ They put in the report and then go onto the next place. This is because Fieldforce is taking a large amount of the money. You get $200 per assessment. If the company is getting $100 for the assessment, then the assessor has to do twice as many assessments in order to get a reasonable return.

We are seeing rorting and gouging of this program and we are not seeing what we hoped to see—that is, a genuine energy efficiency assessment which assists consumers to make the change and get a green loan. We need to look at the variable quality of the training. There is no quality control over the assessments. There is a blow-out in the number of assessors. There is a ‘special deal’ arrangement in DEWHA’s booking system for Fieldforce, with a very high number of assessments being booked to one provider—and I understand these providers are bragging that they will have cornered a large percentage of the market in a very short time, which clearly they have been doing. Finally, I am told that the green loan is being issued to householders with the $10,000 deposited into their bank accounts. That was never the arrangement. There was a control so that that money would be spent on what was assessed. The whole idea was that a report about what would be funded would go in and then those things would be funded. It was to be designed to have third-party cheques issued, and now this is not happening. There does not even seem to be oversight so that the $10,000, when it finally gets to the green loan, is spent on what the green loan was issued for.

In summary, we have a minister who has run around promoting green loans but has not actually overseen the implementation and rollout of the program. We have Commonwealth money being spent in a way that was not envisaged by people in this parliament when we talked about green loans. We have a situation where small business people are going out of business, where preferential treatment is being given to large businesses over small businesses and where, when it comes to running the scheme, you have total incompetence in the provision of information technology support.

I would like an immediate investigation into this by the Commonwealth. The minister really must start overseeing his department, and, frankly, it is time to look at how well people who are charged with administering this program are doing so. It is time that the Senate had a full investigation and a full report from the government. No doubt we will get to this next week in estimates, when I am sure that the non-government parties in this parliament will be working very hard to get to the bottom of the Green Loans Program. How many loans have been issued? How many reports have been issued? How many assessments have been done? What percentage of those assessments has been allocated to one or two providers? What is the quality control? And why did the government allow for such a disgraceful blow-out in the number of assessors, undermining the financial viability of those people who in good faith
trained to be energy efficiency assessors under this program?

Health

Senator PRATT (Western Australia) (1.25 pm)—Today I rise to speak about a key issue of public interest—that is, the need to plan for and invest in Australia’s health system. Despite the global recession and falling government revenues, the Rudd government has achieved a great deal and has a strong record on health. This includes injecting a massive 50 per cent increase into the health budget, funding 1,000 new nurse training places to ensure patients have the care they deserve, investing in new cancer research and treatment centres, and funding a 30 per cent increase in GP training places to help address a shortage, especially in regional and rural areas. We are working with all levels of government, with health professionals and with local communities to bolster the ailing health system that we inherited. The government is also constructing an effective program for lasting reform.

On the other hand, the Leader of the Opposition has shown himself to be uncommitted to Australia’s health system and out of touch with Australians’ aspirations for health reform. As Minister for Health and Ageing in the previous government, Mr Abbott ripped $1 billion from public hospitals, froze the number of GP training places and ignored the need for more nurses, despite the shortage of 6,000 nurses across the country. Now, as Leader of the Opposition, he has shown contempt for the extensive consultation currently being undertaken by the Rudd Labor government, consultation involving literally thousands of Australians.

Late last year I attended one such consultation at Geraldton Health Campus. Geraldton is located about halfway between Carnarvon and Perth in Durack, an electorate which covers a massive area in the north of Western Australia. There were about 84 people at this consultation, including people from the Indigenous health sector and the Geraldton Regional Aboriginal Medical Service, hospital staff, doctors, nurses and allied health professionals, as well as workers from community services and people from the aged-care sector. The Prime Minister gave a presentation on health reform outlining the recommendations of the Health and Hospitals Reform Commission and of the recent reports on preventative and primary health.

The audience of professionals, community representatives and consumers responded enthusiastically. They were very eager to offer suggestions and to consider the options for health and aged-care services in the region and nationally. They raised many significant issues, including the use of capital funds required for infrastructure in regional Western Australia, the integration of nurse practitioners into the health system, the importance of the GP incentive program, training for Aboriginal health workers, transport issues for patients in remote areas, and the fact that people in regional and remote WA get far less of the health dollar spent on them than those in metropolitan areas. There was also a lot of discussion about the need for local solutions to local issues.

There were a great number of positive examples of how existing health agencies have created strong partnerships to improve service delivery in WA’s mid-west. I was particularly pleased to have the opportunity to meet personally with staff and board members from the Geraldton Women’s Health Resource Centre and the Geraldton Regional Aboriginal Medical Service. It was great to be part of a dialogue with local consumers and health professionals. Geraldton is not as remote as places like Durack but is certainly—and people know this—a long way from Canberra. So it was great to see this community make the most of this opportu-
nity to have a dialogue with government about health reform. Their contribution will help the Rudd government make the best choices for our health system. Given the size of Durack, I am pleased to note that another health consultation was held as far north as Derby.

A further 10 consultations have been held in WA as part of a nationwide process of over 100 consultations, stretching from the inner city to our outermost regions. And that is not to mention the many hundreds of submissions to the reform commission or the tens of thousands of people visiting the yourHealth website, many of whom have offered their comments and suggestions. This direct input from professionals and consumers is vital to the success of our health reform. These consultations reflect our determination to structure a stronger, more equitable health system geared for the challenges of an ageing population.

Australians want a health system we can be proud of, and most of us know that to achieve this we must all work together. That is why, when the Rudd government came to office, we were determined to end the blame game on health. However, it seems that the opposition learnt nothing from 12 years of playing the blame game. In particular, the Leader of the Opposition, Mr Abbott, learnt nothing from his five years as Minister for Health and Ageing—five years in which he ripped a billion dollars out of public hospitals while blaming the states for their condition, and five years in which he could have instituted reform but did nothing while the pressure on our hospitals mounted.

Despite this record, what does the Leader of the Opposition have to say about Labor’s plan for health reform and the consultation that underpins it? He has said that it is improbable that it will bring forward a policy that the opposition can support. He is ready to reject Labor’s plan without waiting for the final outcome and without considering the views of the thousands of Australians who have participated in health reform consultations—participated in health reform. In the meantime, Mr Abbott struts about, pronouncing his health policies on the run. One wonders why Mr Abbott did nothing to implement any solutions to the health system’s problems during his term as health minister. Under the coalition there were 12 years of no action on health reform, which left our health system under intolerable strain. Australians recognise that. Australia has had a gutful of Mr Abbott on health and has come away with nothing but heartburn.

In contrast, the Rudd government are taking the steps required to construct a program for lasting and meaningful reform. Where problems are pressing and the way forward is clear, we are making changes immediately. We are delivering improvements to the health system right now, often in the face of opposition from this chamber. Many of these improvements are forerunners of the reforms proposed by the National Health and Hospitals Reform Commission and point the way to a better future. We have increased health funding to relieve the worst pressure points. For example, under the Rudd government in 2008 the Commonwealth’s share of funding for public hospitals showed the highest growth rate in a decade, whilst from 2004 to 2007, when Mr Abbott held the health portfolio, the Commonwealth’s share decreased. The Howard government could not find the money needed for health even when Commonwealth revenues were rising. In stark contrast, the Rudd government have increased total health funding to a record $64 billion—and this at a time when global conditions have put extreme pressure on our federal budget.

We have also acted to relieve elective surgery waiting lists, devoting $600 million to
this end. We have required the states and territories to meet specific targets, and reward payments are available where targets are exceeded. This new approach to health funding is indeed paying dividends, with tens of thousands of extra elective procedures already having been performed. The Rudd government have also recognised that rising health costs will require us to save resources. That is why changes have been instituted to the PBS and the MBS to cut red tape and ensure value for money, without compromising patient care. We will persist with plans to save $100 billion between now and 2050 through changes to private health insurance subsidies. I think the Liberal Party should reverse its irresponsible opposition to these changes so that all Australians can benefit from the extra resources that will flow to the health budget.

To further contain health costs, we are investing a record amount in preventative health—over $872 million. Hopefully, this chamber will get its act together soon and pass the legislation needed to establish a national preventative health agency so that we can get on with the work of fighting obesity, chronic disease, alcoholism, and tobacco addiction. We also need to redesign health services around people, not systems, including by building on the role of general practice. Our signature program, GP superclinics, are a critical first step in this direction. They are bringing together services, opening for extended hours and targeting chronic disease. I am really pleased that the government have committed to three GP superclinics in WA.

The Rudd government knows we must also invest in the health workforce. Again, we are doing just that, by investing in clinical teaching and training, by investing in infrastructure and undergraduate health professionals, by removing the previous government’s cap on GP training places, by funding 1,000 new nurse training places and by establishing Health Workforce Australia to build a skilled, sustainable health workforce that can meet the needs of the Australian community.

Given the large number of regional, remote and Indigenous communities in WA, I am also pleased to note that we have initiated a subsidised locum program that is going to give rural and remote doctors, obstetricians and anaesthetists a well-earned rest. We have provided funding for new Indigenous health project officers and we have invested heavily in health infrastructure and equipment in rural and remote areas.

We know that every family in Australia depends on the healthcare system. That is why Rudd Labor is committed to providing affordable high-quality, comprehensive and integrated health services that are accessible, convenient and sustainable. That is why we are improving services right now and that is why we are determined to get on with health reform for the long term.

Building health services for the future needs vision, planning, determination and a financial commitment. It needs a commitment to equity and efficiency, to consultation and to making tough decisions when required. The Rudd government is up to this task. The opposition never has been and, as Mr Abbott’s record proves, it never will be.

**Assyrian Community**

Senator **FIERRAVANTI-WELLS** (New South Wales) (1.38 pm)—I rise to speak on an important issue relating to the continued persecution of the Assyrian community in the Middle East and in particular Iraq. The systematic dismantling of human rights provisions against this oppressed race is a source of great concern for members of the Assyrian diaspora, including the many Australians of Assyrian heritage residing in Western Sydney.
Can I at the outset pay tribute to the many people in the Australian Assyrian community who work assiduously in raising awareness of the Assyrian persecution. These include Hermiz Shahen, the Deputy Secretary General of the Assyrian Universal Alliance, Mr David David, Mr Paul Azzo, Mr Andy Rohan, Mr Zaya Toma and other distinguished representatives of the Assyrian community, under the spiritual guidance of His Beatitude Mar Meelis Zaia.

For many in the Australian Assyrian community, there is a strong view that it remains a blemish on Western governments that more has not been done to mitigate this growing and regrettable crisis. Can I, though, at the outset acknowledge the many members of parliament across the political spectrum, in both the state and federal arenas, that have not only taken an interest in the issue but have supported the community in its efforts to raise awareness of the problems. Many have regularly attended the New Year celebrations. Indeed, last year the community celebrated the year 6759. This is testimony to the ancient civilisation of Assyria.

The Assyrians have had a continuous association in the Middle East since ancient times and are indigenous to the area known as modern-day Iraq. Over centuries the Assyrians have proven to be resilient in the face of destruction of their towns and persecution of their people. However, such challenges have ultimately decimated their present-day numbers, leading to what now constitutes minority status in the region.

Late last year, I wrote to the Minister for Foreign Affairs, the Hon. Stephen Smith; the Minister for Immigration and Citizenship, Senator Chris Evans; and the Iraqi Ambassador to Australia. I sought to convey concerns that had been raised with me regarding the current plight of the Assyrians. I have received various desperate appeals from members of the Australian Assyrian community who have documented a series of injustices.

The situation in Iraq has been precarious for innocent civilians as that country embarks on the transition to democracy following years of brutal rule by the former regime. It is clear that there are elements that seek to undermine stability to achieve stated aims. Demands on the state of Iraq are great, and frustrations with daily life can lead to internal upheaval. Many recognise the difficulty for the authorities in managing the transition and economic recovery of Iraq. It is, however, important to recognise that genocide can creep in a surreptitious manner and engulf communities if it is not resisted resolutely. This tragedy faced by the Assyrian people is amongst the many domestic challenges occupying the authorities in Iraq.

The Assyrian community provides a direct link with ancient times and traditions. Its rich culture connects the evolution of humanity and documents the natural progression of ideas and civilisation which has influenced the development of our own culture. The Assyrian identity is critical in providing the foundation of many of our own traditions and practices. We can witness the Assyrians’ timeless contribution as a people to our own evolution. Let us not forget that the Assyrians speak Aramaic-Syriac, which is the language of Jesus Christ. It is a testament to their tenacity, spirituality and pride that the Assyrians continue with enthusiasm to prosecute their substantial case for support. Their perseverance cannot be taken for granted but must be acknowledged with action.

In my correspondence, I sought to highlight the plight of the Assyrians and appealed to our government to represent their concerns directly to the government of Iraq. Colleagues across the political spectrum have
encouraged the restoration of their dignity and the preservation of their human rights.

If we recognise the Assyrian association with that region, then we ought to note the large and alarming exodus of such people from their ancestral homeland. It is somewhat perplexing that so many would voluntarily wish to depart this area without a rudimentary explanation. Strong reports indicate that harassment, terror and persecution provide the triggers for the displacement of the Assyrian people with great effect. Whilst Iraq must manage its diversity from within and concurrently resist external threats, it is vitally important that fundamental rights are extended towards the Assyrian community as a genuine measure in upholding consistent democratic and secular ideals across this nation and amongst all citizens.

The Assyrians remain robust in their aims to preserve their cultural identity. The reconstruction of Iraq will take time but it is imperative that the state manages its differences with care. The rule of law provides the foundation to ensure balance across the multitude of differences that are evident amongst the diversity that exists within modern-day Iraq. Yet one can observe the tremendous obstacles that will require commitment to overcome. What further proof of intimidation and terror can be required than the fate of the Catholic Archbishop of Mosul, Paulos Faraj Rahho, who was kidnapped in February 2008 and whose body was discovered a month later? If the spiritual head can be subjected to such a fate, what hope do ordinary citizens have to survive?

The Australian Assyrian community have argued that, given its participation in Iraq, Australia could facilitate a forum with international allies to again encourage debate on the Assyrian question. This could help avert a further humanitarian crisis by providing support to Assyrian refugees if the exodus continues. Obviously it is preferable for the Assyrians to remain in harmony with other communities within their own traditional homeland. However, there are reports of displaced persons who desperately deserve support. Minister Smith, in his reply to me, stated:

Iraqi refugees remain a priority group for resettlement under Australia’s Humanitarian Program. In the last five years more than 10,000 humanitarian visas have been granted to Iraqi nationals. Over 3,000 Iraqis resettled in Australia in 2008-09 under the Humanitarian Program. More than half of these persons stated their religion as Christian, including Assyrian Christians.

Indeed this is an issue that I have pursued in the past and in more recent times during estimates in my capacity as shadow parliamentary secretary for immigration and citizenship.

Australia has a vibrant and active Assyrian community who have made and continue to make a tremendous contribution to our society. As a result Assyrian Australians are willing to support their compatriots in any way. One organisation which has provided a tremendous leadership role is the Assyrian Universal Alliance, which has consistently adopted a productive and dignified approach as it seeks to compassionately provide a voice for the Assyrian cause. Their perseverance in disseminating painful reports from afar across the large Assyrian diaspora is not an easy undertaking but it is an essential task.

The alliance has advocated a number of recommendations aimed primarily towards ameliorating the current situation and curtailing instances of violations and oppression. These recommendations include an acknowledgement and declaration that the Assyrians are the Indigenous and original people of Iraq and therefore entitled to an Assyrian autonomous region; that equitable and/or proportionate distribution of aid, including
any reconstruction aid, be given to Assyrians through their local government representation; that assistance be provided for displaced Assyrian refugees and further demands that such programs are adequately implemented; that there be a return of all Assyrian lands and villages to date occupied by non-Assyrians; that the Iraqi constitution contain a minimum guaranteed quota for Assyrian representation at all levels of government, which, given the current official population counts, amount to 2,500,000 or approximately 10 per cent of the total population; and, that the Republic of Iraq support, establish, train and arm Assyrian security forces as part of its national security to adequately and sufficiently maintain the security of Assyrian towns and villages from further attacks and harassment.

In his reply to me, Minister Smith stated: Australia is working with the government of Iraq to build capacity in human rights practice and has strongly supported the establishment of a national human rights commission in Iraq.

Furthermore:
The Australian government supports Iraq’s sovereignty and territorial integrity and strongly believes that all political aspirations including those of Assyrian Christians should be pursued within Iraq’s existing political framework. This is particularly important in the context of national elections scheduled for 7 March 2010.

It is in this context, I am sure, that the petition of the Assyrian Universal Alliance and that of the Australian Assyrian community for immediate action is given consideration by the Australian government and the international community. It would be profoundly liberating to the Assyrian people should such a strong symbol of support be directed in their interests.

The preservation of the Assyrian community in a region identified historically as their ancestral homeland is an important priority and the strong view of the Australian Assyrian community is that the adoption of these recommendations will provide a positive framework in restoring the liberties that we take for granted by helping to extend them to Assyrian people.

Sitting suspended from 1.49 pm to 2.00 pm

MINISTERIAL ARRANGEMENTS

The PRESIDENT—Are there any questions without notice? I call Senator Evans before we go to questions.

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (2.00 pm)—I would not mind asking a question or two. It is the only downside of being in government. I would not mind asking a few questions about the opposition’s CPRS policy, but I want to advise that Senator Faulkner, the Minister for Defence, will be absent—

Senator Abetz interjecting—

Senator CHRIS EVANS—In 11 years of government we did not get a direct one. Senator Faulkner will be absent from Senate question time today and tomorrow. He will be attending a meeting of the NATO defence ministers and non-NATO International Security Assistance Force in Turkey. I think he has advised relevant authorities and I have certainly written to party leaders. In his absence, Senator Ludwig will handle matters relating to defence, veterans’ affairs and defence personnel, and I will represent him on foreign affairs matters.

QUESTIONS WITHOUT NOTICE

Climate Change

Senator BIRMINGHAM (2.01 pm)—My question is to the Minister representing the Prime Minister, Senator Chris Evans. Will the minister advise the Senate exactly how many Australian families will be worse off under the government’s ETS, the great big new tax on everything?
Senator CHRIS EVANS—I am not sure why the Liberal senators will not ask Senator Wong questions about this—probably because she beats them up so badly. It is my great pleasure to answer the question. I note again that Senator Birmingham has amnesia, like all Liberal members who forget that they went to the last election supporting an ETS, arguing for an ETS and promising the Australian people that they would deliver it. Even a conservative like John Howard recognised the impact of climate change and he went to the election. Senator Birmingham and the rest of the Liberal opposition promised the Australian people that you would support an ETS. You also indicated when we first introduced this legislation that you would be supporting it. Up until a month or two ago you were supporting it, but now apparently it will result in the end of the world as we know it. Of course that is nonsense.

We have undertaken to fully compensate Australian families for the costs of our ETS and 92 per cent of the families will receive full compensation and working families in Australia will have those costs met. That is in sharp contrast to yesterday’s con, yesterday’s stunt, by Mr Abbott in which he suddenly announced that $11 billion over 10 years would magically arrive and would be paid for under the ‘forces of greed’. According to the finance spokesman, polluters will get access to $11 billion of whose money? Taxpayers’ money. So do not talk to me about a tax! The $11 billion of taxpayers’ money will allow people through their ‘actions of greed’, as you describe it—what a disgrace!

Senator Abetz—Mr President, I rise on a point of order. I dare say it will not surprise you that my point of order relates to sessional orders requiring the minister to be directly relevant to the question asked.

Government senators interjecting—

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

Senator Abetz—The question to the minister asked exactly how many Australian families will be worse off. There was no request for him to comment on all sorts of extraneous matters. I invite you—

Senator CHRIS EVANS—Like your policy? Your policy is an extraneous matter?

Senator Abetz—And the Leader of the Government in the Senate has just interjected to make my point—’on our policies’. He is quite right. The question did not relate in any way, shape or form for commentary on our policy—

Senator CHRIS EVANS—You’re sensitive about your policy.

Senator Abetz—No. If he wants to answer a question about our policy, he can arrange a Dorothy Dixier from his own side, but when we ask him a question the sessional orders in fact demand that he be directly relevant.

Honourable senators interjecting—

The PRESIDENT—Order! When there is silence we will proceed. It is as simple as that.

Senator Ludwig—Mr President, on the point of order: there is no point of order. The minister has been directly answering the question. Those opposite may not like the answer to the question, but it is an abuse of process to stand up and object on the basis that they do not particularly like the answer. The minister has been directly relevant to the question. He has been dealing with the question and the policy of this government on climate change—unlike those opposite.

The PRESIDENT—The minister has 12 seconds remaining if there is anything further that needs to be added in answering the question. I draw the minister’s attention to the question.
Senator CHRIS EVANS—The Rudd Labor government’s plan compensates families. The Abbott plan says that greedy polluters will take $11 billion of taxpayers’ money under that policy. It is a disgrace.

Senator BIRMINGHAM—Mr President, I ask a supplementary question. I refer the minister to comments by the Treasurer on Sky News last November in which he said, ‘We can’t guarantee that no-one will be worse off under the ETS.’ How can the Labor government claim to have an effective compensation package if they do not know or will not even say exactly how many Australian families will be worse off?

Senator CHRIS EVANS—I welcome the supplementary question because what has become clear in the last day or so is that the Liberal Party have no capacity under their plan to protect Australian taxpayers from meeting $11 billion worth of costs, which they say they are going to pay to big polluters and will be driven by the polluters’ greed. What we have done is fully costed our ETS. We have costed what the impact will be on taxpayers, on working families, and we have provided a compensation package. There is no compensation package under Mr Abbott’s plan. There is an admission that $11 billion of taxpayers’ money will be expended—

Opposition senators interjecting—

The PRESIDENT—Order! The time for debating this is post question time. The minister is entitled to be heard in silence.

Senator CHRIS EVANS—Mr President, taxpayers understand that when an opposition party promises to spend $11 billion of taxpayers’ money it has got to come from somewhere. Your finance spokesman was not able to explain where it came from, but taxpayers know: $11 billion out of their taxes. (Time expired)

Senator BIRMINGHAM—Mr President, I ask a further supplementary question. I ask the minister: isn’t it true that, even on the government’s own flawed figures, half of all middle-income Australian families will be worse off under the Rudd government’s ETS? Is the Labor government simply hiding its estimates and modelling to stop Australian families from knowing how many will be worse off under this big new tax or is it that it simply does not know?

Senator CHRIS EVANS—As the senator knows, our plan was costed by Treasury. The compensation package was costed. It has all been out on the public record for months and months. We have debated this twice in this parliament. On two occasions it was your intention to vote for it. Now you have joined the climate deniers, Senator Birmingham. The Liberal Party is no longer; it is back to being the conservative party. The deniers like Senator Minchin are in charge, Mr Abbott describes climate change as ‘crap’, and now you pretend you have got a policy to deal with it. The Australian taxpayers know you are going to spend $11 billion of their money, with no compensation.

The PRESIDENT—Senator Evans, your remarks should be addressed to the chair and not across the chamber to individual senators.

Senator CHRIS EVANS—Thank you, Mr President. It is the case that this government provides compensation to Australian families for the cost of the scheme. The Liberal Party policy makes it clear that the big polluters will not pay. There will be no cap on emissions. The big polluters will get access to $11 billion of taxpayers’ money, with no compensation. You have no credibility. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from the Czech Republic led by His Excel-
lency Mr Premysl Sobotka, President of the Senate. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I will ask the President to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

Mr Sobotka was seated accordingly.

QUESTIONS WITHOUT NOTICE

Economy

Senator FARRELL (2.10 pm)—My question is to the Assistant Treasurer, and recently reformed smoker, Senator Sherry. Assistant Treasurer: today being the anniversary of the Rudd government’s decisive action in launching the Nation Building Economic Stimulus Plan, how is this strategy, designed to protect Australia from the worst effects of the global recession, progressing? How does the government plan to keep Australia on its recovery course and ahead of the pack as the world emerges from the global recession?

Senator SHERRY—I am very pleased to answer both questions—but I will leave for another time the one on cigarettes. Seriously, this is a very important day because it is one year ago today that the Labor government took decisive action and announced the implementation of its Nation Building Economic Stimulus Plan, a $42 billion plan to cushion the Australian economy from what was then rapidly emerging as the worst financial and economic crisis the world has seen in some 75 years. It is also the anniversary of the day when the Liberal-National Party gave up and just determined its policy would be to sit back and do nothing about the emerging world economic and financial crisis.

It was on this day last year that the Prime Minister and the Treasurer announced the historic, long-term and targeted plan as a decisive step in the government’s response to the severe global recession. A progress report has been released by the Commonwealth Coordinator-General. It shows almost three-quarters of the infrastructure projects in the stimulus plan are completed or underway. Some 49,179 projects have been approved, 34,850 projects have commenced and 8,339 have been completed. Over half of the $42 billion stimulus package has been injected into the economy through businesses, households, and state, local government and various construction projects.

The report also confirms that, without the stimulus, unemployment in Australia would be some 200,000 greater. We would be well on the way to almost a million unemployed but for the stimulus package—

Senator Abetz—Unlike you had before!

Senator SHERRY—and tens of thousands of businesses would have shut. We know, Senator Abetz, that your policy would have led to a million unemployed. (Time expired)

Senator FARRELL—Thank you for that answer. I have a supplementary question, Mr President. Is the Assistant Treasurer convinced by opinions against maintaining the stimulus? Is he aware of the warnings of the dangers of withdrawing the stimulus too early and plunging our economy into the recession the Rudd government’s decisive action has managed to avoid?

Senator SHERRY—Australia’s unemployment rate is 5.5 per cent. The unemployment rate in Europe and in the United States is approximately 10 per cent—almost double the Australian unemployment rate.

Senator Abetz—You started with 3.9!

Senator SHERRY—and we know, Senator Abetz, that if you had had your way Australia would have an unemployment rate close to 10 per cent.
The PRESIDENT—Senator Sherry, address your comments to the chair.

Senator SHERRY—Thank you, Mr President. If we had adopted the Liberal-National Party prescription to do nothing, we would have had close to a million unemployed. Remember the opposition Treasury spokesperson, Mr Hockey, saying, ‘Jobs, jobs, jobs—Australia will have a million unemployed,’ this time last year. That is what he was saying. We took decisive action. You opposed that decisive action. We know the outcome would have been the same outcome that we have seen in Europe and the United States: almost 10 per cent—a million—unemployed. The evidence is very clear. (Time expired)

Opposition senators interjecting—

The PRESIDENT—Order! The time to debate it is at the end of question time.

Senator FARRELL—Mr President, I ask a further supplementary question. Thank you to Senator Sherry for his answer. Can the Assistant Treasurer inform the Senate, on this important anniversary, of the government’s nation-building and jobs priorities over the next year and beyond?

Senator SHERRY—I note that there have been a range of calls from the Liberal-National Party to wind back the stimulus. I would firstly point out that the stimulus package has an automatic adjustment, that it peaked in June last year. The IMF in its World economic outlook said last week:

Due to the still-fragile nature of the recovery, fiscal policies need to remain supportive of economic activity in the near term, and the fiscal stimulus planned for 2010 should be implemented fully.

There has been a convert to the Labor Party’s thinking and the IMF’s thinking. This is in direct contradiction to those opposite, who have been calling for the stimulus package to be wound back. Senator Joyce, the new economic sage, I have to say, has seen the light!

On TV last night he said:

There’s uncertainties around the globe. We see that, we see China is tightening up on its credit, and we see that America has massive unemployment—

(Time expired)

Emissions Trading Scheme

Senator BACK (2.16 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Will compensation paid to households under the government’s proposed ETS compensation arrangements be paid to a designated householder or to each taxpayer in the household?

Senator CHRIS EVANS—Thank you, Senator Back. Senator Back, as was made clear last year when we introduced the legislation—at a time when the Liberal Party were going to support the legislation, at a time when you believed in the need for urgent action on climate change, at a time when there was a consensus in Australian politics on the need for action—all this information was released. That included fully costed compensation to Australian families that made sure that big polluters carried the cost of the trading scheme. What we have now seen from the Liberal Party is that the taxpayer is going to carry the can for the Liberal Party’s policy, which does not even cap emissions.

As was made clear at the time, the Australian government undertook to provide, through the tax and welfare systems, compensation to families and households for the costs involved in the Carbon Pollution Reduction Scheme and the trading mechanism introduced. We said that compensation would be paid. We laid it out. We costed it. We made clear how it was to be paid. At the time, the Liberal Party indicated its support for the proposition. It was going to support the proposition. But there was a revolution
inside the Liberal Party. The people who deny climate change is having any impact got the numbers and now the Liberal Party’s policy is to deny climate change but to pretend they have a policy—a con job—that somehow says, ‘Even though we don’t believe there’s climate change’—

Senator Abetz—Mr President, I rise on a point of order. Sessional orders require the minister to be directly relevant to the question asked. The minister has ranged far and wide and has not even accidentally drawn near to the actual question asked, which went to whether the compensation would be paid to a designated household or to each taxpayer in the household. I would ask you, Mr President, to require him to abide by sessional orders or to sit down.

The PRESIDENT—I cannot tell the minister how to answer the question, but I do remind the minister that he has 14 seconds remaining to answer the question.

Senator CHRIS EVANS—Senator Abetz might not like it, but I actually told him the answer. It will be paid through the normal tax and welfare systems. It was made clear. It was costed by Treasury. All this information is on the record.

Senator Abetz—Well, then, tell us!

Senator CHRIS EVANS—You may not have paid attention at the time because of your internal divisions, but it is all on the public record. (Time expired)

Senator BACK—Mr President, I ask a supplementary question. Where, for example, three or four young people are sharing a house, who will receive the compensation? What will happen in cases where there is a change in the membership of the household during the course of a year?

Senator CHRIS EVANS—It is pleasing to see that Senator Back is now taking an interest in the government’s legislation. But, as I understand it, Senator Back and the Liberal Party will be opposing the legislation. It seems a bit odd that, when they were voting for it, they were not interested and now, when they are not voting for it, they are interested. Senator Back, as I made clear, the compensation will be paid through the tax and welfare systems. The normal rules that apply to pensions, family payments and the definitions of households et cetera will apply to the compensation payments that are made. This is normal practice. For adjustments and compensation packages it has been done by successive governments, and that is all on the public record. Under our proposal, Australian taxpayers and Australian families will be compensated. Under yours, they will pay $11 billion more in tax.

Senator Fifield interjecting—

The PRESIDENT—Order! Senator Fifield, the time for debate is at the end of question time.

Senator Forshaw interjecting—

The PRESIDENT—Senator Forshaw, I am waiting to ask Senator Back if he has a further question.

Senator BACK—Mr President, I ask a further supplementary question. Given that the government’s proposed ETS compensation arrangements for households are based on so-called ‘cameos’ of typical households, what is Mr Rudd’s definition of a typical household under this flawed and increasingly complicated ETS?

Senator CHRIS EVANS—I do not know what Senator Back is seeking to achieve, but I can say to him that we have debated this legislation twice in this parliament. It has been rejected by the Senate twice.

The legislation has now been introduced into the House of Representatives again. You will again get the opportunity in this chamber to debate the legislation. You will then
get a chance to decide what your latest position on climate change is, whether you believe there is human induced climate change or not. All this information is out there in the public arena. All the normal tax and welfare arrangements in terms of definitions of families and definitions of households will apply. Under the Rudd Labor government families get compensated for the costs. Under the Liberal Party proposal, Mr Abbott’s proposal, taxpayers bear the burden of big polluters and their greed, according to your finance spokesman, Senator Joyce.

Green Loans Program

Senator MILNE (2.23 pm)—My question is to the minister representing the Minister for the Environment, Heritage and the Arts, Senator Wong. Can the minister confirm that the government promised to limit the number of home sustainability assessors accredited to conduct its Green Loans Program to between 1,000 and 2,000 to ensure sustainable work would be available to each of them! Given that so many people invested thousands of dollars in undertaking training and establishing small businesses on the basis of that promise, can the minister now explain why the government has allowed 5,000 assessors to be trained and accredited with a further 5,000 trained and awaiting accreditation, destroying job security and undermining the viability of many businesses?

Senator WONG—I thank Senator Milne for the question. In relation to the first proposition, I do not have advice in the terms that the senator has asserted. I am not suggesting she has it wrong, but I do not have advice to that effect. I will certainly seek from Minister Garrett confirmation of that. I can advise that the assessors were required to be formally trained and that prospective assessors must undertake training from an RTO which was endorsed by the industry body, ABSA—the Association of Building Sustainability Assessors. I am also advised that ABSA did require that certificates of attainment be provided to them upon registration and Green Loans assessors must be registered with ABSA before becoming eligible to be contracted to the department. In relation to the quality of training—

Senator Ian Macdonald interjecting—

Senator WONG—Did you have a question?

The PRESIDENT—Continue, Senator Wong. Ignore the interjection.

Senator WONG—Mr President, I did not realise that Senator Macdonald has joined the Greens over the—

The PRESIDENT—Senator Wong, ignore the interjection and just continue your answer.

Senator WONG—The government has a commitment under the Green Loans Program to provide for up to 360,000 assessments. Obviously, in any market it is a decision for individuals about whether they want to start a business and to enter that market. Obviously, given the nature of the government’s commitments, which were laid out by the minister, there is a possibility that some assessors who enter the program in the later stages may receive little or no work. The contract that all assessors must sign clearly states that there is no guarantee of work.

Senator MILNE—Mr President, I ask a supplementary question. I thank the minister for the answer and look forward to Minister Garrett explaining why there are now 10,000 people when the government promised 1,000 to 2,000. I further ask the minister: can she tell us why preferential treatment has been given to large companies dominating the market, allowing Fieldforce, for example, special arrangements to bypass the call centre booking procedures and to bypass the
restrictions on the number of assessments that are still in place for small business? (Time expired)

Senator WONG—I do not have any advice which confirms the assertion of preferential treatment. That is the basis on which the question was asked. I will certainly ascertain whether that is the case, but that is not the advice that I have. The government did engage in an arrangement with ABSA—the industry body—to deal with these training requirements and the government has progressed the training through the auspices of ABSA. In addition, as I said, the commitment was for 360,000 assessments. Obviously, there was no guarantee of work for any particular assessor at any stage.

Senator MILNE—Mr President, I ask a further supplementary question. Perhaps the minister could table at a later date the special arrangements in place between the federal government and some of these companies. Could she also indicate whether those arrangements waive restrictions placed on all other assessors not to promote or canvas their own products or companies? Who in the department is overseeing the rules about promoting and canvassing other products and being out there actively canvassing for business contrary to those rules?

Senator WONG—I do not know which public servant is responsible for what aspect of this program—and I would not have thought that the senator would expect me to know that. In relation to the assertion as to preferential treatment, I will refer back to my second answer, which is that I do not have any advice that that is the case. You then asked a series of questions predicated on that assumption. I will certainly take advice as to whether or not that is the case. As I said previously, I can indicate we had a very clear commitment to a certain number of assessments. There has been a very great take-up in relation to this program. The government gave no guarantees to assessors as to whether or not work would be available to them.

Asylum Seekers

Senator HUMPHRIES (2.29 pm)—My question is to Senator Evans as the Minister for Immigration and Citizenship. Yesterday the minister told the Senate that the government has ‘invested more in border protection than any other government’. He also said, ‘We have a stronger presence in Australia’s northern waters than ever before.’ Could the minister tell the Senate what evidence he has that more patrol boats than ever before in our northern waters actually discourages the arrival of boats bearing asylum seekers?

Senator CHRIS EVANS—Senator Humphries would understand that the model for border protection, the patrolling by Navy and Customs vessels in our northern waters, was largely developed under the Howard government. Sure, they built on earlier efforts, but the increase in the patrolling methodology in our northern waters was established by the Howard government, and obviously increased resources—

Opposition senators interjecting—

Senator CHRIS EVANS—Senator, you are quite right: from 1999 to 2001 it did not stop arrivals. One of the reasons why the Howard government increased the resources available was to try and ensure that any unauthorised arrivals were intercepted prior to landing on the mainland. The Howard government failed in that on a number of occasions and there were a number of mainland landings. But this government has increased patrolling resources and finances to build on the systems under Border Protection Command to patrol and manage our borders. They focus on unlawful unauthorised arrivals but they also focus on illegal fishing, as you well know, and any other issues of security concern in terms of entry to Australia. They
play a similar role to that played by our Customs and Immigration officers at airports—that is, intercepting people and ensuring that their arrival is managed.

The senator’s question about whether or not people are deterred is obviously an important one. What we have found over the years is that it is partly about deterrence, but a large part is about interception and identification and ensuring that we manage anyone seeking to fish illegally or arrive unlawfully. That is the purpose and that is why we resource it seriously. (Time expired)

Senator HUMPHRIES—Mr President, I ask a supplementary question. The minister has told the Senate that the purpose of the extra patrol boats in northern waters is to control and manage arrivals. If that is the case, how does he explain the fact that a number of arrival vessels have actually reached the waters of Christmas Island before being detected, including the boat that arrived on Monday? How is that controlling or managing in any way these arrivals?

Senator CHRIS EVANS—The details of that particular arrival are obviously something that the Senate ought to take up with the Border Protection Command and the Home Affairs portfolio—and the senator will get that opportunity at estimates next week. But I remind the senator that, under the previous government, people were not landing on Christmas Island; they were landing on the mainland unintercepted. It is true that some of these boats have been identified late—when they were very close to Christmas Island—but we have more resources out there. We have committed enormous financial resources and Defence and Customs platforms to provide the coverage that we think is appropriate, and we will continue to do so.

Senator HUMPHRIES—Mr President, I ask a further supplementary question. Given that, on the minister’s own admission, this policy is not able to control the flow of boats across the Timor Sea to Australia—it cannot even prevent boats from reaching the Australian mainland or Christmas Island before being detected—is it not time to change this policy and put in place a policy that actually discourages people from leaving Indonesia, rather than waiting until they get to Australian waters before acting?

Senator CHRIS EVANS—I think the senator wants to ask a separate question. On questions that go to the issues of deterrence and working with international neighbours on prevention of departure, there are a range of measures there, and I am happy to discuss them with the senator. But I remind him that the problem of unauthorised arrivals has been with us for 30 years. We have seen successive waves of boat people arrive and we have had to intercept them in waters, usually successfully. Under the Howard government we had a number of arrivals direct to the Australian mainland.

Senator Abetz—that was ages ago.

Senator CHRIS EVANS—It may have been ages ago, Senator Abetz, but it is important to understand what we are dealing with. As I said, we have enormous resources dedicated to interdiction and to managing people seeking to come into this country unlawfully. But the range of measures that seek to deter arrivals and cooperate with our neighbours—(Time expired)

Economy

Senator CAMERON (2.34 pm)—My question is to the Minister Assisting the Prime Minister on Government Service Delivery, Senator Arbib. Can the minister inform the Senate of the details of the Commonwealth Coordinator-General’s progress report to 31 December 2009? How is the stimulus achieving its aim of supporting the Australian economy, and is the minister
aware of modelling that indicates the economy would be in recession without it? Can the minister inform the Senate of the number of times the opposition voted against the stimulus, and what would be the effect on the economy if the stimulus were stopped?

Senator ARBIB—I thank Senator Cameron for that question. The Liberal and National party senators on the other side of the chamber moan and groan when they hear a question about the stimulus package because deep down they know that they were wrong to oppose it 12 months ago and they know they are wrong to oppose it today. The Australian public will remember that they voted against it six times in this chamber. If we stopped the stimulus right now, the economy would be whiplashed into recession. One hundred thousand Australians would lose their jobs. Thousands of small businesses would fold or go bankrupt. Tradespeople, apprentices and contractors would go bankrupt, or lose their jobs, and be left in the lurch. Thousands of schools would be left without completed facilities. Some 5,000 schools across the country would miss out on Building the Education Revolution programs if Liberal and National party senators ever got control of government.

It is now 12 months since the stimulus package got underway and this program has required a national effort. It brought federal, state and local government together, along with businesses, unions and community groups, pulling together to support Australian jobs and businesses. One year on, it is clear that the stimulus has worked and continues to work. When you drive past your local school and see the building work happening on the school premises, that is the stimulus at work. Seventy one per cent of the stimulus is now underway and over half of the $42 billion package has been spent supporting jobs and laying the foundation for growth. (Time expired)

Senator CAMERON—Mr President, I ask a supplementary question. For those projects which have yet to see on-site works, what would be the effect of the current Leader of the Opposition, Mr Tony Abbott’s, plan to stop the stimulus? Is the minister aware of a major contradiction between comments by Mr Hockey that the stimulus has worked and by Senator Joyce today claiming that it has no effect?

Senator ARBIB—The effect is clear and Treasury has stated it: if you stop the stimulus 100,000 jobs will go, and we know that is what Senator Joyce wants. At the Press Club today, he said that the stimulus has had no effect. Not only does the Treasury disagree with him, and not only do the Reserve Bank, the IMF and the G20 disagree with him, but everyone else disagrees with him. Even his own party, including the shadow Treasurer, Mr Hockey, disagrees with him: Mr Hockey says that of course it is going to have an impact. There are jobs at stake here: the Master Builders disagree with Senator Joyce when they say that the stimulus is supporting 50,000 jobs in the construction sector. Hansen Yuncken say they have a team of 162 people working on the program and they estimate 3,500 jobs will be created. Davis Langdon in Queensland talk about thousands of jobs. The evidence is clear—(Time expired)

Senator CAMERON—Mr President, I ask a further supplementary question. Can the minister inform the Senate of how much of the stimulus has been expended? Can the minister also inform the Senate about progress in delivering the stimulus? Further, how is the stimulus helping to protect the skills base of Australia?

Senator ARBIB—Across the plan, almost 50,000 projects have been approved, almost 35,000 projects have commenced and more than 8,300 projects are now completed.
Twenty-two billion dollars of the stimulus package has been spent.

Senator Abetz—Where did the money come from?

Government senators interjecting—

The PRESIDENT—Order! The minister is entitled to be heard in silence on both sides.

Senator ARBIB—This is not just money going on schools and this is not just money going on housing; it is money that is going into infrastructure, something that those on the opposite side of the chamber ignored for 12 years. The money is going on infrastructure—17 major rail lines and 14 major roads. It is going on future infrastructure, which will increase the productive capacity of this country, something that you do not care about because, when the Howard government was in office, productivity went backwards. That is a fact: productivity went backwards. Again, just to show the erratic nature of Senator Joyce, last night he said that this country is not out of the woods yet—(Time expired)

Indigenous People

Senator IAN MACDONALD (2.40 pm)—My question is to Senator Evans, the Minister representing the Prime Minister. In making his apology to Indigenous people at the beginning of parliament two years ago, the Prime Minister said:

... unless the great symbolism of reconciliation is accompanied by an even greater substance, it is little more than a clanging gong.

On 3April last year, the Rudd government subscribed to the international Declaration on the Rights of Indigenous Peoples providing amongst other things for ‘the right to own, use, develop and control’ their own lands. In view of this, Minister, will the Labor government be supporting Mr Abbot’s private member’s bill to overturn the Queen-

sland Wild Rivers Act and so give Indigenous people the right to own, use, develop and control their own lands?

Senator CHRIS EVANS—I thank Senator Macdonald for his question, although it was not really a question; it was more of a diatribe, I think. We are committed to the rights of Indigenous people and the senator is correct in pointing out the action we took in joining the UN instrument and expressing support for the rights of Indigenous people. It is also the case that in making the apology to Indigenous people we were supported by the Liberal Party at the time, I am pleased to say. That was a very helpful development in the Liberal Party attitude to our Indigenous people.

When made the apology we also indicated that our clear policy commitment was to closing the gap in Indigenous disadvantage, and that is where the rubber hits the road. We are absolutely committed to that task. I have urged those opposite to join with us in that effort because I think that, until we get bipartisan support for these measures, we are not actually going to make progress. Over the years, we have seen governments, with the best of intentions, try and assist Indigenous people to take their rightful place in this society—and we have all failed. We are absolutely committed to the closing the gap targets. That is why on 11 February this year, the closest sitting date to the anniversary of the apology, the report about our progress on closing the gap will be delivered to the parliament. We will address the practical issues as well as recognising the symbolic significance of the apology. We accept entirely that practical progress is absolutely necessary, not just the very important symbolic statement that was involved with the apology. (Time expired)

Senator IAN MACDONALD—Mr President, I ask a supplementary question. I
assume that the minister, then, is going to support Mr Abbott’s bill, because that is a practical thing for Indigenous people. I ask the minister if the federal government accepts that the Queensland—

Senator Conroy interjecting—

The PRESIDENT—Order! Senator Conroy, I am trying to listen to the question.

Senator IAN MACDONALD—I ask the minister if the federal government accepts that the Queensland Labor government’s wild rivers legislation is a real problem for Indigenous people, as alleged by Indigenous leaders like Noel Pearson, Dion Creek, Lizzie Lakefield and Peter Kyle?

Senator CHRIS EVANS—There are a range of issues there. We are obviously considering the legislation but I think our view is that it is a very serious step to invoke Commonwealth powers to overturn the laws of a state. It has always been a traditional Liberal Party position, as I understand it, not to do so. So I think it is noteworthy that Mr Abbott is now in favour of Commonwealth intervention to overturn state laws. I wonder how Senator Bernardi and the others from the right-wing branch of the Liberal Party feel about such steps. I do respect the views of Mr Pearson and other Aboriginal leaders in the Cape York area. They have a right to express their views and, clearly, they have a knowledge of the area that makes it that those views should be taken seriously. We think that engaging directly with the Queensland government on these issues is the best policy response.

Senator IAN MACDONALD—Mr President, I ask a further supplementary question. I refer the minister to Mr Rudd saying a year ago that closing the gap with Indigenous people ‘will require our entire nation to work together’. I ask: why isn’t the Labor government doing what the Prime Minister promised to do by working together with Tony Abbott and Indigenous leaders in Cape York to get a better deal for Cape York’s Indigenous people by repealing—

(Time expired)

Senator CHRIS EVANS—Working co-operatively does not necessarily mean accepting all the views of Mr Tony Abbott. What it does mean is engaging both with the Indigenous population of the Cape and with the Queensland government about the impact of this legislation. That is the way this government seeks to do business. We do not—

Senator Ian Macdonald—that is what Indigenous people want.

Senator CHRIS EVANS—Senator, I am interested that you are suddenly the voice of Indigenous people. I was here during the native title debates and you were certainly not the voice of the Indigenous people then. In fact, you sought to deny them their rights to native title in this country. So I will not be lectured by you, Senator, about who is the voice of Indigenous people. I will not be lectured by you—

The PRESIDENT—Order! Senator Evans, address your comments to the chair and not across the chamber.

Senator Ian Macdonald interjecting—

The PRESIDENT—I need order on both sides. Senator Macdonald, you have asked your question. You are entitled to hear the answer but you are not entitled to come back during the answer. I have asked Senator Evans to address his comments to the chair and not to the individual senator.

Senator CHRIS EVANS—We are very interested in Indigenous views on the Cape, as elsewhere. We are very engaged with the Queensland government and them on these issues, but we do not think blundering in with legislation to overturn the Queensland legislation is the appropriate response in resolving this matter. (Time expired)
Grocery Prices

Senator XENOPHON (2.47 pm)—My question is to the Assistant Treasurer, representing the Minister for Competition Policy and Consumer Affairs, Mr Emerson. Last week retail giants Coles and Woolworths both announced moves to end geographic discrepancies in the pricing of thousands of grocery items to bring them more into line with competitor, Aldi. These moves would achieve the same outcomes as the Blacktown amendment bill that I cosponsored with Senator Joyce, which is designed to outlaw geographic price discrimination. Minister Emerson claimed in a speech in August last year that the Blacktown amendment was, in effect, ‘a conspiracy against the poor’, which he claimed would not increase competition but instead drive up prices. Can the Assistant Treasurer confirm that the government now believes Coles and Woolworths are involved in a conspiracy against the poor with its new uniform pricing policy?

Senator SHERRY—I can confirm to Senator Xenophon that Coles announced on 27 January that it would introduce uniform national grocery pricing in its stores right across Australia. Up until that date—

Honourable senators interjecting—

The PRESIDENT—Senator Sherry, ignore those interjections and simply answer the question that has been asked by Senator Xenophon.

Honourable senators interjecting—

Senator SHERRY—Uniform cigarette prices came too late for me! I do note that up until that date, Aldi was the only supermarket chain applying the policy. In response, on 28 January Woolworths announced that it would reduce the shelf prices of thousands of supermarket products. Obviously, there are some positive national competition impacts here with Aldi adopting a national pricing policy. Coles decided for competitive reasons that it would need to do the same and then Woolworths—one day later, I noticed; I am sure it was not coincidental—responded with a reduction in prices. Senator, you referred to what is known as the Blacktown amendment, which was cosponsored by you and Senator Joyce, I noticed. On reading the brief that I have in front of me and from my recollection of the Blacktown amendment, it was not going to apply to national pricing. It was to apply to a particular product at any two retail locations that fall within 35 kilometres of each other. I point out that there is a significant difference between your amendment, known commonly as the Blacktown amendment, which sought to apply the same pricing for products within 35 kilometres, and the announcement by Coles to have uniform national pricing. I think they are similar but certainly not the same. Therefore, I think Minister Emerson’s—(Time expired)

Senator XENOPHON—Mr President, I ask a supplementary question. Does the minister concede that having a uniform pricing policy across the nation compared to just a 35-kilometre radius is in fact a stronger version of the Blacktown amendment? And does he repudiate Minister Emerson’s comments that, in effect, having uniform pricing is a conspiracy against the poor?

Senator SHERRY—I was just about to point out, when referring to Minister Emerson, that his critique of the Blacktown amendment was, I believe, correct. I have pointed out that there is a distinct difference between pricing that government tries to impose, as you and Senator Joyce were attempting to do through the Blacktown amendment, across a 35-kilometre radius and national uniform pricing.

How would you enforce compliance, given your particular approach? You would have to actually draw maps and have circles with 35-kilometre radiuses and attempt to
then enforce it. I think there would be a significant practical enforcement issue there. When you have got a company such as Coles that applies uniform national pricing, I would argue that that is pretty easy to enforce. *(Time expired)*

Senator XENOPHON—Mr President, I ask a further supplementary question. Does the government therefore support moves to have uniform pricing at a national level involving retail chains?

Senator SHERRY—We do not support the government passing a law to impose it. What we have seen, as I think I have illustrated very well, with the announcement by Coles on 27 January following Aldi and then the announcement on 28 January by Woolworths, is competition working much more effectively under Minister Emerson and the Rudd Labor government than it worked under the former government.

Workplace Relations

Senator ABETZ *(2.53 pm)*—Mr President, my question is to the Minister representing the Minister for Employment and Workplace Relations, Senator Arbib. I refer the minister to the forced outcome between Total Marine Services and the MUA in relation to semiskilled workers in the offshore oil and gas sector. What, if any, productivity offsets have been achieved as part of that agreement?

Senator ARBIB—I thank Senator Abetz for that question. I would like to make the point that this is the first question we have actually had on workplace relations in six months—the first question from the Liberal Party and the National Party in six months. The government welcomes Total Marine and the MUA reaching a new enterprise agreement. We welcome that. The essence of the Fair Work Act is enterprise based bargaining, where the employer and employees, represented by a union if they choose, reach an agreement which is tailor-made for the needs of the business. Had the Deputy Prime Minister intervened in the dispute, as AMMA urged, this would have resulted in an imposed arbitrated outcome determined by the industrial umpire, Fair Work Australia, not an outcome worked on and agreed by the employer and employees. I will just repeat that: agreed by the employer and employees.

*Opposition senators interjecting—*

Senator ARBIB—I take on board the interjections from some of the hardliners in the Liberal Party who are absolutely gagging to bring back Work Choices, but in the end we are providing balance back into the workplace so that employers and employees can sit down on a fair basis and negotiate an outcome. Can I say that this is one of the very few areas—

Senator Abetz—Mr President, on a point of order: once again, under sessional orders the minister is required to be directly relevant. The question was: what, if any, productivity offsets have been achieved as part of that agreement? The minister now has 12 seconds to try to get relevant, let alone directly relevant.

The PRESIDENT—I draw the minister’s attention to the question. I also draw to the attention of other senators the fact that the answering of a question is not helped by constant interjections, which are not necessarily going to assist the minister in responding to the question that has been asked in this case by Senator Abetz. Minister, you have 12 seconds remaining to address the question that has been raised.

Senator ARBIB—I will make the point again that this was an agreement that was reached between the employees— *(Time expired)*

Senator ABETZ—Mr President, clearly we are not going to get an answer because I dare say there were no productivity offsets. I
ask a supplementary question: can the minister confirm that excessive wage increases of this kind, which are not offset by increased productivity, will simply lead to wage inflation, which will, as it inevitably does, increase the cost of living for all Australian families and destroy jobs?

Senator ARBIB—I totally reject that claim by Senator Abetz. Something that coalition senators and certainly Senator Abetz have ignored time and time again are the absolute benefits that are going to be gained from moving to a national system in terms of improving productivity. We have seen the Access Economics report which talks about the over $4 billion that will be generated in savings because of the changes that the federal government has put in place through Fair Work Australia. Let us get down to the basics. Senator Abetz is ideologically driven. We know where he comes from in terms of his history. We know his position on penalty rates. He was the author—

The PRESIDENT—Order! Senator Abetz, I understand you are taking a point of order, but there is one second remaining on the clock. Are you aware of that?

Senator Abetz—Mr President, I do take the point of order because, with great respect to you, senators should not have to continually get up on their feet reminding the minister of the sessional order to be directly relevant and I would encourage you to invite ministers to be directly relevant to the questions that are asked and not simply go on their little rants and raves that are completely irrelevant to the subject matter of the question.

The PRESIDENT—There is no point of order.

Senator Abetz—Mr President, I rise on another point of order. I invite you, Mr President, to read the question, then read the Hansard of Senator Arbib’s answer and report back to the Senate on how that answer was directly relevant to the question that was raised.

Senator Ludwig—Mr President, on the point of order: there are two parts. The first part is that Senator Arbib was answering the question and was directly relevant to the question. The second point of order which was raised by Senator Abetz borders on an instruction to the President, which Senator Abetz knows that he should not do. He knows that that would not be an appropriate course. The usual practice if you want something is that you ask the President to have a look at a particular matter rather than directing the President. Senator Abetz did not use that language, Mr President, and I would ask you to have a look at the language that Senator Abetz did use.

The PRESIDENT—On the point of order, I will review the matter and I will come back to the Senate if I think it is appropriate. It is as simple as that.

Senator ABETZ—I ask a further supplementary question. I note that the minister in fact welcomes this excessive wage increase. Can I therefore assume that the government will not be taking any action to ensure that this unfortunate outcome does not flow on to other employers in that sector or indeed any other sector in the Australian economy?

Senator ARBIB—I will make the point again: this was an agreement that was made by employers and employees directly. There was no government involvement. There was no involvement from Fair Work Australia. Can I make the point that the government, when constructing Fair Work Australia, conducted extensive consultations with industry, with business and with employee representatives. One of the few things that was unanimously agreed upon by all employer representatives, including AMMA, was that Fair
Work Australia should not be able to intervene to end a bargaining dispute and arbitrate an outcome except in the most exceptional of circumstances. That was agreed unanimously by employer organisations. Again, it is complete hypocrisy for the opposition to argue that the provisions of the Fair Work Act have failed. The provisions concerning harm to the economy are identical, Senator Abetz, to the previous—(Time expired)

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

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Workplace Relations

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

That the Senate take note of the answers given by the Minister for Employment Participation and Minister Assisting the Prime Minister on Government Service Delivery (Senator Arbib) to a question without notice asked by Senator Abetz today, relating to workplace relations.

In the minister’s answer to Senator Abetz’s third question the minister said that there was no government involvement in the deal that has been struck between the MUA and the company, Total Marine Services. The minister is wrong; there was government involvement. There may not have been government involvement in the form of actually intervening to take action to stop this type of deal occurring, but the minister is part of the government that changed the workplace relations system in Australia so that this type of abysmal deal can now occur. It is amazing to sit here and listen to the minister defend and promote the actions of the MUA and their extortionate demands which will now see some workers get up to $50,000 extra in their pay packet without any productivity offsets. That is an absolute disgrace.

We see today Paddy Crumlin, the National Secretary of the MUA, positively gloating about the deal that his union has achieved. What does the Australian say? It says:

Maritime union leader Paddy Crumlin has declared massive pay rises won by offshore oil and gas workers were secured without productivity trade-offs, describing employers critical of the deal as “dinosaurs” ...

The DEPUTY PRESIDENT—Order, Senator Cash! There is far too much audible conversation on my right. Senator Cash, please continue.

Senator CASH—So employers who expect an increase in productivity in exchange for handing over a wage increase are dinosaurs. Under this government’s system, employers have two choices: comply or die. The message is: ‘Comply with the extortionate demands of militant unions like the MUA or die because we will shut you down through strike action.’ This is the system which Minister Gillard was defending but a few days ago as working well. There is escalating strike action in Western Australia, the powerhouse of the national economy, but the system is working well.

Let us be clear about one thing. The minister in this place and the minister in the other place have failed to condemn the actions of the MUA. The fact that they have done the exact opposite—they have welcomed the backdown by Total Marine Services to the MUA’s demands—confirms the quote by Mr Knott of AMMA that ‘acts of virtual piracy’ are now being allowed to occur under Labor’s Fair Work regime.

Under Labor’s IR laws, the government actively encourages companies to cave in to extortionate demands from unions. But what is worse is the utter hypocrisy of those on the other side for taking the stance that they have in relation to the MUA—accepting the wage claim with no productivity offset—whilst at
the same time the Prime Minister of this country lauds himself on national television, making grandiose policy statements calling for Australians to work harder and longer, to increase productivity, to raise the living standards of this country. That is utter hypocrisy, and the Prime Minister should be ashamed of himself.

But then again, when unions provide financial backing to the Labor Party, the Labor Party really have no choice but to deliver on their promises to them. In November of last year, Kevin Reynolds, the great militant unionist from the CFMEU in Western Australia, said that the Labor Party:

… makes all sorts of promises to us—the union—to get our money.

Quite frankly, we should stop calling them political donations and call them for what they really are, tied grants: ‘We’ll give you some money and, when you get into government, you’d better deliver on your promise.’ Mr Rudd should be supporting the Premier of Western Australia, Colin Barnett, who has warned the union bosses that these types of wage demands that the MUA have secured will mean that more construction and more fabrication will go offshore. It is a national disgrace.

Senator FEENEY (Victoria) (3.08 pm)—I recall making some remarks last year about how the Senate component of the parliamentary Liberal Party had gone rogue on the question of climate change. It would appear that the Senate component of the parliament was in danger of going rogue on the question of industrial relations. The senators went a-pirating and ignored the shadow cabinet and Malcolm Turnbull and pressed for an extremist, climate-change-sceptic point of view at the end of last year. Emboldened by their success, it appears they are now taking up the struggle for Work Choices.

Senator Cash has gone a-pirating. In this Senate we have listened to another tirade about the glory days of Work Choices and the terrible sins of bargaining. But when one looks at the case cited—the MUA’s industrial action in the oil and gas industry—and when one looks at the detail of the circumstances there, two things ring true. The first is that not even Senator Cash, not even the coalition, would in all seriousness suggest that the government should easily, swiftly and decisively intervene in industrial action as a matter of course. The second is that not even the previous Work Choices legislation would have enabled Senator Cash to embark upon the course she has tried to advocate today.

It is well known to all that, in constructing the present industrial relations regime, the government consulted very, very widely indeed—not, as you would have it, Senator Cash, simply with the trade unions but very, very widely, with not only the trade union movement but employer representatives, employer organisations and so forth. One issue rings true from those consultations, and that is that all employer representatives—not some, not most, not many but all—said that Fair Work Australia should not be able to arbitrate an outcome except in the most exceptional of circumstances. They said that disputes should remain in the control of those directly affected—employees and employers. If Senator Cash is true to her industrial relations obsession, she would know that the old tirade against the industrial relations club was precisely the accusation that arbitrators overregulated and overinterfered.

Nonetheless, undeterred by precedent or previous ideological belief, Senator Cash has today articulated the notion that the government should freely and swiftly intervene in the agreement-making process between em-
ployer and employee parties. Remarkably—notwithstanding the revolution that you are apparently trying to conduct inside the coalition on IR policy—we on this side hold the view that agreement making between the parties should be just that and that outcomes should only be arbitrated in the most exceptional of circumstances.

The government agrees that the test for ending industrial action is based on significant harm to the national economy. That is generally in accord with how that provision read in the previous act and the form in which it has existed since 1993. That test has a very high threshold. An employer’s loss of profit is not enough to trigger it. Employees losing wages in a lockout is not enough to trigger it. There must be significant harm to the national economy. It was open to employers in this particular matter to make an application on that ground, and for various reasons that did not happen. So it is disingenuous for the opposition to claim that, as a minister, the Deputy Prime Minister should have exercised her power to end the action instead. That is to say, they are asking the Deputy Prime Minister to intervene in a dispute when they themselves have not made an application to trigger the intervention on the basis that it was causing significant harm to the national economy. It was open to employers in this particular matter to make an application on that ground, and for various reasons that did not happen. So it is disingenuous for the opposition to claim that, as a minister, the Deputy Prime Minister should have exercised her power to end the action instead. That is to say, they are asking the Deputy Prime Minister to intervene in a dispute when they themselves have not made an application to trigger the intervention on the basis that it was causing significant harm to the national economy. The minister’s office did make an offer to the AMMA to act as a broker to establish a consent arbitration process with the union, but this offer was refused. (Time expired)

Senator CORMANN (Western Australia) (3.13 pm)—One month on from the Fair Work Australia laws coming into effect, one thing is very clear: there is nothing fair about the so-called Fair Work Australia laws—nothing. Events in my home state of Western Australia clearly demonstrate that. What we have got this week—with an indecisive government, with those laws not being properly applied—is a return to the laws of the jungle.

We have got the Prime Minister, Kevin Rudd, and the Deputy Prime Minister, Julia Gillard, like Tarzan and Jane swinging from tree to tree thinking: ‘Everything is fine down there. We’re not going to get involved.’ All the while we have got this dog-eat-dog type arrangement where the government is quite happy for a union to put a gun to the head of a business that, at the end of the day, under the threat of further industrial action, has got no choice but to buckle.

We have got an agreement here where people who are currently on about $130,000 per year—semiskilled and unskilled workers—have just been awarded a $50,000 a year increase. I urge people across Australia who might be listening to this to take this in and consider it very carefully. There has been an increase in wages and allowances from $130,000 per annum to $180,000 per annum—$50,000 in additional wages for those particular workers. It is quite extraordinary, it is staggering, and all of that with no productivity offsets. We have got the Prime Minister out here over the last couple of days talking up the need to improve productivity. He is all talk. Do not believe a word he is saying because he does not mean it and here is just another example.

Deputy Prime Minister Gillard was requested to intervene, as she is empowered to do, and she refused to do so. The Deputy Prime Minister then went out and said, ‘If I had intervened it would have resulted in arbitration.’ That is of course a very misleading statement for her to make because the reason she did not intervene is that arbitration would have led to a much lower outcome than could be forced by union action, as Fair Work Australia would have been required to take into account matters such as productivity offsets. This is not an isolated incident. We have had strikes going on for the last couple of months at the Woodside Pluto project, which is a $12 billion project in my
home state of Western Australia. It is a project that will make a significant contribution to the economic prosperity of this nation and it is also a project that will enable this government to benefit from increased tax revenues in the future to pay off the reckless level of spending and debt.

I have another example here where strikes have gone on for months. The Deputy Prime Minister, Julia Gillard, under section 431 of the Fair Work Act 2009, had the power to intervene and stop the industrial action and she refused. But guess what? The voice of industrial reason came out the other day. Senator Cameron, who is a former union ‘heavy’ and now the voice of industrial reason, was calling on the workers at Woodside to go back to work. He and Colin Barnett, the Premier of Western Australia, are out there arm in arm saying, ‘Go back to work; do not do this,’ yet we have got the Deputy Prime Minister, Julia Gillard, being too weak and too indecisive to even use the opportunities in her own Fair Work Australia laws. Here we have got Senator Cameron reported in Canberra today as saying, ‘I think those workers should go back to work.’

What is emerging now is a very serious concern because we have got a combination of legislation with a weak and indecisive government that is not prepared to ensure that there is an appropriate balance between the interests of the economy and the interests of workers. If this continues and if this is allowed to spread across various sectors of the economy, the unions and workers across Australia will be looking at this and thinking, ‘Gee, a $50,000 increase in salaries for those workers at Total Marine Services; why not for us? If it is good for them, why would it not be good for us?’ You watch: over the next six to 12 months there will be other unions across Australia who will be looking at putting a gun to businesses’ heads and it will be against our national interest.
minister to unilaterally declare an end to industrial action on the basis of significant harm to the economy has never been used by any government at all. In fact, the minister’s office made an offer to AMMA to act as a broker to establish consensus and an arbitration process with the union. So the minister did not intervene but offered the services of her office to act as a broker here to a consent arbitration process.

Senator Cash interjecting—

Senator CROSSIN—Perhaps if my colleagues opposite could stop shouting for five minutes and listen they might hear the truth about this situation. Because guess what? The offer was refused. You have the gall to stand up in this chamber this afternoon and seek to malign the most competent Deputy Prime Minister we have had in this country for a very long time, when the facts show that the offer was made to assist with this dispute and the employer refused. They did not want Fair Work Australia as the independent umpire to rule on the issues in dispute and preferred to continue bargaining. That is what happened. There are new options in the act to help with industrial action, including the ability to end industrial action that is significantly harming both the parties, and new good faith bargaining rules apply. But no application was actually made by AMMA or the employers on those grounds either.

It is quite clear that the minister cannot intervene and will not intervene unless there has been an offer from her office and an acceptance of that offer to participate in such a matter. You cannot get up in this chamber and malign the Deputy Prime Minister and have a go at Fair Work Australia for not doing their jobs if they make the offer to employers and in fact that offer is declined. You cannot make up a story, make an issue or make a case out of something that does not actually apply and has not applied.

I might also say that the MUA has been bargaining with 13 companies in the offshore gas and oil industry. They have claimed a 30 per cent wage increase over three years and they have complied with all the legal requirements for taking industrial action in bargaining, including secret ballots and giving notice. Now, AMMA, ACCI and the Australian Shipowners Association have made representations to the government seeking that the minister terminate the industrial action, but they themselves have indicated that they would not seek to end industrial action. (Time expired)

Senator RYAN (Victoria) (3.24 pm)—I rise to support the motion moved by my colleague Senator Cash, and her comments as well as those of Senator Cormann, to take note of answers given by Senator Arbib in question time today. It never ceases to amaze me, when it comes to workplace relations, that all we hear from the government are comments about process. All we have heard is about various clauses in the legislation. But this is process absent of outcome. Let us put this issue in context: a pay rise of almost average weekly earnings for unskilled labourers who are members of the MUA, which is bargaining on their behalf—not a union with a track record of what you would call good faith bargaining—and all you can say is they complied with the act. The Labor Party does not care about the outcome here.

What we saw 30 years ago in this country was a wage breakout that led to inflation, which destroyed jobs. No-one is better off when we have a wage inflation spiral that leads to job losses. But the Labor Party have never cared about the unemployed in this country, because there is no union for them. The previous government got unemployment
in this country down to 3.7 per cent—a level that only 15 years ago we were told would be impossible to ever reach again—at the same time as more and more women were heading into the workforce. But what do the Labor Party do? They re-regulate the labour market. They provide for what they call good faith bargaining, which, as anyone knows—the company involved in this matter better than anyone else—is nothing more than a legal fiction. How, on any reading of the English language, does asking for a pay rise of over $100,000 qualify as good faith? It does not. It cannot.

What we see opposite is a government that is focused entirely on procedure and on falling back on process rather than considering outcomes. They throw around the word ‘fair’, when this outcome, if nothing else, will show that these procedures do not lead to fair outcomes. They talk about productivity, yet they are re-regulating the labour market. How on earth does a $50,000 pay rise, representing nearly a one-third increase, assist productivity when there are no productivity trade-offs and the company and union said so? They talk about bargaining, but how is it bargaining when there is a gun at your head? The company made that clear. Apparently you can only have an unfair bargaining position when it is with a preferred supporter of the Labor Party! They do not care about unorganised workers; they only care about workers who are members of their unions. They do not care about people who are losing their jobs because of inflation, people who lose their jobs when costs like this are passed through the supply chains of our economy.

The average wage for a transport worker is just over $55,000. The people in this sector are earning three times that, and they increased that by $50,000 based on the behaviour of a union with a far from stunning track record in fair bargaining and fair behaviour in industrial relations in this country—what was once referred to as a weapon in the arsenal of the Labor movement in this country—and there have been no productivity trade-offs. What we will see is pattern bargaining. But again it will not meet the definition of ‘pattern bargaining’ in the act put up by the Deputy Prime Minister but we know it is pattern bargaining because the same thing happens in various workplaces.

But this government does not seem to care. It does not care about the consequences, because it is only concerned about paying off its union friends and rewarding those who supported it to the tune of $50 million in the last federal election. They must be pretty upset about the 90 per cent drop-off in the last 12 months, with only a $5 million pay-off by the trade union movement to the Labor Party. But I am sure we will see that increase in the next AEC returns.

**Senator Ronaldson**—It was $11.5 million.

**Senator Ryan**—It was $11.5 million; thank you, Senator Ronaldson, for correcting me.

I conclude on this point: the act put in place by the government does not lead to fair outcomes, it does not have a fair process in place for employers and it does not lead to results that are going to improve the overall economy. Over the next 12 months we are going to see exactly what the consequences of this government’s approach to industrial relations are. This government will carry that weight—it will be lead in its saddlebags—as unemployment increases and a very small number of people benefit. For example, one thing that the government has not mentioned—and maybe we should have asked Senator Arbib about this; we saw a report today—is that, if you happen to be a teenager or working late at night in the retail sector or in the fast food sector, your wages
are being cut under a ruling by Fair Work Australia. It is because you are not a member of the MUA, a preferred constituent of the Labor Party.

Question agreed to.

Green Loans Program

Senator MILNE (Tasmania) (3.29 pm)—

I move:

That the Senate take note of the answer given by the Minister for Climate Change and Water (Senator Wong) to a question without notice asked by Senator Milne today, relating to home sustainability assessors.

It is shocking to me that a minister of the government can say now about the Green Loans Program: ‘We said that there would be 360,000 assessments. We were going to do that over four years. We never guaranteed anybody work.’ Why would anyone spend $3,000 or $4,000 on training and setting up a business if they did not have a clear understanding that the program was going to go for four years and that there would be an equitable distribution of the work? Where would the value in their investment be? The minister just said, ‘We never guaranteed them that.’ I said that it was clear to the assessors when the Green Loans Program was announced that there would be a restriction on the number of assessors because clearly there was a restriction on the amount of funding and the number of assessments over the four years.

Everybody understood that 1,000 to 2,000 assessors would be trained and then there would be enough work for them. Now, as I indicated, 5,000 people have had their training and are accredited and another 5,000 have been trained. I received an email today from one of those people saying that she paid $3,000 and is now being told that there will be no work for her. Therefore she has been given the option before 14 February to cut her losses and cancel the application for registration, thereby losing some $1,400 and whatever the cancellation of the indemnity insurance will cost. Having failed to oversee the program and keep it to the 1,000 to 2,000 assessors as promised, we now have the situation where people who have paid for and done the training and are waiting to be accredited are being told, ‘You might as well get out and cut your losses because there is not going to be the work.’ There is talk around the traps that rather than the program going for four years it will be fully allocated by March.

The other issue that is really critical to me—and the minister did not answer this—is why the government gave preferential treatment to Fieldforce, why they have allowed big companies to come in and completely corner the market and have given them special access. I would like the minister to explain whether these companies have been given preferential treatment in terms of access to the bookings. This email suggests that Fieldforce is organised and knows exactly what it is doing in terms of capturing the market. They have a dedicated call centre and cross-promote the green loans with the other programs they operate. They give out free light globes and shower heads and do insulation installation. I understand, according to this, that they are getting into—if they have not done it already—PV and solar hot water installations. They hope to employ up to 300 assessors, paying them $60 per assessment. The Commonwealth pays $200, so who is getting the rest? There are no prizes for guessing who—the headquarters. Fieldforce are guaranteeing work seven days a week for 12 hours a day if you want it.

We are told that Fieldforce are saying to the assessors who are operating under their own ABN that, if a client expresses interest in a PV or solar hot water system, suggest that you can help them and you will get paid a commission of around $100-plus per sys-
tem. That seems to be an incredible conflict of interest and contrary to the rules that were set down under this program. It desperately needs to be sorted out.

It is not good enough for the minister to say that she does not know whether any preferential treatment has been given. These small business people have been out of work for more than a month or six weeks. The big companies have bypassed the call centre and got an automatic login to the IT system and are subcontracting now through telemarketing. There are all these rorts going on. It is taxpayers’ money. As I indicated earlier, it is not just the loss of taxpayers’ money and the lack of accountability; where this really hurts is that people who are vulnerable, who have been unemployed and are getting into their own business, have been outlaying thousands of dollars for their own training on the understanding that they would get work and that this is a career path only to have it pulled out from underneath them. I think it is incumbent upon the government to tell these 5,000 people whether they are going to get accreditation now they have done the training or whether they are going to be just dumped on the scrap heap.

Question agreed to.

NOTICES

Presentation

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

That the Senate—
(a) notes, with sadness, the recent passing of West Papuan activist Mr Viktor Kaisiepo in his hometown of Amersfoort, in the Netherlands, at the age of 61;
(b) acknowledges Mr Kaisiepo’s life-long commitment to raising awareness of the plight of West Papua; and
(c) extends its sympathy to the family and friends of Mr Kaisiepo and to the broader West Papuan community.

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

That the Senate—
(a) notes the string of recent attacks against international students studying in Australia;
(b) recognises:
(i) the important contribution international students make to Australia’s culture and economy, and
(ii) the growing concern over the safety of international students studying in Australia; and
(c) calls on the Government to:
(i) implement the recommendation from the Education, Employment and Workplace Relations References Committee report, Welfare of international students, to expand the jurisdiction of the Commonwealth Ombudsman to cover the international student sector, and
(ii) invest in support programs and anti-racism campaigns to raise community awareness of the positive contribution international students make to Australia.

Senator Johnston to move on the next day of sitting:

That the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity:
(a) be authorised to hold a public meeting during the sitting of the Senate on Thursday, 4 February 2010, from 12.30 pm, to take evidence for the committee’s inquiry into the operation of the Law Enforcement Integrity Commissioner Act 2006; and
(b) be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 4 February 2010.

Senator Fielding to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Commonwealth Electoral
Act 1918 to prevent unauthorised access to personal information on electoral rolls, and for related purposes. **Protection of Personal Information Bill 2010.**

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

That the Senate welcomes the news that the President of the United States of America, Barack Obama, will meet His Holiness the Dalai Lama.

**Senator Parry** to move on the next day of sitting:

That the Senate notes the substantial increases in cost of living pressures on ordinary Australian families under the Rudd Labor Government.

**Senator Siewert** to move on the next day of sitting:

That the Senate notes that:

(a) on 3 February 2010 West Australian whale shark researcher Dr Brad Norman was named as one of *National Geographic’s* 2008 Class of Emerging Explorers;

(b) Dr Norman is the first Australian to be so honoured; and

(c) Dr Norman’s success has contributed to a national worldwide focus on the protection of the whale shark.

**Postponement**

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of the Leader of The Nationals in the Senate (Senator Joyce) for today, proposing a reference to the Economics References Committee, postponed till 4 February 2010.

Business of the Senate notice of motion no. 3 standing in the name of Senator Siewert for today, proposing a reference to the Legal and Constitutional Affairs References Committee, postponed till 4 February 2010.

General business notice of motion no. 685 standing in the name of Senator Scullion for today, proposing the introduction of the Wild Rivers (Environmental Management) Bill 2010, postponed till 4 February 2010.

General business notice of motion no. 688 standing in the name of Senator Siewert for today, proposing the introduction of the Environment Protection and Biodiversity Conservation Amendment (Prohibition of Support for Whaling) Bill 2010, postponed till 4 February 2010.

**EXPORT FINANCE AND INSURANCE CORPORATION**

**Order**

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (3.36 pm)—I move:

That there be laid on the table by the Minister representing the Minister for Trade, no later than 22 February 2010, the information referred to in the answer to question on notice no. 2366 (notice given 25 September 2009) regarding landholder agreements with Australian Solomons Gold Limited (ASG) for the Gold Ridge Mine project in the Solomon Islands and, specifically, the information the Government and the Export Finance and Insurance Corporation are relying on to assess ‘the impact on communities of the Gold Ridge Mine’ and the ‘negotiation process that culminated in ASG and landowners signing agreements’.

Question agreed to.

**Senator O'BRIEN** (Tasmania) (3.36 pm)—by leave—The government opposed this motion. We recognise that Senator Bob Brown, having the support of the opposition, had the numbers for it so we did not call a division.

**COMMITTEES**

**Economics References Committee**

**Reference**

**Senator RONALDSON** (Victoria) (3.37 pm)—I move:

That the following matter be referred to the Economics References Committee for inquiry and report by 30 June 2010:
The access of small businesses to finance, including:

(a) the costs, terms and conditions of finance and changes to lending policies and practices affecting small businesses;

(b) the importance of reasonable access to funding to support small business expansion and the sector’s contribution to employment growth and economic recovery;

(c) the state of competition in small business lending and the impact of the Government’s banking guarantees;

(d) opportunities and obstacles to other forms of financing, for example, equity to support small business ‘start ups’, liquidity, growth and expansion;

(e) policies, practices and strategies to enhance access to small business finance that exist in other countries; and

(f) any other related matters.

Question agreed to.

DEATH PENALTY IN CHINA

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.37 pm)—I move:

That the Senate, noting the similar resolution of the European Parliament on 25 November 2009:

(a) reiterates its longstanding opposition to the death penalty in all cases and under all circumstances;

(b) recalls Australia’s strong commitment to working towards abolition of the death penalty everywhere and emphasises once again that the abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights;

(c) recognises the positive move by China’s Supreme People’s Court, in January 2007, to review death sentences but deplores the fact that it has not led to a significant decrease in the number of executions in China and remains concerned that China still carries out the greatest number of executions worldwide;

(d) urges the Chinese Government to adopt a moratorium on the death penalty immediately and unconditionally, this being seen as a crucial step towards abolition of the death penalty;

(e) strongly condemns the executions of the two Tibetans, Lobsang Gyaltse and Loyak, and of the nine persons of Uighar ethnicity following, respectively, the events in March 2008 in Lhasa and the riots of 5 July to 7 July 2009 in Urumqi; and

(f) calls on the Chinese authorities to suspend all the other death sentences passed by the Intermediate People’s Courts of Lhasa and Urumqi and to commute those sentences, in the case of persons duly found guilty of acts of violence, to terms of imprisonment.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.38 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—The government’s consistent approach has been that complex international relations matters should not be dealt with by means of a formal motion. It is also the government’s view that it is counter-productive for motions of this kind to single out any one country when Australia’s opposition to the death penalty is universal. According to the most recent available Amnesty International figures released in 2009 and in 2008, at least 2,390 people were known to have been executed in 25 countries and at least 8,864 people were sentenced to death in 52 countries around the world.

The Australian government’s policy on the death penalty is clear and consistent. Australian acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights on 2 October 1990. In keeping with the government’s policy of encour-
aging universal ratification of the second optional protocol, we call on all countries to abolish the death penalty. Australia advances our universal opposition to the death penalty through the United Nations, including advocating for the death penalty’s abolition. We have consistently called for the abolition of the death penalty during interventions in the course of the Human Rights Council’s universal periodic review and we encourage the abolition of the death penalty in our bilateral human rights dialogues with China, Vietnam and Laos.

Australia, through its overseas missions, is currently making global representations against the death penalty to all countries that carry out executions or maintain capital punishment as part of their law. I want to say clearly and categorically and without question that the government is committed to working with the international community to achieve the death penalty’s universal abolition.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.39 pm)—I seek leave to make, similarly, a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator BOB BROWN—I thank the Senate. This motion, as I indicated, is similar to a resolution which the European Parliament passed on 25 November last year which reiterated the European Parliament’s long-standing objection to the death penalty under all circumstances, which recalled the work that Europe had done in abolishing the death sentence and which recognised the Chinese legal authorities but called for the abolition of the death sentence in China. I would have thought that if the government was dinkum in saying it was opposed to the death sentence in all circumstances it would get past this failure it has of utilising the suasion of the Australian parliament to put an end to the death penalty.

We have motions on all sorts of matters in this place which the government itself puts forward and expects to be supported. Here we have a motion on something as important as the death penalty, very often by summary judgment of courts, in China which has led to estimates of between 2,000 and 4,000 prisoners being executed, including political prisoners. There are two Tibetans and a number of people in East Turkistan—Xinjiang—who are facing the death sentence after political activities at the moment. One would have thought the government would have been very strong in supporting this motion, but apparently what the Europeans are prepared to do in their parliament this Labor government is not prepared to stand up for in this parliament.

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

The Senate divided. [3.46 pm]
(The Deputy President—Senator the Hon. AB Ferguson)

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Hanson-Young, S.C. |   |
Milne, C.       |     |
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Forshaw, M.G.  |     |
Hurley, A.     |     |
Johnston, D.   |     |
Ludwig, J.W.   |     |

Bilyk, C.L.    |     |
Cass, M.C.     |     |
Cormann, M.H.P.|    |
Feeney, D.     |     |
Fisher, M.J.   |     |
Furner, M.L.   |     |
Hutchins, S.P. |     |
Kroger, H.     |     |
Lundy, K.A.    |     |

AYES

NOES
Marshall, G. McEwen, A. Ludlam, S. Milne, C.
McLucas, J.E. Moore, C. Siewert, R. * Xenophon, N.
O’Brien, K.W.K. * Parry, S. NOES
Polley, H. Pratt, L.C.
Sterle, G. Wortley, D. * denotes teller

* denotes teller

Question negatived.

TAMIL ASYLUM SEEKERS

Senator HANSON-YOUNG (South Australia) (3.48 pm)—I move:

That the Senate—

(a) notes that:

(i) more than 240 Tamil asylum seekers remain on their boat in the Indonesian port of Merak, in increasingly squalid conditions after more than 3 months, and

(ii) this boat was intercepted by Indonesia at Australia’s request in October 2009;

(b) recognises:

(i) of the 240 on board, 100 have been found to be genuine refugees by the United Nations High Commissioner for Refugees, yet they are afraid to leave the boat under the threat of removal to Indonesian detention centres, and

(ii) Australia’s obligations as a signatory to the United Nations Convention relating to the Status of Refugees; and

(c) calls on the Government to immediately step in and end the standoff over the Tamil asylum-seekers who have been left in squalid conditions on a boat at Merak, Indonesia for 115 days.

Question put.
The Senate divided. [3.49 pm]

(The Deputy President—Senator the Hon. AB Ferguson)

Ayes………………… 6
Noes……………….. 30
Majority……….. 24

AYES

Brown, B.J. Hanson-Young, S.C.

Boobook Declaration and Biodiversity Protection

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.52 pm)—I, and also on behalf of Senator Siewert, move:

That the Senate—

(a) recognises 2010 as the United Nations’ International Year of Biodiversity;

(b) supports the Boobook Declaration, which has been written by an alliance of 40 environment groups to highlight Australia’s worsening biodiversity crisis; and

(c) notes the Boobook Declaration’s call on the Australian Government to:

(1) Acknowledge the critical importance of safeguarding biodiversity as part of Australia’s climate change response and commit to correspondingly urgent action to address the systemic drivers of biodiversity loss…

(2) …increase investment in biodiversity and ecosystem protection, restoration and management to at least $9 billion over the three years to 2012 and establish an independent … consultative process into future funding and stew-
ardship of Australia’s, [sic] terrestrial, aquatic and marine biodiversity;

(3) Restore and increase ... publicly funded research [capacity, especially in biodiversity conservation] ... and

(4) Develop ... education and training programs ... [for] all sectors of the ... community [including on the importance and protection of biodiversity].

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.52 pm)—Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—I shall not need that. The government does not support this motion as it already has in place a range of policies and programs to protect and conserve biodiversity. I thank the Senate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.53 pm)—Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator BOB BROWN—You will note that the minister just said that the government has in place a range of programs. But they do not protect biodiversity in this country. Let me cite, for example, the swift parrot, which is down to 1,000 breeding pairs. The numbers have fallen since 2003. The Minister for the Environment, Heritage and the Arts, who is obliged to have a management plan for the recovery of the fastest parrot on earth, which is currently finishing its breeding season in Tasmania, has done nothing at all about upgrading the 2006 program and has, in fact, been party to defunding programs which were to assess and help the recovery of the swift parrot.

If you look at a whole range of species which are threatened, listed or otherwise, from the koala to the bettong to the giant Tasmanian wedge-tailed eagle, there has been a failure by the government to adequately protect the habitat of these iconic Australian creatures—and this is the year of biodiversity protection.

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order! There is too much conversation. Senator Brown has the call.

Senator BOB BROWN—I notice the coalition interjecting in defence of Peter Garrett. They can do that, but I am here on behalf of the Australian Greens to defend Australia’s magnificent biodiversity and to call on this government not only to do its job but to uphold the law, the Protection of Biodiversity Conservation Act, not just in spirit but in action. That is something that this Rudd government has manifestly failed to do.

Question put:

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

The Senate divided. [3.58 pm]

(The Deputy President—Senator AB Ferguson)

Ayes…………… 6
Noes…………… 30
Majority……… 26

AYES

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

NOES

Back, C.J.
Birmingham, S.
Cash, M.C.
Cormann, M.H.P.
Feeney, D.
Fielding, S.
Forsyth, M.G.
Hurley, A.
Hanson-Young, S.C.
Milne, C.
Xenophon, N.

Back, C.J.
Birmingham, S.
Cash, M.C.
Cormann, M.H.P.
Feeney, D.
Fielding, S.
Forsyth, M.G.
Hurley, A.
Bilyk, C.L.
Cameron, D.N.
Colbeck, R.
Farrell, D.E.
Ferguson, A.B.
Fisher, M.J.
Turner, M.L.
Hutchins, S.P.
Question negatived.

**WORLD WETLANDS DAY**

**Senator HANSON-YOUNG** (South Australia) (3.58 pm)—I, and also on behalf of Senator Siewert, move:

That the Senate—

(a) notes that—

(i) Tuesday, 2 February 2010 was World Wetlands Day,

(ii) the day marks the anniversary of the signing of the Convention on Wetlands of International Importance (the Ramsar Convention) in Ramsar, Iran on 2 February 1971, and

(iii) in 2010, the focus of World Wetlands Day is on ‘caring for our wetlands – an answer to climate change’, highlighting the continuing threat our wetlands face from unsustainable human practices and the likely impact that climate change will have on our wetland ecosystems;

(b) recognises that:

(i) fair water sharing across the basin is the only way the environment and those relying on the river system will be protected and sustainable,

(ii) South Australia’s Lower Lakes are at crisis point and need the full attention of the Federal Government, and

(iii) implementation of the Basin Plan urgently needs to be fast-tracked as the Lower Lakes and Coorong can not wait until 2019 for all states to participate in a cap on sustainable diversions and basin-wide water sharing arrangements; and

(c) calls on the Government to:

(i) establish an independent national authority with the powers to make decisions in the best interests of our rivers and wetlands, that cannot be vetoed by individual states,

(ii) provide greater resources for the understanding and management of the resilience of our wetlands to the impacts of climate change, and

(iii) ensure that South Australia’s iconic wetlands do not lose their Ramsar Convention listing.

**Senator BIRMINGHAM** (South Australia) (3.58 pm)—Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

**Senator BIRMINGHAM**—The coalition parties have enormous sympathy for the overwhelming content of this motion and the majority of what the Greens, through Senator Hanson-Young and Senator Siewert, are seeking to achieve. We certainly recognise the importance of the Ramsar wetlands and especially—as you would well know, Mr Deputy President—those in South Australia and the Lower Lakes regions. We believe that the deals struck by the Rudd government with the states are flawed deals, that they do not provide for effective national management and that we should see more urgent action in the Lower Lakes.

However, we also believe that arrangements with those who hold existing irrigation licences and have interests throughout the basin need to be fair and reasonable. Unfortunately, one of the reasons we oppose this resolution is that this motion appears to call for the taking away of such rights and licences in a premature way that may not have appropriate compensation or support for them. We have tried to negotiate a single amendment with the Greens to ensure support for this motion. Regrettably, they have rejected that and we are unable to support the
motion, but I do place on record our support for 95 per cent of the motion and our concern about how we provide that assistance and support to irrigation communities to adjust, rather than taking away their rights.

Senator HANSON-YOUNG (South Australia) (4.00 pm)—by leave—I thank Senator Birmingham for making it clear why the coalition are unable to support this motion. While our motion does not necessarily talk about taking away people’s rights or not needing a fair and meaningful process to go through in relation to fast-tracking the national Murray-Darling Basin plan, we know we need to fast track it. That is the point of this entire motion. We cannot keep waiting until 2019. I understand that the coalition have some problems on their own side in terms of getting their act together and having a consistent approach. Unfortunately, that is not the Greens’ problem. What we want to do is move forward. We need action on the Murray-Darling Basin. We need it today, not in 15 years time. Unfortunately, that is where we will end up being if we do not act now.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.01 pm)—by leave—The government shares local community concerns for the Lower Lakes and the Coorong. After years of inaction and neglect, the Rudd government has a comprehensive plan to put the Murray-Darling Basin back onto a sustainable footing. Our plan is delivering results and that is why the government does not support this motion. Under reform secured by the Rudd government in 2008, the Commonwealth, not the states, will decide how much water will be taken out of the rivers via a new basin plan. This year, the draft basin plan will propose a new limit on how much water can be taken from the rivers. In preparing the basin plan the independent Murray-Darling Basin Authority is identifying key environmental assets, such as the Lower Lakes, and determining their environmental water needs. In the meantime, we are returning water to the rivers by purchasing water and delivering irrigation and infrastructure that uses less water.

As at the end of 2009, the Australian government had secured 766 billion litres of water entitlements at a cost of $1.2 billion. The Australian government has committed $330 million towards the issues facing the Lower Lakes and the Coorong and local communities and we are making real progress. We have committed $200 million towards South Australia’s long-term plan for this site, now nearing completion. We have committed $120 million to vital irrigation and potable pipelines. We are contributing $10 million to biomediation as a means of tackling acidification and an additional 340 gigalitres of water from a range of sources will now flow to the Lower Lakes. These and other actions underway are helping sustain the internationally significant environmental values in the Coorong and Lower Lakes, a commitment that the Ramsar secretary-general noted on his recent visit.

Question negatived.

TAXATION

Order

Senator PARRY (Tasmania) (4.03 pm)—At the request of Senator Joyce, I move:

That there be laid on the table by the Minister representing the Treasurer, no later than 9.30 am on Thursday, 4 February 2010, the final report from Australia’s Future Tax System Review Panel (the Henry Review).

Question agreed to.

Senator O’BRIEN (Tasmania) (4.04 pm)—by leave—The government opposes this motion. We recognise that the opposition, with the support of the Greens, has a majority. We will not call a division.
COMMITTEES

Economics References Committee

Meeting

Senator PARRY (Tasmania) (4.04 pm)—At the request of Senator Eggleston, I move:

That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 4 February 2010, from 5 pm, to take evidence for the committee’s inquiry into the Australian dairy industry.

Question agreed to.

Regional and Remote Indigenous Communities Committee

Extension of Time

Senator PARRY (Tasmania) (4.04 pm)—At the request of Senator Scullion, I move:

That the time for the presentation of the fourth report of the Select Committee on Regional and Remote Indigenous Communities be extended to 13 May 2010.

Question agreed to.

Environment, Communications and the Arts References Committee

Extension of Time

Senator PARRY (Tasmania) (4.04 pm)—At the request of Senator McEwen, I move:

That the time for the presentation of the report of the Environment, Communications and the Arts References Committee on sustainable management by the Commonwealth of water resources be extended to 6 May 2010.

Question agreed to.

RENEWABLE ENERGY CERTIFICATES

Senator MILNE (Tasmania) (4.05 pm)—I move:

That the Senate—

(a) notes that:

(i) achieving deep cuts in greenhouse gas emissions in the medium term requires the rapid expansion of renewable energy,

(ii) the price of Renewable Energy Certificates (RECs) has collapsed because the supply of RECs exceeds demand,

(iii) the price of RECs is forecast to remain too low to support large-scale renewable energy projects for some years, stalling wind industry investment and threatening the Solar Flagships program for large-scale solar,

(iv) the large number of RECs being created by a surge in solar and heat pump hot water and photovoltaic system installations is a major contributor to the problem, and

(v) these industries have been stimulated by:

(A) the rebate for solar hot water systems ($1 600) and heat pumps ($1 000),

(b) the introduction of the Solar Credits Scheme multiplier which provides four ‘phantom’ deemed RECs for systems up to 1.5 kilowatt in size, and

(c) dubious methodologies for calculating the number of deemed RECs, particularly for some heat pump systems; and

(b) calls on the Government to immediately address the flaws in the design of its Renewable Energy Target so that a genuine 20 per cent of renewable energy by 2020 can be achieved.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.05 pm)—Rather than read out the statement, I seek leave to incorporate the statement.

Leave granted.

The statement read as follows—

• The Government has significantly expanded support for the renewable energy industry by increasing the Renewable Energy Target to 20 % of electricity from renewables by 2020 and providing support for large scale solar
power generation under the $4.5 billion Clean Energy Initiative.

- The price of Renewable Energy Certificates (RECs) is set by the market, depending on the supply of renewable energy and demand created by the RETs legislated targets.
- The REC prices often quoted are for the spot market. Most renewable energy projects enter into long-term contracts for the sale of RECs and are therefore less subject to short-term fluctuations on the spot market.
- The significantly expanded targets will boost demand for RECs and growth in the renewable energy sector.
  - For example, the current target for 2010 is 12,500 gigawatt-hours, up from 8,100 gigawatt-hours, strengthening the demand for RECs. During March, the Renewable Energy Regulator will quantify the RECs obligation in 2010 for RET liable parties.
  - The annual targets increase further in the period to 2020 and are maintained at 45,000 gigawatt-hours until 2030.
- The Government is working with states and territories to review a number of specific RET issues, including factors impacting on the REC price.
- The Council of Australian Governments (COAG) received a report on specific RET issues in December 2009 and will explicitly examine the current state of the RET spot market, including any implications for the deployment of large-scale projects such as wind farms.
- COAG is expected to consider the review in early 2010
- The Government opposes this motion

Question agreed to.

Senator O’BRIEN (Tasmania) (4.06 pm)—by leave—The government oppose this motion. We recognise that Senator Milne, with the support of the opposition, has the numbers for it and we will not be calling for a division.

**GREEN LOANS PROGRAM**

Senator MILNE (Tasmania) (4.06 pm)—I move:

That the Senate—

(a) notes, with grave concern that:

(i) several thousand Home Sustainability Assessors under the Government’s Green Loan Program (the program) have been denied any work for more than 1 month since Christmas 2009 due to the mismanaged shutdown of the program’s phone booking service, leaving many in severe financial hardship, and

(ii) the company Fieldforce has consistently received preferential treatment through the program including being allowed to book as much work as it wanted during the shutdown period, despite thousands of other assessors being forced to go without work; and

(b) calls on the Government to:

(i) immediately provide clear and accurate information to the thousands of assessors regarding their ongoing work prospects,

(ii) reveal immediately the special conditions and treatment being offered to Fieldforce, and

(iii) review the program so that it provides a credible program, ensuring ongoing work for those Australians who have invested to become Home Sustainability Assessors on the back of the Government’s assurances.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.06 pm)—The government does have a response in relation to as to why we it will not support the motion. I seek leave to incorporate the statement.

Leave granted.

The statement read as follows—

• There has been a significant increase in the number of new Home Sustainability Assess-
ments booked since 11 January, and the Department of the Environment has allocated significant additional resources to process these bookings.

- Since 11 January 2010, over 24,000 calls have been received and over 50,000 new bookings processed.

**Response to claim of special conditions being offered to Field Force**:  
- Fieldforce is the single largest operator under the Green Loans Program, and to accommodate this, they make bulk bookings which are processed by the Department once a week.
- These bookings are subject to a weekly limit, in order to ensure there is adequate work for all assessors.
- Jobs are available to all assessors, whether they are individuals or part of a company.
- Over half the assessors contracted to the Department (59 per cent) choose to operate as sole traders, and are provided with bookings generated via the call centre. Work is allocated equitably.

**Ongoing work for assessors**:  
- The Green Loans program does not guarantee work for assessment companies or individuals, and each contract makes this clear.
- The Government made a commitment to deliver up to 360,000 home sustainability assessments through Green Loans, and this is being delivered.
- The Government understands that it is important for assessors to receive up to date information about the increasing demand for assessments, and this was done through newsletters eight times between September and December last year, and has been done another five times this year already.
- The Government will consider the future of the Green Loans program in the context of budget deliberations.

**The DEPUTY PRESIDENT**—Leave is granted for two minutes.

**Senator O’BRIEN**—Again, the government recognise that Senator Milne, with the support of the opposition, has the numbers for this motion. We oppose it but we will not be calling a division.

**WORLD WETLANDS DAY**

**Senator XENOPHON** (South Australia) (4.07 pm)—Mr Deputy President, I seek leave to make a short statement.

**The DEPUTY PRESIDENT**—Leave is granted for two minutes.

**Senator XENOPHON**—In relation to notice of motion No. 681 moved by Senators Hanson-Young and Siewert, I wrongly assumed that there was going to be a division in relation to that motion. I want to make it clear that I support the motion of Senators Hanson-Young and Siewert in relation to the Lower Lakes and Ramsar convention and related matters, so that it is on the record.

**CRIMINAL CODE AMENDMENT (MISREPRESENTATION OF AGE TO A MINOR) BILL 2010**

**First Reading**

**Senator XENOPHON** (South Australia) (4.08 pm)—I move:

That the following bill be introduced: A Bill for an Act to amend the Criminal Code Act 1995 to protect minors by introducing offences about misrepresentation of age online.

Question agreed to.

**Senator XENOPHON** (South Australia) (4.08 pm)—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 XENOPHON** (South Australia) (4.09 pm)—I move:
That this bill be now read a second time.
I table an explanatory memorandum and seek leave to have the second reading speech incorporated in *Hansard* and to continue my remarks.

Leave granted.

*The speech read as follows*—

The Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2010 is an attempt to provide a 21st century solution to a 21st century problem.
The internet has brought many incredible changes into our world, but it has also been abused by people who seek to abuse others.

This bill is a response in part to the tragic murder of 15-year-old Carly Ryan who was killed in 2007 by a 50-year-old man who had posed as a 20-year-old on an internet chat website in order to win over Carly’s trust and ultimately meet with her.

There is no lawful reason why any adult would need to misrepresent their age to a minor while online.

This bill doesn’t seek to censor the internet. It is simply designed to ensure that adults act appropriately in dealing with minors.

This bill will make it a crime for an adult to intentionally misrepresent their age while communicating with someone they believe to be under the age of 18, online.

Currently in many jurisdictions police have to prove a sexual predator has a prurient interest in misrepresenting their identity.

This can be a difficult task and can result in police being unable to act, even when they believe there is a threat.

This bill would remove any doubt. If an adult knowingly lies to a minor about their age online, they have broken the law.

There are three levels of this crime.

The first is when a person over the age of 18 misrepresents their age to a person under the age of 18, and carries a maximum penalty of three years imprisonment.

The second is when an adult misrepresents their age to a person under the age of 18 with the intention of making it easier to meet them, and carries a maximum penalty of five years imprisonment.

The third is when an adult misrepresents their age to a person under the age of 18 with the intention of committing an offence and carries a maximum penalty of 8 years.

I note there has been little criticism of this bill since I announced it, with the rare exception of the South Australian Council for Civil Liberties who said the solution to online sexual predators is educating children.

Respectfully I must reject this naïve statement and I would say to those who agree with this position, ‘Stop blaming the victim’.

Children are children and it is up to adults to protect them. This Bill assists in doing that.

I seek the support of my fellow parliamentarians for this bill.

Debate interrupted.

MATTERS OF PUBLIC IMPORTANCE

Climate Change

*The DEPUTY PRESIDENT*—The President has received a letter from Senator Parry proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The government’s refusal to acknowledge that direct action on climate change can be achieved without imposing a massive new tax on Australian industry and families.

I call upon those senators who approve of the proposed discussion to rise in their places.

*More than the number of senators required by the standing orders having risen in their places*—

*The DEPUTY PRESIDENT*—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clocks accordingly.
Senator ABETZ (Tasmania) (4.10 pm)—Labor’s stubborn refusal to acknowledge that direct action on climate change can be achieved without the need for a clunky, bureaucratic and ineffective massive new tax on everything reflects the choice available to the Australian people at the next election. On the one hand, with the coalition Australia has been given a plan which is cost-effective and practical and which provides a direct pathway to reducing our carbon emissions. Under Labor, Australians get a cocktail of unsurpassed, complicated verbiage and a massive tax that will impact everything and everyone, but Labor’s approach lacks two vital ingredients: that of being effective and that of being practical.

What we have learnt from Labor after two long years in office is that Mr Rudd has no practical or effective solution for anything. We have learnt that long, nonsensical sentences do not translate into practical policy solutions. Remember his war on petrol prices? Remember his war on grocery prices? Remember his war on housing affordability? Remember his war on whaling? Mr Rudd’s war on everything has led to no changes, let alone changes for the better.

And so it is with climate change. According to Mr Rudd in 2007, climate change was the greatest moral challenge of our time. It needed to be rushed through the parliament and implemented to start at the beginning of this year—we would all be doomed otherwise; a double dissolution would be called. Now, all of a sudden this great moral challenge of our time has become either less great or less moral, I am not quite sure which. Labor itself delayed the introduction of its proposals until 2011 and talk of a double dissolution seems to have fallen off the agenda. This greatest moral challenge of our time, surprisingly, was not even referred to anymore in the Prime Minister’s Australia Day addresses as he was increasing his own carbon footprint flying around the country.

Mr Rudd and Labor fail to recognise that Australians are rejecting his new massive tax on everything because it is neither practical nor effective, but it is hugely expensive and hugely bureaucratic. Indeed, in question time today the Prime Minister’s own representative in this place could not answer the most basic of questions about costs and compensation under Labor’s scheme. If Labor do not understand their own scheme than Labor should not be blaming their fellow Australians, who also do not understand the scheme and are therefore quite rightly rejecting it. Given the fiasco of Copenhagen—not my words but the words of Labor’s own climate change guru, Robert Garnaut—you would have thought Labor would have at least—

Honourable senators interjecting—

Senator ABETZ—What is his name? Ross Garnaut. Given the fiasco of Copenhagen, you would have thought that Labor would have at least put their flawed scheme on hold. Pride, arrogance—whatever it is—will not allow Labor to be mugged by the reality or the will of the Australian people, and so on they trudge supporting the indefensible. I know a number of people who did support the ETS last year on the basis of the expectation that Copenhagen would deliver workable outcomes. These same people are now saying, ‘Thank goodness Australia was saved from the madness of going before Copenhagen,’ and of course they are thanking the coalition for that situation.

Because we have rejected Labor’s flawed, big new tax on everything, Labor simply take the lazy approach. They do not defend their policy position; they just seek to attack us. But those tactics will not wash, especially now that the coalition has a sustainable, effective and practical plan for direct action—an action plan that will reduce our carbon
emissions, increase our land’s fertility, increase the efficiency of energy transmission, increase the productivity of our farmlands and allow all Australians to make a practical contribution to reducing CO2 emissions. All that and more is achievable through the coalition’s leadership, vision and fresh thinking.

Our $2.5 billion emissions reduction fund will provide business with a direct financial incentive to reduce their CO2 emissions. The fund will provide incentives for the oldest and most inefficient power stations to reduce emissions in an orderly manner which protects jobs and gives certainty of power supplies. The Greens would shut them down overnight, without a care for workers or consumers. Labor’s ETS would simply let the rot set in and let them die the death of a thousand cuts. One thing at least that you can say for the Greens’ policy is that it would be more humane; it would be a quick execution.

We have a clear path forward—a path which allows a transition, thereby protecting jobs, protecting power supplies and protecting investments. We have a plan to replenish our soils. We have a plan for one million additional solar energy roofs. What clear, innovative thinking to harness two natural assets that Australia has been blessed with in abundance—soil and sunshine. The coalition will use our natural advantages of soil and sun to drive our initiatives. And, yes, there is more. We will support innovation with $50 million for geothermal and tidal power initiatives. We will commit to putting those ugly and inefficient high-voltage powerlines underground, making them transfer power more efficiently and converting the scars to green corridors—carbon sinks. That clearly is a win-win for energy and for the environment. This is all about real, practical, effective, direct, common-sense action, which the coalition can and will deliver. On the other hand, under Labor, the Australian people can have an expensive, ineffective, great big tax on everything, with no environmental dividend.

I want to make the point that there is no environmental dividend under Labor’s proposed ETS. Because, in the absence of world action—in the absence of the world coming together, given the failure of Copenhagen—under Labor’s proposal our clean zinc producers, for example, in my home state of Tasmania, who produce about two tonnes of CO2 for one tonne of zinc produced will be outpriced on world markets by zinc produced in China that emits six tonnes of CO2 per tonne of zinc produced. Under Labor, we would be mugging Australian jobs and the Australian economy, and the actual environmental outcome for the world would be worse. Given the circumstances that we have a positive action plan and Labor’s policy is fatally flawed, what do Labor do? They pathetically describe our policy as ‘uncosted’. That is false. It is fully costed and the details have been put out publicly.

They then inflate the costs—once again, false. The numbers are there for all to see, with the backing of Frontier Economics. Then they descend into name calling, saying that it is a con job. The Australian people expect better from the Rudd government. After only two years in government, they have become tired and bereft of a vision. Under Tony Abbott, the Australian people have seen a new visionary coalition that will deliver for the economy, for jobs and for climate change.

Senator McLUCAS (Queensland) (4.20 pm)—The question that we have in front of us for discussion in this matter of public importance this afternoon is one that invites a comparison of Labor’s responsible, fully-costed Carbon Pollution Reduction Scheme with the so-called ‘policy’ released by the Leader of the Opposition yesterday. I wel-
The day that the climate sceptics took over the Liberal Party late last year was a very sad day for Australia. It was a sad day particularly for our children and then our grandchildren. If the policies and the approach espoused by the Liberal-National Party had the opportunity to be put into practice, it would be the young people of today who would have to carry the burden of a changed environment and an economy that could not manage the impact of increased greenhouse gasses. Our children and their children will be the generation that shoulders the burden, if there is no action on climate change.

The fact is that the Liberal Party has had myriad positions on climate change over the last few years. Mr Howard took a while to come to his senses. After many years of inaction in government, Mr Howard took the position that an emissions trading scheme was the only sensible and reliable way of dealing with dangerous climate change. After considerable consideration of advice, Mr Howard and his cabinet agreed that they would adopt an emissions trading scheme as government policy, and he said:

> It is fundamental to any response both here and elsewhere that a price is set for carbon emissions. This is best done through the market mechanism of an emissions trading system.

That was the policy that the coalition took to the last election. That is the policy they put in front of the Australian people and asked the Australian people to vote on. Now we have a completely different position from the opposition. As I said, it was a sad day when the climate sceptics took over the current opposition.

An emissions trading scheme is recognised by most economic commentators around the world as the most sensible method of reducing greenhouse gas emissions. As Lenore Taylor said in today's *Australian* in analysing the Liberal-National Party approach to climate change, ‘This is a climate change plan to get Tony Abbott through to the next election, not a serious plan to refit the Australian economy so that it emits less carbon.’ This so-called policy is a political fix. Michelle Grattan described the plan as ‘Mickey Mouse’ and a ‘somersault on emissions trading’ that is ‘a short-term election pitch, not a sweeping reform to meet the threat of climate change’. Phil Coorey from Fairfax said that taxpayers will foot the bill for the big polluters under the opposition plan.

As I said, those opposite have had a number of positions on climate change in the last three or four years and by my reckoning Mr Abbott has had three different positions in the last 12 months. Initially he was a sceptic, then he became a pragmatist and then we had the unedifying spectacle late last year of Mr Abbott doing his numbers in order to gain the leadership and realising he would have to revert to being a sceptic yet again. In order to gain the votes that were required to put him into the leadership of the party, he has rephrased his approach to climate change and now he is an avowed climate sceptic. This is a dangerous position for Australia and it is a dangerous position because, if it were allowed to be put into effect, it would wreak havoc on our economy and on our environment.

The Minister for Climate Change and Water, Senator Wong, has consistently said that an appropriate policy response to dangerous greenhouse gases is a response that is economically responsible and effective in reducing greenhouse gases. The Liberal-National Party policy fails on both counts, but you do not have to rely on me to tell you that story. Matthew Warren from the Clean Energy Council said, ‘Any genuine, effective climate
change policy needs to provide investor certainty across the entire energy market and beyond. He also said that it is difficult to see that the Liberal-National Party plan provides that long-term certainty. Peter Cosier from the Wentworth Group said this morning on radio that the best policy on the table is the amendments agreed to between the government and the opposition, referring to the agreement last year. He went on to say that the proposal to plant 20 million trees falls well short of proposals included in the current ETS, under which farmers would be paid four times as much to plant trees. I am interested that those in the National Party would accommodate less money for their so-called constituency. This is a political con designed to take the Liberals to the next election. It is not about responsible policy development that will actually deal with the threat that we face in climate change. It is economically irresponsible and environmentally useless.

Climate change is real. Australia is the hottest, driest country in the world and we have a responsibility to act in concert with the world to reduce dangerous carbon pollution. Nowhere is that threat more real than in my state of Queensland. Last weekend Mr Abbott said:

… even if dire predictions are right and average temperatures around the globe rise by four degrees over the century, it is still not the ‘great moral challenge’ of our time …

Those words are of great concern for those in North Queensland whose livelihoods rely on the Great Barrier Reef. The common, well-understood and agreed science is that if we have a two-degree increase we will not have a Great Barrier Reef. We know that with a two-degree increase there will be significant bleaching events and the time between those bleaching events will be shortened, reducing the ability of the reef to recover. We know that with increased climate change there will be an increase in the intensity of cyclones. We have seen recently that cyclones of higher intensity do enormous damage, especially to the outer Great Barrier Reef. With a four-degree increase in temperature over the century, which according to Mr Abbott is not a great moral challenge, there will be no Great Barrier Reef.

I take this opportunity to remind people of the wonderful asset that this natural attraction is to our community. It is a natural wonder of the world. It contributes $5 billion of economic value to Queensland and to Australia. Thousands and thousands of people are employed in tourism and fishing and other industries directly related to the existence of a healthy Great Barrier Reef. We cannot afford to lose it and it is morally reprehensible to allow its demise. I remind senators that the Great Barrier Reef is the best managed coral reef system in the world. It is still the best reef experience in the world. I encourage people to visit the Great Barrier Reef now, to experience how wonderful it is and how well managed it is. It is a fragile ecosystem and we have to do all we can to protect it. But, can I say, it is still well and truly healthy and open for business, so we encourage your visit now.

Recently I had the opportunity to visit the Australian Institute of Marine Science and was given a presentation by Janice Lough, who published an article in Science on 2 January 2009 entitled ‘Declining coral calcification on the Great Barrier Reef’. I think this is some of the most compelling evidence to say that we have to act on climate change. The authors say:

Reef-building corals are under increasing physiological stress from a changing climate and ocean absorption of increasing atmospheric carbon dioxide. We investigated 328 colonies of massive Porites corals from 69 reefs of the Great Barrier Reef (GBR) in Australia. Their skeletal records show that throughout the GBR, calcification has
declined by 14.2% since 1990, predominantly because extension (linear growth) has declined by 13.3%. The data suggest that such a severe and sudden decline in calcification is unprecedented in at least the past 400 years.

The causes of the decline remain unknown; however, this study suggests that increasing temperature stress and a declining saturation state of seawater aragonite may be diminishing the ability of GBR corals to deposit calcium carbonate. Calcium carbonate is the skeleton of the Great Barrier Reef. If we have lost 14.2 per cent in the last 10 years, that should be cause for alarm and that should cause action on climate change. I commend the article to the chamber.

Mr Abbott likes wandering around Cape York Peninsula, so I encourage him to come up a little further in the Torres Strait. I encourage him to ask the people of the Torres Strait if they think climate change is real. They will tell you in no uncertain terms that climate change is real. We have seen increased tidal inundation and increased frequency in inundation over the last while. In the last couple of seconds I would like to refer to an article in today’s Daily Mercury that talks about some polling that has recently been done—(Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.34 pm)—The discussion before us is:

The Government’s refusal to acknowledge that direct action on climate change can be achieved without imposing a massive new tax on Australian industry and families.

At the core of that is the assumption that a massive new tax is in fact inherent in the government’s legislation. The government and the opposition have debated this. I take that terminological attack on action on climate change, which has come from the National Party and been adopted by Mr Abbott in opposition, to be a defrauding of the information base and the intelligence that we have in this parliament to act on climate change. It undercuts the intelligence of the Australian people, who understand that climate change is a big threat to the future and who want action taken.

Now both the government and the opposition are claiming that each other’s policy is going to create a tax imposition on the Australian people which should not be there. Yet two days ago, in talking about the impact of an ageing population on the economy, the government’s own assessors—and this is coming from Treasury and the best economic advice in the nation—advised that, unchecked, climate change will cause an eight per cent reduction in gross national product by mid-century. Let me state that again: climate change, unchecked, will reduce the gross national product of this nation by eight per cent by mid-century. That is billions and billions of dollars. With that eight per cent will come hundreds of thousands, if not millions, of lost jobs and a tangible and great decrease in the wealth of people, their lifestyle and their safety. Yet both the parties in this parliament are hectoring each other into greater inaction, based on the claim that there will be an impost on us in 2010 as mature and rational citizens. Their view is that we should back off and leave the next generation to be assaulted in their time by an eight per cent reduction in gross national product.

The question again is: does this parliament have the long-sightedness to act on behalf of the national good in the long term as well as in the short term? That is a question that I think only the Greens are tackling with the maturity and the responsibility which it requires of the national legislators. We have seen from both the big parties a targeting of five per cent reduction in greenhouse gas emissions by 2020 over 1990 levels, when the world’s scientists tell us it must be a
minimum of 25 per cent and should be 40 per cent. These are the targets which the Greens have adopted, because that is what the global scientific opinion and, increasingly, economic opinion—from experts like Professor Ross Garnaut in Australia, who advised the Labor government, and Sir Nicholas Stern in Britain, who advised the Blair government but has become a globally respected figure on the economics—say that we should be aiming at.

If we do not act now, the impact on coming generations is going to be far greater. As Maggie Thatcher herself said two decades ago, every day we delay on climate change action, the cost of remediating that, of taking later action, increases. And yet we have both parties aiming at a five per cent reduction, when a 25 per cent reduction is required. Why is that? It is because of the power of the big end of town and, in particular, the coal conglomerates. I remind the Senate that the coal corporations acting in this country are 75 per cent owned outside Australia, and yet the government’s action plan for a five per cent reduction would hand across $24 billion to the big polluters, including billions to those very same coal corporations, and a lot of that money would drain straight out of the country. The opposition, on the other hand, is saying—and I heard my colleague Senator Joyce, who is to speak next, saying this on radio this morning—‘We will appeal to the greed factor in getting the corporations to take money from the state, in order to, if they do not reduce their greenhouse gas emissions, keep emissions where they are.’ I cannot and will not, and nor will the Greens, ever accede to any policy which is based on an appeal to the greediness of megacorporations like these coal corporations, who are 75 per cent centred outside this country anyway.

I heard from the coalition speaker Senator Abetz that there are thousands of jobs in the coal industry that are dependent upon proper protection. Then from the Labor government speaker we just heard an appeal for the protection of the Great Barrier Reef. There are competing interests here. On the one hand, the coal industry has 30,000 jobs, which we Greens say need to be thought about. Those communities need to be assisted in transforming to the highly skilled new environmentally based industries of the future, including renewable energy. But there are more than double that number of jobs—63,000 jobs—in the $5 billion per annum industries of the Great Barrier Reef. You cannot fail on climate change and say you are looking after the interests of those jobs on the Great Barrier Reef and the thousands of small businesses which are dependent upon it.

We will have the scepticism of members of the big parties about climate change and the Great Barrier Reef, but I am indebted again to the former great Democrat senator in this place Norm Sanders, whom I saw Sunday week ago, for reminding us—as the last speaker has just done—that acidification threatens the Great Barrier Reef more than climate change even. What is acidification? It is carbon dioxide being absorbed in the ocean as we increase greenhouse gas emissions, the carbon in the atmosphere, making the ocean more acidic. This is threatening the whole food chain of the world’s oceans. This is besides climate change. You can be sceptical about climate change, but you cannot be sceptical about the increasing acidification of the oceans, beginning with the zooplankton and the phytoplankton, the starting blocks of the whole food chain, which are materially being diminished and threatened by acidification because coal-fired power stations are belching carbon dioxide into the atmosphere.

The opposition says, ‘We’ll appeal to their greed to see if they won’t at least limit it to what they’re doing at the moment.’ Business as usual will lead to the collapse of the ocean
food chain, as acidification gets worse. Even if you do not regard as a possibility the heating of the oceans and climate change impacts on the ocean, we are headed for catastrophic impact on the whole of the ecosystem of this planet, the mass extinction of species. Scientists tell us that a third of bird species will be extinct by the end of the century, and there is a real threat to mammal species, including this one, Homo sapiens. There is an attendant megathreat to the whole of the oceans upon which we human beings depend, through acidification, and we have got the government and opposition arguing over who is best at delivering a five per cent reduction in carbon emissions into the atmosphere, when we need a minimum 25 per cent reduction if we are going to offset those threats.

So as both the big parties fail their duty to this nation to tackle climate change—through their so-called action plans, which are in fact fail plans—it is left to the Greens to be the champions for this nation of responsible, mature and appropriate action on climate change. We have put an interim proposal to the government for, effectively, a carbon tax of $20 per tonne of carbon. We are negotiating that with the government. This is a very serious matter and requires serious action. It requires this parliament to raise its sights. It requires the big parties to raise their sights from the five per cent target to the 25 per cent minimum target they should be aiming at.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (4.44 pm)—It is interesting to rise today to find out, as my colleague Senator Bob Brown says, that we are on the cusp of extinction. It is unfortunate. I hope it is not the case and it does seem slightly alarmist. However, that seems to be the metaphor that has driven this debate. We have also heard from Senator McLucas of the impending collapse of the Great Barrier Reef, which is also unfortunate. Professor Peter Ridd, who is the oceanographer at James Cook University and one of the most eminent people in that field, does not agree with her. He lives in North Queensland, so she probably has not met him.

It is vital that we understand the fear factor that has driven this debate. What the Labor Party put forward was a broker’s bonanza. They had something that every banker in Sydney would have absolutely loved. They had a program where they just creamed the money in with commissions. We had the environmentally conscious merchant banks with their hand on their heart saying, ‘This is all about the environment.’ But it was not. It was about them making a bucket load of money out of Australian working families because Australian working families had no choice but to pay. The Labor Party program is a broad based consumption tax that is delivered to you by the power point in your house. Every time you turn something on you are paying something to the Australian Labor Party institution of government. That is what they desire. They said that they were out to help the working family, but what choice do they have? We have had this argument about their market based system.

It was very interesting to get an email from a person—I will not mention him but he was very prominent around here in the past—who said that when governments want to reduce engine emissions and get clean the engines in cars, buses and trucks they mostly resort to direct action. That is how you deal with it, that is how you bring it down, rather than with price mechanisms. I surmise three likely reasons for this: it was the fastest and most effective way to get change; it meant that the whole industry changed, not just the most responsive part of it; and a price rise would have had to be so high to change consumers’ behaviour that it was unlikely to be possible. Who put forward that submission to me? I will tell you who it was: Andrew
Murray. He said that direct action is how you deal with an issue.

If we go down the market based mechanism, so they like to call it over there, all that happens is you push up prices on the vital components in the cost of living of working families, pensioners and everybody else. But they do not have an alternative, they have got nowhere to go, and so they just pay the higher prices. It is not as if when you turn on your fridge it will start running on gas; it will not. It will run on electricity, but it will just cost you more. It will not be like you have the opportunity to say, ‘Sorry, tonight we will turn on half the light globe.’ You do not have that opportunity; you just pay more for it. Or you are going to say, ‘Sorry, we are only going to iron half the uniforms and not bother washing the socks.’ You have to do all of that, but you just pay more for it. Under the Labor Party’s program, you pay until you are poor. What the coalition has put forward is direct action.

Senator Cameron—What is the effect? How much?

Senator JOYCE—I will go through the cost. The cost through your smelly tax and through your dirty little trick is to wind your way into the hands of working families and then to put out on the street the working families and the coalminers. What happened to you? You have changed. You no longer care for the working family. You have been sucked into the machine. You are now a machine man. You sit back there, you machine man. It is $4½ billion. They are going to start off with $4½ billion, next year $11½ billion, then $12 billion and then $12½ billion. They are going to rip in excess of $40 billion out of their working families with this naïve approach where they do not believe that cost will be handed on. It will be handed on to your working families.

Why do you not acknowledge that the issue has changed? Your working families, pensioners, farmers and Australian consumers are saying, ‘We do not want to go down this path.’ You are so arrogant and so conceited that you have brought back to the parliament, as the premier item of your agenda, the emissions trading scheme. That is apparently what you are all about. If you want to know what the Labor Party is about, it is the emissions trading scheme. That is what defines the Australian Labor Party. To quote Paul John Keating once more, we are so happy you have brought it back because we are going to drag you in here and see if you have got the courage and conviction to nominate the increase in costs to the people who will have to pay, the people who gave you the Treasury bench. Is this the reward that you have delivered to them? What we have delivered is a multifaceted environmental policy, for which the costs are controlled and for which we can budget, which is completely unlike yours.
And then we hear the Greens say ‘a reward to polluters’. It is your scheme that ultimately ends up paying them $40 billion, not ours. It is your scheme that delivers the buckets of money to the major coal companies, not ours. Ours is a clean scheme. It costs $3.2 billion. People ask where that is going to come from.

Here is the Labor Party, who over the next four years are going to spend about $1.4 trillion—$1.4 trillion in expenditure—and we are going to be looking for $3.2 billion. That is 0.2 of one per cent of your expenditure. I reckon we can find it. I reckon we can find that 0.2 of one per cent of your expenditure. But I tell you what else costs $3.2 billion—

Senator Williams—Batts!

Senator JOYCE—The pink batts scheme. Maybe we could have found it there, but it is all up in the roof with the rats and mice urinating on it at the moment! But we can pull it back out to pay for our scheme! That is a good place for us to start.

Senator CAMERON (New South Wales) (4.52 pm)—Well, here we are with the coalition’s A-team in terms of the climate change debate! There is Senator Joyce, Senator Abetz and, bringing up the rear, who do we have but the biggest climate change sceptic in the country, Senator Bernardi. We have Senator Abetz coming into this place and talking about those opposite being ‘a visionary coalition’—before Christmas, a rabble; after Christmas, visionary. Politics do not work like that. People know that you have changed your leader but you are still the same old rabble that you were, with absolutely no ideas and no capacity to deal with the real issues that are facing ordinary Australians in this country. And what do you give us? You give us a slogan. You have given us slogans before. What was the big slogan that Senator Joyce kept putting his hand up for? What was that big slogan? The big slogan was ‘work choices’. That was the big slogan from the coalition. From a coalition that were concerned about Australian working families, we got Work Choices.

And now we have got ‘direct action’. Direct action will never deliver. You know that direct action is a con job. You know that this policy is an absolute con job on the Australian public. The press are onto you, we are onto you, and the public are onto you. We know what it is about; it is about trying to pretend that you care about the environment and it is about trying to pretend that the extremists have not taken over the coalition. But the extremists have taken over the coalition—the industrial extremists and the climate change extremists.

The coalition have failed to meet the challenge of climate change, the greatest political, economic, social and environmental challenge that this country has. The challenge for the divided, extremist coalition is to change what you are doing and actually think about future generations in this country. You know that the science is in, the science is there: surging levels of greenhouse gas emissions, underlying warming trends, acceleration in the melting of the ice sheets, glaciers and ice caps. You know it is there but you deny and deny. Rapid arctic ice, sea decline—the current sea rise is underestimated. Delaying action risks irreversible damage, and the turning point may come soon. It is not me who is saying this; it is the scientific community around the world and in Australia.

The coalition policy is a Clayton’s policy. It is a con job. The coalition policy will not work. It will not require anything from the polluters. It slugs the taxpayers instead of the polluters. It is unfunded and it will mean higher taxes. Senator Joyce has a responsibility to say where the cuts to the services will be—where the cuts to schools will be, where
the cuts to hospitals will be—under the un-
funded, unacceptable and unthought-through
program that you have put up to try and get
you through to the next election. The coal-
tion policy is really a product of despair in
the coalition, onto their fourth leader. It is a
product of division. The Nationals do not
like the Liberals, the Liberals do not like the
Nationals, and the Liberals do not like each
other. That is the reality. If you try to pro-
duce a policy from that chaos, you get what
you see: a policy that is a Clayton’s policy, a
policy that will not deliver and a policy that
relies on fear and scaremongering within
Australia by the coalition—the experts on
fear, the experts on scaremongering, at it
again to try and cover up their lack of cohe-
sion, their lack of unity and their lack of
leadership on the key policy issues facing the
Australian public.

Neither Senator Joyce nor the Leader of
the Opposition is capable of explaining this
so-called simple policy that you have. You
cannot tell us what services will be cut, such
as what hospitals will be closed, and where
we might end up in relation to the funds—
and you are not prepared to identify where
they will come from. You have actually
failed not only the Senate but also the nation
by not adopting a policy that will deal with
the carbon pollution issue that faces every-
one around the world. It is quite clear that
the arguments in terms of the costings are all
about fear and loathing. The so-called Treas-
ury spokesman, Senator Joyce, just speaks
more and more mistruths in this place and
peddles more and more mistruths in the pub-
lic eye.

If you look at the Treasury modelling, you
can see that there will be 1.7 million jobs
created between now and 2020 under La-
bor’s scheme. There will be 4.7 million more
jobs by 2050. There will be a growth in gross
national product. The value of output will
increase in the economy. Average incomes
will increase by $4,300. That is the Treasury
modelling for the Labor Party policy, which
is a funded policy and a policy designed to
do something about the growing CO2 emis-
sions. Early action is required to reduce un-
certainty in business, to ensure that we get
the investment that we need and to ensure
that we can engage in what is happening all
over the world, where progressive govern-
ments are looking to see how we can deliver
the jobs of the future and ensure that we can
build a low-carbon economy for our kids into
the future.

The position put forward by Senator Joyce
in relation to funding is absolute nonsense. It
will be the coalition policy that will cost
households jobs and cost households money
because it is unfunded. The Labor Party pol-
cy will have an impact of just over one per
cent and that one per cent for 90 per cent of
households will be refunded totally. A cost of
just over $600—$624 a year—with a rebate
of $660 to those households: that is what is
being put forward by the Labor Party.
Households will be protected.

Under your policy there is no protection
for households, no protection for jobs, no
protection for hospitals and no protection for
infrastructure. It is an example of the eco-
nomic incompetence of the new shadow fi-
nance minister. You just have to watch Sena-
tor Joyce in action. The longer it goes the
better it is because we expose the hypocrisy
and the unintelligible gobbledygook that un-
derpins all of your arguments. You are an
absolute disgrace. You have been put in there
purely to try to cover over the problems and
the division in the coalition, and it is not go-
ing to work because you are going to blow it
apart. We can see it every day. It is abso-
lutely fantastic. (Time expired)

Senator XENOPHON (South Australia)
(5.02 pm)—At the outset it is with some be-
musement that I find that this policy is called
direct action because those of us old enough will remember that ‘direct action’ was the name of the Socialist Workers League publication. I note that Senator Cameron was condemning direct action. It was a good Trotsky publication from uni days.

Senator Cameron—I always had to fight with them.

Senator XENOPHON—Senator Cameron always had to fight with the Trots, so there you go. If you want to have action on climate change—and I believe we must—it will not be cost free. If you are going to reduce greenhouse gases, there is no cost-free solution. To me the debate is about finding the most effective way to abate greenhouse gases to a sufficient level to actually make a difference when it comes to the issue of risk management in terms of climate change.

I understand that some of the sceptics about the science of climate change have been strengthened by some of the conclusions of the IPCC. There was some sloppy work in terms of some of the conclusions, but overall the body of work is still significant and robust in my view that we need, from a risk management point of view, to deal substantially with climate change. I agree with the Prime Minister, who said that dealing with climate change is one of the great moral issues of our time. I find it curious that the Prime Minister did not mention climate change once in his seven quite significant speeches leading up to Australia Day on his tour around the country. I find it disappointing that in those speeches about where we are heading as a nation there was no mention made of climate change, because climate change has made and will continue to make an impact on the Murray-Darling Basin, for instance.

I could not support the government’s scheme. I believe the government’s scheme was made even worse by the amendments agreed to by Mr Turnbull. They made a bad scheme even worse in terms of the payouts and the structural imbalances that would have been caused in the economy. It would have done nothing to assist the hundreds of thousands of small businesses with the impact it would have on the price of electricity. I believe this nation needs a well-designed emissions trading scheme, but it is true to say that what occurred in Copenhagen has been a setback for those wanting global action on climate change. The actions of China and India have not been helpful in order to achieve that.

So I cannot support the CPRS in its current form. I believe we need to look seriously at the Frontier Economics model, which is an intensity based scheme. It is much more efficient and you can go for deeper cuts. We need to have cuts that are much more significant than five per cent and we need to look to the science in relation to that.

I welcome the coalition scheme insofar as I believe it is an interim measure. It does not lock us into long-term decisions which will severely impact the economy but at least it does deal with a number of aspects that need to be dealt with in terms of soil carbon and R&D and at least it is beginning to tackle the problem. I only see it as a stopgap measure. Eventually this parliament will need to come up with an efficiently designed emissions trading scheme to deal with the problem. It is a stopgap measure until there is global consensus, but my concern is that once we are locked into the government’s scheme that will be it.

I believe we need to have meaningful targets. Neither scheme goes far enough. I believe there ought to be some bipartisanship. Where there is common ground, we need to get on with it and do all we can to cut greenhouse gases as deeply as possible and as efficiently as possible.
Senator BERNARDI (South Australia) (5.06 pm)—I have an inconvenient truth for Labor and I have some words of hope for the Australian people. The Intergovernmental Panel on Climate Change, upon whose report Labor have based and justified their ETS or great green tax, as the Australian public has come to know it, is built as a house of cards. It is built on rent seeking, on dodgy science, on intimidation and alarmism—all characteristics which the Labor Party have used in trying to justify their emissions trading scheme. But the only conclusion a sensible minded person can come to when you have a policy that is built on such dodgy foundations is that the policy response itself is dodgy, that it is flawed—and the Australian public is waking up to the fact that Labor’s ETS is hopelessly and horribly flawed.

Here are some of the reasons why the IPCC report is flawed and dodgy, and Labor have repeated some of the falsehoods today. Senator McLucas and Senator Cameron, the dinosaurs of the climate change movement, are looking back at so-called ‘facts’ that have been discredited and using nonsense to justify their increasingly discredited arguments. Firstly, Himalayan glaciers: they were meant to melt by 2035. False, and proven false. That was one dodgey thing we heard repeated by Labor today. We have not heard that 40 per cent of the Amazon rainforest is going to disappear. That is false too, but they probably did not have time to remark on it. The hockey stick graph was proved to be built on false and fraudulent data. The claim of wild weather and increasing cyclonic activity—Senator McLucas talked about that today—is wrong. It has been proved wrong but it is repeated by the climate dinosaurs in the Labor Party. The information Labor are relying on has not been peer reviewed. It has been taken from World Wildlife Fund journals, from Greenpeace journals—some German exchange student put it in his report—and reproduced as fact in the IPCC report. These are all then used by the Labor Party to justify their great green tax.

What about the claim repeated by Senator McLucas today and first put around by Kevin Rudd that the Great Barrier Reef was going to disappear? Perhaps they did not have time to read the Australian today, where experts said there is no evidence of coral bleaching and it did not appear that it was going to take place. This is a Labor Party that will do and say anything to justify their tax grab on the Australian consumers. They want to place the government at the very centre of the Australian economy so that every industry, every business, every person who wants to build this country and make it better and stronger economically has to go and ask for government largesse. Then the government will charge them for that largesse—which they are used to in the Labor Party—and then bequeath the funds as they see fit to the worthy serfs beneath them, who are expected to applaud and say, ‘Thank you very much for looking after us, Mr Kevin Rudd and Ms Penny Wong and Co.’

This is not how Australia should function. This country is built on free enterprise. It is built on common sense. It is not built on a government doing everything and being at the very centre of the economic expansion of our country. Labor are misrepresenting their flawed policy to the Australian people because they know it is not going to have an environmental impact. They know that Australia’s emissions are minimal, yet they know what they implement is going to be there forever. You cannot undo it. You cannot take it away. It gives rise to property rights that you cannot take away.

The coalition’s position, on the other hand, is built upon action that can be justified on environmental grounds, irrespective of whether or not the IPCC science is flawed.
How can people complain about two million new trees? How can people complain about having a solar panel available on their roof to provide electricity for them that is environmentally friendly? How can they complain about encouraging businesses to operate in a more environmentally friendly manner and in a cost-efficient manner that will not cost taxpayers $120 billion over 10 years? Make no mistake, that is what Labor are doing. They are going to suck $12 billion a year out of the productive economy and put it into government hands where they can determine who is worthy of it.

Let me tell you, the Australian people do not deserve this government. The Australian people deserve so much better. They deserve a government that is going to be responsible not only in dealing with the environment but responsible with taxpayer funds. If you want to know what is responsible, it is having environmental measures that will cost money—yes, they will cost money—but $3.2 billion is a whole lot less cost than the $120 billion the Labor Party are going to suck out the taxpayers’ pockets.

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Order! The time for the debate has concluded.

AFGHANISTAN

Senator XENOPHON (South Australia) (5.11 pm)—by leave—Yesterday in my speech on Senator Bob Brown’s suspension motion on Afghanistan I indicated that in the United States an act of congress is needed before troops can be committed to war. I have since been informed that, in part, this is incorrect. May I clarify that, under the US Constitution, congress has the power to declare war and to raise and support armies and the navy. However, as the Commander-in-Chief of the armed forces, the President has the power to deploy troops.

The War Powers Resolution 1973 states that, if the President does deploy troops, he or she must report this to congress to be approved within 60 calendar days or the action will be terminated. There are concerns about the legality of this act, and presidents can and have ignored it. There has recently been some discussion about strengthening the act, although no changes have as yet been made.

However, the point I was making with this statement yesterday remains the same. While congress may find it difficult to enforce the act, presidents have chosen to follow it, giving congress the deciding vote on whether the United States will or will not go to war. One example of this is President George W Bush’s request to congress to authorise the action against Iraq in 2002. So while the US Congress may find it difficult to enforce their powers under the act, the act does exist and, in certain circumstances, congress has the right to determine whether the US goes to war, and I seek to clarify my remarks.

COMMITTEES

Scrutiny of Bills Committee Report

Senator BUSBY (Tasmania) (5.13 pm)—At the request of Senator Coonan, I present a report and Alert Digest of the Standing Committee for the Scrutiny of Bills.

Ordered that the report be printed.

Senator BUSBY—I seek leave to have the tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS TABLING STATEMENT 3 February 2010

In tabling the Committee’s Alert Digest No. 1 of 2010 and First Report of 2010, I draw the Sen-
ate’s attention to various provisions in the following bills:

- Freedom of Information Amendment (Reform) Bill 2009; and the
- Information Commissioner Bill 2009.

In relation to the Freedom of Information Amendment (Reform) Bill 2009, the Committee has sought the Minister’s clarification about two issues that it considers may make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, in breach of the Committee’s second term of reference.

The bill seeks to amend the Freedom of Information Act 1982 to introduce a new regime for access to government information. The bill complements the proposed structural reforms to be implemented by the Information Commissioner Bill 2009 (which include the establishment of the Office of the Information Commissioner and the new independent statutory positions of Information Commissioner and FOI Commissioner).

Proposed new subsection 15(2A) of the Freedom of Information Act 1982, to be inserted by item 25 of Schedule 6, sets out the means for sending a request for access to a document. Proposed new paragraph 15(2A)(a) provides that the request may be delivered ‘to an officer of the [relevant] agency, or a member of the staff of the [relevant] Minister’. A member of staff of the Minister would, in these circumstances, be acting as an agent for the Minister. A member of staff of the Minister is not necessarily a member of the Australian Public Service and in such cases the legal status of the staff member is unclear. The Committee is therefore seeking the Cabinet Secretary’s advice about whether the explanatory memorandum might be amended to provide clarification about the legal status of Ministerial staff.

A different issue arises from the related Information Commissioner Bill 2009. Part 4 of the bill provides for the establishment of an Information Advisory Committee (IAC) to assist and advise the Information Commissioner on matters relating to the performance of the Information Commissioner’s functions. Clause 27 provides for the IAC’s establishment (subclause 27(1)), membership (subclause 27(2)), payment of travel allowance (subclause 27(3)), and the non-payment of remuneration or allowances (subclause 27(4)).

There is no provision in the bill for disclosure of interests by IAC members or written directions about the way the IAC is required to carry out its functions. The Committee is concerned that this may make rights, liberties or obligations unduly dependent on insufficiently defined administrative powers. The Committee is therefore seeking the Cabinet Secretary’s advice on whether further guidance for the IAC’s operation might be provided in the bill.

I commend the Committee’s Alert Digest No. 1 of 2010 and First Report of 2010 to the Senate.

Senator BUSHBY—by leave—I move:

That the Senate take note of the report.

Question agreed to.

Economics Legislation Committee Report

Senator FARRELL (South Australia) (5.13 pm)—At the request of the Chair of the Economics Legislation Committee, Sena-
tor Hurley, I present the report of the committee on its examination of annual reports tabled by 31 October 2009.

Ordered that the report be printed.

MINISTERIAL STATEMENTS

Nation Building and Jobs Plan

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (5.14 pm)—I table a ministerial statement on the anniversary of the Nation Building and Jobs Plan.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.14 pm)—by leave—I move:

That the Senate take note of the document.

Senator BOB BROWN—I note the ministerial statement on the one-year anniversary of the Nation Building and Jobs Plan, which marks the fact that a year ago the $41 billion stimulus program was announced by the government to tackle the then unfolding global economic crisis. The immediate reaction of the coalition opposition was to say that it would not support this package. The Greens deliberated very long and hard about it and, to cut the matter short, supported the package. We are very pleased we did so because it meant that this nation did not go to a million unemployed, that thousands of businesses were protected and that thousands of people who otherwise would have lost their houses did not do so. It was, on the whole, a remarkable exercise in protecting the economy from an inevitable march into recession.

The Greens were able in the week or two following the announcement of this package by the Prime Minister, along with Treasurer Swan, to negotiate in return for supporting the package a $400 million jobs creation package, which did create thousands of jobs in this country. Particular parts of that package were: a $40 million bikeway program, which has been unrolling in all states and territories and has been very warmly applauded by local communities; and a $60 million heritage protection and restoration program for built and natural heritage. The government had almost no budget for that beforehand. That has created in turn many hundreds of jobs and skilled people across Australia. Attendant with those were other provisions to help people who faced bankruptcy and to help those, including local councils, who wanted to promote local employment. That package was recognised by Senator Abetz in here as having doubled the number of jobs per dollar in the government’s overall package. We Greens are very proud of that.

At the end of the negotiation of that program, I had directly from the Prime Minister not only his thanks but his assurance that the role of the Greens—and, indeed, our fellow crossbenchers—in ensuring the legislation went through would be recognised by him in future rollouts and announcements attendant on that package. Without us, it would have been blocked. He also personally communicated to me an assurance that where bikeways and so on were unrolled the Greens—because we were responsible for them—would be notified and be able to be there and be part of the public recognition of the good these bikeways, heritage programs and so on would do. I am not just frustrated but also sad that the Prime Minister has not upheld either of those gentleman’s commitments to me as Leader of the Australian Greens.

The statement is quite extensive. It looks at the way in which that stimulus package did help Australia to escape a recession. There is no reference to the Greens or, indeed, to Senator Xenophon or Senator Fielding. If you look at the responses to questions I have put to the Minister for the Environ-
ment, Heritage and the Arts and the Minister for Climate Change and Water about the rollout of the funding programs, you will see that on no occasion has the commitment been made to let crossbenchers—with due notice—be part of the community rollout. That is politics. We accept it. We are very happy with what has happened and the value it has brought to the community. But I must put on record that the Prime Minister has failed to carry through on two personal commitments to me, as leader of the Greens, in the Senate and in the parliament and it worries me greatly. If at a personal level you cannot have the word of the Prime Minister as a gentleman carried through into action, you have to be more careful in future dealings with the leader of this country. I would say to the honourable Prime Minister: when you make a commitment like that, you should keep it.

We Greens were and are very proud to have been part of the stimulus program. We know what it meant to the communities in Australia. It was economically responsible. The coalition parties, the National Party and the Liberal Party, blocked it. They were absolutely oppositional. We Greens facilitated it. We had the integrity, the responsibility and the national good in mind to put politics aside and—with Treasury advice, down the line—to responsibly back this package. If you look at the ministerial statement of today, there is no reference to the Senate crossbench in any way. Be that as it may, it needs to be on the public record that a commitment from the Prime Minister that recognition of the crossbenchers in the Senate would be made on such occasions has been found wanting.

Senator FIFIELD (Victoria) (5.21 pm)—by leave—In this place, I think you have to be grateful for small mercies. You have to take them when you can get them. I feel for those poor souls in the other place who had to endure 20 or 30 minutes of self-congratulation or self-approbation by the Prime Minister in marking the first anniversary of the government’s stimulus package. Can I convey my gratitude to Senator Stephens for resisting the temptation to follow the Prime Minister’s example in the other place and for merely tabling the document. Sadly, we were not spared from Senator Bob Brown stepping in to fill the breach. It could have been the Prime Minister himself at the other end of the chamber, such was the sound of slapping one’s own back.

However, I do not wish to indulge in any self-congratulation. I would like to indulge in a bit of history, if I may—a bit of setting the record straight. It is very important when considering the events of the last year or so to go back and look at the economic situation which was in place when the current government was elected to office. You might recall that the previous coalition government established an asset position for the Commonwealth—the Future Fund, the Higher Education Endowment Fund and the health fund. You might also recall that the coalition established the world’s best financial, corporate and banking culture and structures. You may also recall that the coalition gave the Reserve Bank independence—something that the Australian Labor Party opposed at that time.

What was the product of this good policy? A booming economy, record low unemployment and a dramatic increase in household wealth: that is the legacy of the coalition. That was the bequest of the coalition to the Australian Labor Party. In fact, the complaint from Labor upon inheriting office was that the coalition had done too well. Labor complained that the economy was growing too strongly.
You will remember that pesky inflation genie that sought to break the bonds of its bottle. You will recall the Treasurer recklessly fuelling inflationary expectations and jawboning the Reserve Bank of Australia, egging them on to increase interest rates, which they did. In the process of fuelling inflationary expectation, Mr Swan king-hit business confidence and consumer confidence. He did this in 2008, before the effects of the global financial challenge had reached Australia. At just the time when he should have been focusing on the strengths of the Australian economy and on economic fundamentals, he was fearmongering. As a result, Mr Swan caused the Australian economy to actually slow before Australia was hit by the effects of the global financial situation. The great problem was that, sadly, Mr Swan and Mr Rudd, having watched the coalition for so long, thought that managing an economy was actually easy. They discovered very quickly that it is not, that it is hard work and that you need to know what you are doing.

I cannot resist this. It is one of my favourite budget papers—it is actually Mr Swan’s first budget paper. It now reads like a fantasy. Mr Swan said in his first budget speech:

We are budgeting for a surplus of $21.7 billion in 2008-09, 1.8 per cent of GDP, the largest budget surplus as a share of GDP in nearly a decade.

This honours and exceeds the 1.5 per cent target we set in January, without relying on revenue windfalls.

... ... ...

We have honoured our commitment to deliver a budget surplus of at least 1.5 per cent of GDP...

That is the Treasurer in his very first budget. That was his commitment. How ironic it is now to look at that statement. Obviously, as we know, the Treasurer has never delivered a budget surplus and is extremely unlikely to ever do so.

The GFC—as the government is fond of calling it—was actually a godsend for Mr Swan because it provided a cover for the first year of his bungled treasurership. It provided a cover for reckless new spending and for irresponsible economic commentary. Seemingly overnight, Mr Rudd morphed from a fiscal conservative into a great central planner and big spender. Overnight, the mark of fiscal virtue was no longer a balanced budget. It was no longer a surplus but a deficit, and the bigger the deficit the better. The bigger the deficit the more virtuous you were. The bigger the deficit the more you were trying to do good and the more you were seen to be doing good. That is what it was all about. It was all about being seen to be doing something, regardless of the actual effect. That is why no minister in this chamber has been able to answer the question: how many jobs will be created by the $16 billion of school spending? The reason? They do not know because they did not ask. They did not ask because they were not interested—because the objective was to be seen to be doing something.

Mr Acting Deputy President, you cannot tell me that boom barriers, bike paths and school halls are serious economic infrastructure that go to improve the economic capacity of the nation. They cannot even grab on to that rationale. I think Chris Berg from the Institute of Public Affairs put it well in an opinion piece last year when he coined a new definition for the noun ‘stimulus’:

... a huge sum of money spent on any old crap.

That is basically this government’s approach. There is no evidence base for this policy. But there is good news: Australia is faring better in the global financial situation than most nations, and the reason is we had a stronger starting point, as I referred to before—no
debt, an asset position, a $21 billion budget surplus and the world’s best financial infrastructure. None of these came as a result of the Rudd government. They are all because of the hard work of the coalition.

As expected, the government is claiming that the anticipated better position is because of the stimulus package. But let us look at the facts. The Reserve Bank governor, in his statement on monetary policy in August last year, cited five reasons for the strong performance of Australia’s economy and the strong state of its financial system. Can the Australian Labor Party take credit for that? No. The Reserve Bank governor cited the significant monetary stimulus from the reduced cash rate. Can the Australian Labor Party take credit for that? No. The Reserve Bank governor cited the depreciation of the exchange rate in 2008. Can the Australian Labor Party take credit for that? No, they cannot. The Reserve Bank governor also cited China’s strong economic recovery. Can the Australian Labor Party take credit for that? The answer, of course, is no. The final reason the governor stated was the fiscal stimulus. There is no doubt that the stimulus had some effect, but the question is: how much effect did it have and at what cost? I would argue that it was at great cost and had very little effect—and I am not alone; there are many reputable economists who wholeheartedly agree. The package should have been smaller; it should have been better targeted. If that had been the policy response, there would have been two good outcomes: firstly, there would be significantly less debt and, secondly, interest rates would be lower. When you have less fiscal stimulus you allow more room for monetary policy to take effect. We are now seeing the results of too much fiscal stimulus: interest rates are going up. The government should not be patting themselves on the back. They should be admitting that they spent too much and are still spending too much, and they should wind the spending back now.

Question agreed to.

**DOCUMENTS**

**Work of Committees**

The **ACTING DEPUTY PRESIDENT** (Senator Barnett)—I present *Work of Committees* for the period 1 July to 31 December 2009.

Ordered that the document be printed.

**AUDITOR-GENERAL’S REPORTS**

Report No. 20 of 2009-10

The **ACTING DEPUTY PRESIDENT** (Senator Barnett)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 20 of 2009-10: *Performance audit—The national broadband network request for proposal process: Department of Broadband, Communications and the Digital Economy.*

**Senator MINCHIN** (South Australia) (5.32 pm)—by leave—I move:

That the Senate take note of the report.

This report by the Auditor-General is a response to a request I made to the Auditor-General in my former capacity as the shadow minister for broadband, communications and the digital economy. I asked the Auditor-General to investigate and report on the NBN request for proposals process engaged in by this government to give effect to the policy it took to the last election, a process that ended in dismal failure. At the outset of my remarks, I want to commend the Auditor-General on what is a very detailed, professional and thorough analysis of this whole process. It does, I think, great credit to the Auditor-General and the independence of that body.

But I have to say to this chamber that the Auditor-General has exposed a complete and
utter fiasco in the tender process that was engaged in. Frankly, the whole report by the Auditor-General is an indictment of the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Minister Conroy must take the blame for what occurred. It does expose what was an extraordinary, outrageous and, frankly, incredibly expensive debacle on the part of Minister Conroy. As the report notes, this was at a cost in excess of $30 million to the government, and proponents, to produce absolutely nothing. The costs of the Department of Broadband, Communications and the Digital Economy alone were some $17 million in relation to this failed fiasco of a process. The Auditor-General’s report is full of criticisms of this process from go to whoa, a process for which Minister Conroy was responsible. I will quote one section from page 14 of the summary document. The Auditor-General says:

In reviewing the process employed, and in light of the outcome, there are a number of observations that can be made. Early in the process, most NBN stakeholders considered that a two-stage process to select proponents for the NBN would have improved the prospects of a successful outcome and may have reduced proponents costs, rather than the one-stage process used.

Secondly, the report said that requesting proponents to outline their preferred regulatory outline for the NBN was ‘unusual’—which, of course, in classic Auditor-General’s language, is a gross understatement—for an RFP process and made a complex transaction considerably more complicated. Thirdly, and most significantly, the report said that a non-Telstra proposal was unlikely to build and operate a commercially viable NBN in circumstances where the proponent was responsible for the risk of paying compensation to Telstra. That really is the guts of the Auditor-General’s report. It is why this thing was doomed from the outset and it is why we ended up with the fiasco that we had.

I would also draw the chamber’s attention in particular to the fact that the report notes that as early as August 2008, some eight months before this whole fiasco was terminated, the department started considering NBN options outside the RFP process because the process was failing. This was eight months before the process was finally terminated. This is where the minister is particularly indictable, because he kept saying throughout this process that everything was on track, that they still expected to sign a contract and that everything was sweet in the paddock. On Wednesday, 3 February 2009, some six months after the Auditor-General noted that doubts were being expressed within the department—and clearly the department had been making these doubts known to the minister—I asked Senator Conroy in question time whether his ambition was to sign a contract in March. He replied:

I have already answered that question, Mr President. I said our ambition was to sign by March.

He was still at that stage, six months later, saying that the government was confident of signing a contract in March, the following month, and yet he knew from his own department some six months beforehand that this whole process was completely failing. Frankly, he is guilty of misleading this chamber, misleading the industry and misleading the Australian people about this whole process.

The most significant thing about this report—and it is the thing that we in the opposition kept saying throughout this process—is that it exposes the fundamental flaw in this process that only Telstra could implement Labor’s election promise to build a fibre-to-the-node NBN. The reason we kept saying that and the reason this process was flawed is that Labor stole this policy from Telstra.
was the policy, the proposal, that Telstra brought to our government. We know it very well—I know it very well. I sat opposite the table from Telstra when they put this proposal to us. All that Labor did was take that Telstra policy, put a Labor heading on it and present it to the Australian people as their policy.

Senator Lundy interjecting—

Senator MINCHIN—Senator Conroy knew, Senator Lundy knew, I knew—we all knew—that the only company that could ever implement this policy was in fact Telstra, because it was Telstra’s proposal to upgrade its network to a fibre-to-the-node network. The whole process of this tender—all the millions that all the other tenderers spent on it and all the money that the department spent on it—was always a waste and always a joke. The government should have been quite upfront and quite honest and said, ‘This is about upgrading the Telstra network; we will enter into negotiations with Telstra about how we do that in the best possible way and in the best interests of the taxpayers,’ and just got on with it. Instead, we went through this farce, this fiasco, that ended up with the debacle that we are aware of.

All through this report it is clear that the department and the minister were well aware that there would be literally billions of dollars in compensation payable to Telstra if anyone other than Telstra was selected as the tenderer. That was obvious to us—I as the shadow minister kept saying that—and the minister knew it. Of course, the ultimate farce of this whole process is that the only company that was ever going to be able to implement this policy, Telstra, was then excluded from the process. Why? Because it did not make a small business implementation plan a part of its submission. For goodness sake, this was a multibillion tender that we all knew only Telstra could implement and because of the process they constructed—

Senator Lundy—Seven pages of arrogance.

Senator MINCHIN—After spending hundreds of thousands of dollars to get—what was it, Senator Lundy?—seven legal opinions, they had to exclude Telstra from the process. From that point on the whole process was doomed—it was dead in the water. What we see here is an inexperienced, naive minister who was led into naively constructing a process that was so inflexible and rigid, a straitjacket, that despite all he was saying to companies—Telstra itself has reported to me that Minister Conroy kept saying to them, ‘Don’t worry, it’s a very flexible process’—Telstra’s submission, for the sake of a small business plan, was to be excluded from a process which only it could build.

As a result of this complete fiasco, what do we have? The government and the proponents lost over $30 million, half of which at least was taxpayers’ money. The government wasted 18 months on this debacle, and as a result of all this the worst thing is that the government had nowhere to go but to lock the nation into this $43 billion potential disaster that we now have. It is like the old cliche: when you are in a hole dig deeper. That is what this government has done. Having its $4.7 billion proposal sink like a stone because of this fiasco, it has dug us into a $43 billion hole. The sad reality is that the original Labor policy taken from Telstra was in my view, and I have said this before publicly, the way Australia should have gone. The sensible thing for Australia to be doing is to upgrade the existing Telstra network to fibre to the node for an affordable and sensible costing, with government support, of around $4½ billion to $5 billion. We have lost all that because of this fiasco. We are now locked into the creation of a new gov-
ernment business enterprise called NBN Co. which is going to be given and to borrow up to $43 billion to roll out a network that many are increasingly seeing as one of the great white elephants that Australia has ever been involved in. This report, on which I congratulate the Auditor-General, is an indictment of Senator Conroy in particular and he ought to hang his head in shame.

Senator LUNDY (Australian Capital Territory) (5.42 pm)—Far from the picture that Senator Minchin tries to paint of the Australian National Audit Office report, the government in fact welcomes the report into a key election commitment to deliver a high-speed broadband network to Australians that will lead to significant national economic benefits. The NBN request for proposals process was designed to maximise flexibility and allow proponents to offer innovative market based solutions. Many aspects of the RFP process in fact mirrored the FTTN competitive process put forward by the previous government in 2007. I note with interest that it was the quote relating to a single-stage or two-stage process that Senator Minchin sought to draw attention to, because we can remember very clearly that the previous government also had a one-stage process that also allowed proponents to put forward the regulatory changes that were necessary to facilitate their bids. So it is quite hypocritical for Senator Minchin to draw attention to that fact as though it was an area that was problematic in the eyes of the ANAO. While the ANAO has commented on it, it was in fact the practice of the previous government as well. Hence, one own goal to Senator Minchin.

The government is also pleased to note that the ANAO considers that the process was conducted well, and it is very important to note that the ANAO has not made any recommendations. I think that is a reasonable indication that, while this is a worthy analysis of the process, there is no subsequent action required of the government in the opinion of the ANAO arising out of this performance audit.

I also agree with the ANAO’s view—as does, as you would presume, the government—that the process was conducted well and in accordance with Commonwealth procurement guidelines. Again, that is in stark contrast to the picture Senator Minchin sought to put in his presentation to the chamber. Notwithstanding that, as we know the RFP process did not result in a successful outcome for several reasons, including that no proposals were sufficiently well developed to present a value-for-money outcome; proposals lacked committed private sector funding; and regulatory changes sought by some proponents could have given rise to significant risks for the Commonwealth. The ANAO also noted in its report the impact of the unforeseen global financial crisis and concluded that this factor significantly reduced the prospect of a successful outcome.

The ANAO also noted in its report that the panel and the ACCC advised that fibre to the premises was preferable technology to fibre to the node. Just to make sure everyone is clear on this, when the original request for proposals was put to the market it was for fibre to the node; as we now know, Labor’s policy is for a fibre-to-the-premises network. The NBN RFP process was a very valuable one to the government because it allowed the government to test the market and understand exactly what it was capable of delivering. It provided a pathway to fast-track Australia to a world-class fibre-to-the-premises digital future. That will benefit all Australians.

It is a good opportunity to mention that the NBN policy and the broadband rollout is a project underway. It is, of course, a key nation-building project. It will help stimulate
the economy and help drive Australia’s productivity. It will assist in transforming service delivery in key areas such as health and education as well as energy efficiency applications. I note Senator Conroy’s very erudite response to a question in question time yesterday about the benefits of high-bandwidth technologies in reducing Australia’s carbon footprint. It is a timely and relevant point to make, given the issues being discussed in this place.

We know that the fibre-to-the-premises NBN policy we are pursuing will connect 90 per cent of premises to a high-speed fibre network, providing speeds of 100 megabits per second. This is a substantial improvement on the speeds that were associated with a fibre-to-the-node network. It will be incredibly beneficial to businesses and homes alike.

Of course, we are just getting on with the job. I think the coalition find it quite difficult to deal with the fact that in the meantime NBN Co. and the government are making significant progress. The rollout in Tasmania is already underway. The trenching and laying of conduit and fibre for the transmission between Cambridge and Midway Point has been completed and they are on track for the first services to be connected in Tasmania from July this year. This is fantastic news. Tasmania has been the testbed for many a failed experiment under the previous government. We have seen millions of dollars expended and no real difference made. With the long-term very broad vision of a national broadband network and with Tasmania being the first cab off the rank to experience the benefits of such important economic infrastructure, I think the people of Tasmania understand not only the priority but the importance of making sure that an investment in Australia comes to fruition and makes a meaningful difference to the residents of that beautiful place.

**Senator LUDLAM** (Western Australia) (5.48 pm)—I just want to add a couple of comments to those of Senator Minchin and Senator Lundy, having had a little bit of time to examine the work that the Auditor-General has produced. As always, it is a valuable if carefully worded insight into the process. The public was given very little insight into the original RFP that occurred, starting at the beginning of 2008. It was, as these sorts of processes go, I think, relatively watertight in terms of the amount of information that came out, the kinds of agreements that the proponents were required to sign up to and the fact that the public had very little idea of what kind of work was going on. So it may have been a valuable exercise for the government to test the market and get a sense of what kind of capacity the industry could provide, but as far as the public were concerned I think they were very much in the dark at the time as to what sort of proposal might eventually emerge.

It was really interesting to hear Senator Minchin’s comments on the fact that this document exposes a certain amount of helter-skelter policy making on the run because as the picture became more clear as to what the industry was going to be able to provide in response to the RFP the goalposts began to move. We did not realise this until after the original RFP was terminated and the minister took his press conference with the Prime Minister and the finance minister saying, ‘Actually the goalposts have not just moved, they have multiplied by a factor of 10, and we are going to take this network all the way to the home.’

The Greens support for the broadbrush approach is on the record, partly because it was a model that we have been proposing for quite some time because it is one way of getting the wholesale architecture of the National Broadband Network back into public hands from where it should never have been
privatised. Our opposition to the full privatisation of Telstra is also a matter of record. But this gives us a real window into the government’s thinking at the time that the original RFP was being undertaken. I would not use some of the language of Senator Minchin, whose opposition to all things connected to broadband and Minister Conroy is very clearly and firmly on the record, but there are some real irregularities here. I think this is a pretty obvious account of results that surprised the department—and surprised the government on the way through. That was one of the reasons that we saw such an unexpected outcome.

I am interested to know just how keenly Senator Minchin plans on pursuing these issues because, as far as the public and the parliament is concerned, unless I am mistaken this is the end of the matter. This is the last that we will be given on that RFP process; there will be no further records or documentation of the government’s thinking or the advice that it received, or any of the positions that were put to it by the proponents.

This was a matter that I discussed yesterday when we were debating the Finance and Public Administration References Committee’s report into matters of public interest immunity. So it is these very documents that the government was using as the basis for the decision that eventually came out about scaling the National Broadband Network up by a factor of 10 that the parliament is still not able to access. The minister has told us that it is all commercial in confidence: ‘You have to trust us. The Senate cannot have that material.’ So we need to rely on this obviously very thorough and very diligent but very short report from the National Audit Office.

That is where the matter will rest unless of course one or both of the major parties revisits the deadlock that the Senate finds itself in by requesting that those documents be made available for the public. In the event that the Senate does not intend to press its case, there is a proposition now on the table for an independent arbiter to assess public interest immunity claims, including claims like that blocking the production of the documents on a $4½ billion National Broadband Network. Now while that proposal has been suspended we will not know what the thinking was behind that beyond what has been produced in this document unless we see some movement from either of the major parties.

Quite frankly, it is all very well for Senator Minchin to stand up and express outrage at the lack of transparency and at the process that was afoot at the time being full of irregularities and being unconscionable, but unless he is prepared to stand up for those principles, the government will not be handing any documents over anytime soon. I invite Senator Minchin, in the absence of any moves towards transparency by the government, to perhaps revisit the work that his colleagues have done in that finance and public administration inquiry so that we can see this deadlock broken. If it is not appropriate for the Senate to receive the documents upon which these decisions were made, particularly given some of the concerns that have been raised by the Auditor-General in this case, then we should hand that decision to an umpire and then respect the outcomes of those judgements made by an independent arbitrator. A similar system has operated in New South Wales. Although it is a system that we could improve upon here, there is no reason why the Senate could not implement a very similar instrument here with those improved safeguards and improved accountability mechanisms so that these deadlocks do not occur in the future.

Until the opposition swings behind such a common-sense proposal, I am going to be treating the kind of outrage that we saw ex-
pressed by Senator Minchin just before with a great degree of scepticism. He has the means at hand to obtain the documents that the Senate has been seeking for nearly a year now. Otherwise, I think it is probably time to just sit down or admit that you are really only in it for political purposes to try and block the rollout of the NBN. That is certainly not the position that the Greens have taken. We are up for full accountability and disclosure. We would like these documents produced in the public interest and, if it is not in the public interest for them to be disclosed, then we would like to see that put to the test. We would like to see that conjecture by Minister Conroy put to the test and get an independent opinion on that. Those mechanisms are available to the Senate if it chooses them.

Senator Barnett (Tasmania) (5.55 pm)—I also stand to note the Auditor-General’s report into the National Broadband Network tender service. As a member of the Joint Parliamentary Committee on Public Accounts and Audit, I know the amount of time and effort that the Auditor-General and his office put into such a report. It is very thorough indeed.

Sadly, it is a damning report of the federal Labor government and it highlights the waste, inefficiency and mismanagement of the Rudd Labor government in the running of our economy and, specifically, in the establishment of this National Broadband Network. Senator Minchin has made those views very clear and I stand by them 100 per cent. It is a great shame and the only thing that we can hope is that the Rudd Labor government learns the lessons that are set out in this report for them.

Members of the public will be shocked to know that $30 million of taxpayers’ money has been wasted in this tender process, and that it has achieved absolutely nothing. Departmental costs alone were in the order of $17 million according to the report and there is nothing that describes it better than to say that it is a debacle. It is an absolute debacle and a very costly one to the taxpayer who has got absolutely nothing out of it. The process failed. Indeed, as Senator Minchin noted, the minister knew that the process was failing many, many months before the conclusion of the tender process. Who knows how many lawyers and legal opinions were obtained during the process to try to ascertain exactly whether the whole thing was a debacle and not going to work? Who knows exactly the costs incurred by the Rudd Labor government in obtaining legal opinion to tell it that it was a flawed process? What we do know about the Rudd Labor government is that it is a government of waste, inefficiency and mismanagement.

What we have learned today—this revelation in the Auditor-General’s report confirming and highlighting the $30 million cost—is on the back of what has now been confirmed in answer to a question earlier this week, that the cost of the federal government and its representatives flying to Copenhagen was $1.5 million for the Copenhagen conference. That is on the top of record legal fees paid by the Rudd Labor government when they had promised to reduce legal fees. In fact they promised to reduce legal fees by $15 million and those fees have now gone up now to $555 million for the last financial year. So these revelations are coming out not only month after month; it seems to be week after week and day after day. Surely, they should learn the lesson that the waste and mismanagement have got to stop.

The NBN rollout is occurring in Tasmania, yes, and it is in that regard that I want to speak to those matters. The fact is that in Tasmania, in terms of the NBN rollout there was no business plan. This is set out in the Senate report produced by a committee
which was very well chaired by Senator Mary Jo Fisher over many months, a very comprehensive report. The Senate report released just before Christmas confirmed that in terms of the NBN rollout in Tasmania there is still no business plan.

What we do know is what is on the public record in newspapers to say that the estimate of the cost of that rollout is some $700 million. The government will not say if that is true or not. They will not answer the question. I have asked questions of Senator Conroy in this place about the rollout of the NBN in Tasmania, the cost and who is actually paying. Specifically, with respect to the federal government or the state government of Tasmania I have asked who is paying and how much. These are the questions that the government simply will not answer. Why don’t they know? Surely they know exactly how much. We are talking about taxpayers’ money.

There is a lesson in this report that has been tabled today about $30 million having been totally lost to the taxpayer. It has gone down the gurgler into a big black hole somewhere in Canberra. In terms of the rollout in Tasmania, is that waste and mismanagement going to happen again? We do not want it to happen because Tasmania is lagging behind broadband services across the country. We want better broadband and communication services to be delivered, but if they are going to be delivered we want them delivered right and properly without the waste and mismanagement that this government is up to its neck in. In Tasmania there is no business plan—that was set out in the Senate report—and we do not know what proportion of the $700 million investment is allocated and coming from the federal government or the state government. Neither government will say. The users do not know what the costs will be for the use of that broadband service. Surely they should know, whether they be residents or small businesses, so give them a break. What is the take-up rate? These are fundamental issues.

I noticed that Senator Lundy referred to, and complimented the government on, the rollout in Tasmania, but those opposite do not even know what the costs will be to the users and what the cost of the take-up will be. They say that the rollout will be commencing in July this year. Goodness, that is already a delay of a year. Remember the Prime Minister and Senator Conroy, amid much fanfare, getting with Premier Bartlett all those headlines saying it was rolling out from July of last year? Now those opposite are complimenting the government on the rollout to be in July this year. That is a one-year delay. Why don’t you just acknowledge it and say that you are ashamed and disappointed as there have been mistakes and that the rollout will commence from 1 July this year? It would be good if there were some truth in this in terms of getting the facts on the table, so say there has been a one-year delay. We are desperate for broadband services—we want this done and we want it done right. But the waste and mismanagement with respect to the rollout of the NBN, not just across the country but specifically in Tasmania, has been something shocking.

In Tasmania there are a lot of questions as to consultation. It appears that local governments have not been properly consulted. I wrote to them all last year and some of the feedback I got was not complimentary of the government. Certainly towards the end of last year there had been little to no consultation. Business and individuals in Tasmania want to know more and they want to know that fast, because they want to benefit from the rollout of broadband in Tasmania. There have been some seminars recently and I commend the business community for their leadership in trying to get something happening in that regard and working with the gov-
ernments, federal and state, to get information on the ground so that they can benefit from the broadband service when it is rolled out. But surely with all that money being expended there has got to be a business plan, so, please, could it be revealed and could it be laid out. Please learn the lesson from this Auditor-General’s report that has been released today and is now on the public record confirming the $30 million waste. I hope the government learn from this. I commend the report and I thank the Auditor-General and his office for this work.

Question agreed to.

DOCUMENTS

Renal Health Services

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—I present responses from the Minister for Health and Ageing, Ms Roxon, and the South Australian Minister for Health, Mr Hill, to a resolution of the Senate of 17 November 2009 concerning renal health services.

The responses read as follows—

The Hon John Hogg
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Senator Hogg

Thank you for your letter of 17 November 2009 to the Premier, Hon Mike Rann MP, about access to renal dialysis. As this matter falls within my portfolio responsibilities, the Premier asked me to respond on his behalf.

I appreciate the opportunity to provide the Senate with information about this issue.

Historically, people from the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands requiring dialysis treatment have been assessed and treated in Alice Springs, as the closest major centre.

The South Australian Government has always, and will continue to pay for the treatment of all South Australian patients from the APY lands who receive renal dialysis in Alice Springs. The cost of their treatment is paid for in full under a long-standing agreement between the South Australian and the Northern Territory Governments. These payments include a contribution towards capital and staffing costs.

South Australian renal dialysis patients who are currently being treated in Alice Springs will continue to receive treatment in the Northern Territory and South Australia will continue to pay for that treatment.

However, since February last year, at the request of the Northern Territory Government, the dialysis services in Alice Springs were ‘closed’ to new patients from South Australia. Newly diagnosed dialysis patients residing in the far North will be treated in Port Augusta, Whyalla and Adelaide.

To support the needs of these patients, South Australia has recently boosted its regional dialysis services, with a $1.8 million upgrade at Port Augusta Hospital, making it now the largest haemodialysis satellite unit outside of the metropolitan area, treating 35 patients a week.

Additionally, a new $155 000 Renal Dialysis Unit at the Whyalla Hospital has been established, which has two treatment chairs and currently provides dialysis services to eight clients. Until recently, five of the patients were travelling to Port Augusta three times a week to receive dialysis treatment.

I would like to assure the Senate that a key priority for SA Health is closing the 17 year life expectancy gap that exists between Aboriginal and non-Aboriginal people. One of SA Health’s four key strategic directions, outlined in the SA Health Strategic Plan 2008—2010, is to improve the health and wellbeing of Aboriginal people. SA Health is committed to providing access to quality, safe, complete and affordable health care to all South Australians.

Thank you for bringing this matter to the Government’s attention and I trust the above information is of assistance to the Senate.

Yours sincerely

Hon John Hill MP
MINISTER FOR HEALTH

Date 17.1.10
Senator the Hon John Hogg
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

Thank you for your letter of 18 November 2009 regarding the resolution agreed to by the Senate on 17 November 2009, in relation to renal health services in the border regions of Western Australia, South Australia and the Northern Territory.

As Senator Sherry advised the Senate on 25 November, in response to a further motion on this matter by Senator Siewert, dialysis services are predominantly administered by State and Territory Governments. Funding for these services is included with the funding provided by the Australian Government through the Intergovernmental Agreement on Federal Financial Relations. These services are delivered consistent with the terms of the National Healthcare Agreement and under the current arrangements, State and Territory Governments have the authority to determine policy regarding the provision of the services that they operate.

The Government is supporting the Northern Territory Government and the Aboriginal community controlled sector through a range of initiatives directed at Indigenous renal health. Significant funds are provided for renal disease prevention, management and treatment through the Australian Government’s primary care funding, for example, the Medicare Benefits Scheme and the Pharmaceutical Benefits Scheme.

Regarding dialysis services in the Northern Territory, the Government has provided over $10 million. This includes funding of $5.3 million over five years to:

- increase community-based infrastructure for self-care haemodialysis in remote areas of the Northern Territory;
- develop renal health promotion and education resources;
- pilot a mobile dialysis service in the Northern Territory; and
- increase the capacity of selected Aboriginal Medical Services in the Northern Territory to provide early intervention and better coordi-

nated care to slow the progression of renal disease.

The Government is committed to finding solutions to the dialysis situation in Central Australia. This includes being flexible in making the facilities supplied through these initiatives available where they are most needed. For example, on 6 November 2009, the Minister for Indigenous Health, Rural and Regional Health and Regional Services Delivery, the Hon Warren Snowdon MP, agreed to make available a 2 port re-locatable dialysis facility to be used temporarily in Alice Springs until the new 12 port facility becomes available.

Officials from the Northern Territory Government and the Western Australian, South Australian and the Australian Governments are working towards developing a resolution to the current situation, and on 4 December 2009, an agreement was reached between the three State and Territory Governments to work together to address the needs of current and future renal patients in Central Australia. It has been agreed that the Northern Territory Government would develop a new proposal, in consultation with South Australia and Western Australia, outlining:

- an agreed model of care;
- current and projected health needs; and
- appropriate service development.

I trust that the above information is of assistance.

Yours sincerely

NICOLA ROXON

Senator SIEWERT (Western Australia)

(6.03 pm)—by leave—I move:

That the Senate take note of the documents.

I thank the Senate for the opportunity to respond to these letters. Unfortunately, the letters are very disappointing because they do not provide, firstly, any information additional to what we already know and, secondly, a way forward as to the desperate situation that is still facing many people with end-state kidney disease in Central Australia and particularly in South Australia. The reso-
lution called for a number of things. One of those was federal government leadership on this issue to break the deadlock, which unfortunately has not been shown. I am pleased to say that there has been progress in my home state of Western Australia whereby the Western Australian government has finally reached agreement with the Northern Territory government to provide extra resources so that new patients from Western Australia can once again access renal services and dialysis in Alice Springs. People will remember that new Western Australian and South Australian patients had been denied access to those facilities. Unfortunately, the same cannot be said for patients in South Australia who are still being forced to travel hundreds of kilometres—over 1,500 kilometres in some instances—to Adelaide, Port Augusta or Whyalla. The South Australian government is still refusing to provide additional resources so that those patients in remote Aboriginal communities in South Australia can in fact attend services in Alice Springs. Those communities, and this is similar to the situation of communities in Western Australia, are much closer to Alice Springs than they are to Adelaide, Port Augusta or Whyalla. It is interesting to note the South Australian government’s response that they will not be providing those extra resources and that people will continue to be moved. It is also interesting to note that even today the ABC are reporting that four airstrips on the APY Lands have been closed. In other words, people have to travel out of those communities by road. We have the interesting situation whereby they have to travel out of those communities by road to Western Australia and then fly to Alice Springs before going to Adelaide for treatment. How farcical is that! What lunacy that these patients who could stop in Alice Springs for treatment have to go via Alice Springs to Adelaide.

I remind the Senate that these people more often than not have to basically move permanently out of their communities to Adelaide or to these centres—they are removed from their lands. These people are elders in their communities and they help to hold their communities together. They are taken off their country, removed from connection to that country and, unfortunately, in many cases these people die in the centres they are being relocated to. That is totally unacceptable.

I have been provided with lots of examples, but there is the particular example of an Aboriginal elder from Amata, which the Senate Standing Committee on Community Affairs visited last year. It is on the APY Lands in the north-west of South Australia and it is the second-largest Aboriginal community in South Australia. As the crow flies, it is 20 kilometres from Alice Springs—500 kilometres by road—and 1,430 kilometres from Adelaide. Last year one of the elders in the community, who is the former chairman, in fact, of the Amata Community Council and a current representative on the APY executive board, needed to commence renal dialysis. He is a senior man in the community and a very important member of it. He lived 20 kilometres north of Amata and he would have received treatment in Alice Springs. In fact, if he had been able to receive treatment in Alice Springs he could, from time to time, have returned home—as others do from Alice Springs—where, as I said, he is an important member of the community. It is also very important that people are able to return to their communities to attend important community events, including funerals.

The South Australian government will not help facilitate access by new patients to Alice Springs, because they are refusing to provide additional resources. So this particular patient had little choice but to move to Ade-
laide and be permanently cut off from his community and from his country. This is not an isolated example; there are many examples of this occurring, and of course there will be many more examples in the future because, as I have articulated in this place many times, there are a growing number of people in central Australia who are suffering from end-stage kidney disease. As has been mentioned in debates in this chamber, existing facilities are totally over committed and even the new facility that will be completed shortly in Alice Springs will be at capacity when it opens.

Clearly, we are not doing enough to address renal health in Australia across the board, and particularly in South Australia. It is important to note that three years ago Australia’s then Chief Medical Officer, Professor John Horvath, convened what was described as a highly productive meeting of clinicians in Alice Springs to consider the challenge of delivering renal services in central Australia. Just after that meeting in 2007 the professor reported that the federal Department of Health and Ageing was then:

…working with the Northern Territory, South Australian and Western Australian health departments to expand and improve current models of service delivery and care for renal patients.

He also wrote:

Patient numbers threaten to overwhelm the capacity of the staff and facilities to deliver services and there is a need to have these services much closer to the communities.

Last month, Australia’s current medical health officer, Professor Jim Bishop, wrote that the federal government was:

…encouraging and supporting the relevant States and Territory to reach swift agreement on a sustainable long-term solution to the delivery of renal dialysis services in Central Australia.

Unfortunately, he dropped the words ‘much closer to the communities’, which, as I have said, is absolutely essential in the provision of these services so that people do not have to move hundreds or thousands of kilometres away from their country. It seems that governments at every level have failed to put the hard yards and resources into solving this issue, and we are now in a situation where we have to make fairly rushed decisions about the provision of services because we do not yet have in place a long-term plan to deal with these issues. I am pleased to say that I am aware that, again, the Western Australian government has been working to provide more beds in the future. I am still critical of the fact that they are not providing those beds in the communities where they are needed and I think they need to take a much more innovative approach to the way those services are provided—such as through renal hubs and by facilitating dialysis in some of the smaller communities and not just the big centres. We believe that it is extraordinarily important that the approach that is taken allows people to remain in their communities or as close as possible to their lands so that they can return to their communities.

It is interesting to note that the South Australian government are completely in conflict with their own policy, because they are saying that they are not going to provide additional resources so that people can be treated in Alice Springs but their own general health policy says that they will deliver ‘more services locally so that country South Australians’ do ‘not have to travel to Adelaide as often for treatment.’ Clearly, this does not extend to those people living on the APY Lands.

For other South Australians it seems to be a different story. In June 2008, the Minister for Health and Ageing told the state’s Rural Doctors Association:

We are … committed to repatriating services to the country from the city … We want to ensure that as many people as possible receive treatment
closer to home and avoid the need for patients and their support networks to travel to Adelaide.

Yet here they are. Their policy on renal dialysis is that people have to travel off country to Adelaide to receive the services. It seems to me that they are contradicting their own policy. The minister noted at the time that the expansion of dialysis services was an important feature of the new state health care plan, and I will acknowledge that they have opened dialysis facilities in Port Augusta. However, even if people are able to access beds at Port Augusta, they still have to travel over 400 kilometres more to get there than to get to Alice Springs. As I said, following the debate that we had in this chamber following our motion there was a meeting on 4 December in South Australia—(Time expired)

Question agreed to.

ASYLUM SEEKERS

Return To Order

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research)—I table a statement and documents relating to the order for the production of documents concerning the Oceanic Viking.

President of the Senate Senator John Hogg
Parliament House
Canberra 2600 ACT
Dear Mr President
I write in reference to the Senate Return to Order motion from Senator Fierravanti-Wells for the production of documents.
A letter from the Secretary of the Department of Immigration & Citizenship to the Minister for Immigration & Citizenship in relation to this matter was sent on 16 November 2009. The letter has been tabled in the Parliament. A copy of the letter is attached.
A document titled “Message to the 78 passengers on board the Oceanic Viking” was provided by officials from the Department of Immigration & Citizenship to passengers on board the Oceanic Viking. The document was prepared by officials from the Department of Immigration & Citizenship. The document reflects the arrangements agreed between Australian Government officials and Indonesian Government officials about the management of the passengers on board the Oceanic Viking. The document has been tabled in the Parliament. A copy of the document is attached.

It is a matter of public record that the Oceanic Viking was the subject of consideration by the Border Protection Committee (BPC) of Cabinet in November 2009.

Documents known as Cabinet business lists are maintained for each meeting of the BPC. These documents include the names of the persons who attended the meetings and the dates on which the meetings were held. In addition, Cabinet minutes contain information in relation to the dates on which BPC meetings were held.

Both Cabinet business lists and Cabinet minutes are official records of Cabinet. The Government does not propose to table these documents on the public interest immunity ground that their disclosure would compromise the confidentiality of Cabinet.

Yours sincerely
Chris Evans

SECRETARY

16 November 2009
Senator Chris Evans
Minister for Immigration and Citizenship Parliament House
Canberra ACT 2600
Dear Minister
I refer to recent media reports regarding the passengers on board the Oceanic Viking receiving “special treatment” from the Australian Government.

I would like to confirm the following matters regarding the procedural and other arrangements applying to the group:

• The group requested that they be processed in Australia.
The Australian Government refused to do so and, in accordance with international law, transported the group to Indonesia.

The Indonesian Government requested that the group be taken to the Port of Kijang.

The group is being treated in accordance with international law.

The group is being treated in a manner consistent with that afforded to any other asylum seeker or refugee in Indonesia.

They are being processed in Indonesia in accordance with Indonesian law.

They have been, are being, or will be assessed by the UNHCR in accordance with the usual processes.

The Indonesian Government and the Australian Government have agreed to a set of arrangements regarding the timeframes for the processing of the group in Indonesia, consistent with international practice and resettlement procedures.

Those found to be eligible for resettlement will be resettled in one of the several countries which resettle refugees from Indonesia.

Assistance provided to refugees in resettlement countries varies, however it may include assistance with housing, medical care and counselling, income support, language tuition and help to find a job.

Yours sincerely
(Andrew Metcalfe)

This letter is to let you know that you can apply for resettlement, and to inform you of the procedures that will be followed by the Australian Government after you leave the ship and are safely onshore in Indonesia.

The Australian Government guarantees that mandated refugees will be resettled. The procedures will differ slightly depending on your circumstances:

1. If UNHCR has found you to be a refugee—Australian officials will assist you to be resettled within 4-6 weeks from the time you disembark the vessel.

2. If you have already registered with UNHCR—Australian officials will assist with your UNHCR processing. If you are found to be a refugee, you will be resettled within 12 weeks from the time you disembark the vessel.

3. If you have not yet registered with UNHCR—Australian officials will assist with your UNHCR processing. If you are found to be a refugee, you will be resettled within 12 weeks from the time you disembark the vessel.

When you are safely onshore in Indonesia an Australian immigration officer will be in contact with you every day until the resettlement process is finalised.

You have asked if:

You could have English classes while your case is being processed.

We will arrange for English language and orientation classes for you while your case is being processed.

It would be possible to make contact with your families.

We will arrange for you to let your families know that you are safe.

The Red Cross has agreed to assist you in tracing your family members. You could have assistance with your refugee applications.

Yes. A highly professional team of Australian officers will be working with you every day to assist you in the process.

Accommodation—Discussions with Indonesian government have not been finalised.

Resettlement—When you are resettled you will receive many services in the resettlement country. These services may include assistance with housing, medical care and counselling, income support, English language tuition and help to find a job.

Once you have disembarked the vessel, Mr Paris Aristotle will remain in contact with you during processing and resettlement.

Jim O’Callaghan
Senator CARR—This is a bill that has been ready to go for nearly 12 months. It has been held up by the coalition, who refused my efforts to have this matter dealt with last year and refused to have this issue dealt with as non-controversial legislation.

Senator Cormann interjecting—

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! Senator Cormann, will you cease interjecting.

Senator Cormann—Well he’s provoking—

The ACTING DEPUTY PRESIDENT—Order! Senator Cormann, I have asked you to cease interjecting!

Senator CARR—As I was saying, the hypocrisy, the cant and the humbug of the impostors that carried forward on this matter, who have sought to frustrate the government at every turn in dealing with a very serious issue, has to be drawn to the attention of the chamber.

Senator Cormann’s statement about the government’s procrastination on the issue of overseas students stands in sharp contrast to the fact that the opposition cannot even work out who is their spokesperson on this matter. One of the contributing factors here is that the opposition cannot work out who we are supposed to deal with. So not only have they been frustrating the work of the government on this question—last year they refused to have this matter dealt with—they have also refused to identify a coherent process by which we can discuss these questions with the opposition.

On top of that we have Senator Macdonald putting out a press release slamming the member for Leichhardt over the issue of the provision of quality assurance for international education. This is a senator who as the Minister for Regional Services, Territories and Local Government approved that
shocking scandal of the Norfolk Island Greenwich University. He was the one who gave us the Duke of Brannagh; he was the one who gave us the degree mill at Greenwich University. And on what basis? As I understand it, a conversation between Senator Macdonald and Mr Kemp, who was the minister for education at the time. He agreed to sign off on the approvals and did not know what he had done, and acknowledged this after the scandal was made public. This is an opposition who when in government—and I draw Senator Cormann’s attention to this fact—had a range of education ministers. In opposition, I had to deal with Senator Brandis, Senator Vanstone, Senator Alston, Senator Ellison and Senator Vanstone again back in 1996, who had a policy of avoiding dealing with this question. It was only the persistent campaigning by the Labor opposition that saw a series of amendments being moved throughout the 1990s to deal with these questions.

The truth of the matter is this: when it comes to this very important industry, dealing with quality assurance is the sort of thing that requires consistent and persistent attention by ministers. It is like tax avoidance: it is not something that you deal with and then forget. There are always people about who are seeking to undermine our international reputation, and the failure of the previous government to deal with this question led to a situation whereby there had to be amendments to the Education Services for Overseas Students Act, which was first introduced in 1991, in 1994, 1997, 1999 and 2001. As a direct result of the denial of the government of the previous parliament to address the mushrooming of the degree mills that had been established, we saw St Clements in Adelaide—Senator Cormann would remember this; he would be a great expert on this question—operating out of a grog shop. We had whisky distillery companies operating as universities. This was the sort of action under the previous government, and Senator Cormann wants to put out press releases like this rubbish where he suddenly asserts his expertise in these areas.

The truth of the matter is that the government has acted. The minister, the Deputy Prime Minister, upon coming to office set up a series of measures to ensure that these basic questions of quality assurance were dealt with promptly. And there are some measures that have been dealt with through the states, measures that have been dealt with through the establishment of new regulatory arrangements and measures to be dealt with in establishing new arrangements within the department itself. So the minister, the Deputy Prime Minister, has acted quickly, but it has been the opposition that has sought to frustrate the work of the government in ensuring that legislation of this importance is able to be put to the parliament and carried.

We are very pleased that this legislation has received such widespread support, even though we now see that a number of amendments are sought by the opposition. The trouble with dealing with the opposition is that they really are grossly inconsistent in their approach. I trust that what they said yesterday will be the case today, and we will establish that in due course. Three amendments, in terms of matters that go to accountability of actions for the new fund management arrangements, were dealt with when this matter was before the House and the minister has put a series of responses back to the opposition which we are led to believe have been acknowledged and accepted by the opposition. Amendments that were proposed were properly placed in regulation rather than brought about by amendment. We understood that those were matters that the opposition had accepted, although I see amendments are being moved in that regard. We will argue the case when it comes
to dealing with those matters in the commit-
tee stages of the bill.

The government does not accept the sec-
ond reading amendments that are being pro-
posed, essentially because those amendments
do not add anything whatsoever to the effec-
tive management of this industry. The Dep-
uty Prime Minister has undertaken, through
state and territory ministers, to assess all
high-risk providers by 30 June this year. She
has moved to establish risk criteria by
agreement with the states through a joint
committee on international education. Of
course, that is not dissimilar to the proposal
that has been put to us in second reading
amendments.

The proposal to establish an independent
commission, however, is something else en-
tirely. It is not a matter that the government
is able to accept. The minister has estab-
lished the Baird review and that review is
looking at student advocacy, effective regula-
tions and ways in which we can improve the
current administrative arrangements. The
establishment of the independent commis-
sion would certainly not improve that review
process. Our view is that that is not a propo-
sition that we can support and we will not be
voting in favour of it. Given the hour, I will
have plenty of opportunity to explore those
issues further in the committee stage. I
commend the bill to the chamber.

Senator CORMANN (Western Australia)
(6.25 pm)—by leave—I ask that the second
reading amendment be put in two parts: (a)
and (b).

Senator HANSON-YOUNG (South Aus-
tralia) (6.25 pm)—I am happy with that.

The ACTING DEPUTY PRESIDENT
(Senator Forshaw)—The question is that
part (a) of the second reading amendment be
agreed to.

Question agreed to.

The DEPUTY PRESIDENT—The ques-
tion now is that part (b) of the second read-
ing amendment, which is on sheet 5972, be
agreed to.

Question negatived.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

The TEMORARY CHAIRMAN
(Senator Forshaw)—We now move to op-
opposition amendment to schedule 1, item 11:
amendment (1) on sheet 5969 revised.

Senator CORMANN (Western Australia)
(6.27 pm)—Before moving that amendment,
I start with some general observations. What
absolute arrogance from this government and
how badly briefed this minister is, who is
obviously representing the Deputy Prime
Minister in this chamber. Maybe he is not
entirely across everything that has been hap-
pening. One thing that he appears not to be
across is that, when the Deputy Prime Minis-
ter was under a lot of pressure—because of
colleges collapsing and what was happening
to Indian students across Australia and stu-
dents across Australia finding themselves
stranded—two days before announcing her
visit to India, she rushed this piece of legisla-
tion that we are debating today into the par-
liament. It is an important piece of legisla-
tion, and then it sat there.

We hear from the minister today that
somehow this legislation was ready for 12
months. Why did the government wait until
19 August to introduce this piece of legisla-
tion if it was ready for 12 months? You know
what, Minister—through you, Mr Temporary
Chairman—the opposition does not control
the government’s legislative agenda; the
government does. The government controls
the time frame with which legislation is in-
troduced; the government controls when that
legislation is brought on for debate. If you had not wasted so much time with broken promises and legislation that you knew did not have the support of the Senate—such as means-testing the private health insurance rebate—and if you had not forced the Senate to waste hours of debate on cutting patient rebates for cataract surgery, which you knew did not have the support of the Senate, only to backflip a couple of months later, and if you instead had used some of that time to deal with and prioritise legislation like this, perhaps the collapse earlier this week could have been prevented, because perhaps some of the processes in this legislation would already have been underway, as long as some of the scrutiny had been properly prioritised.

But, of course, all you can do is give a few whacks around the ears. You did not properly look at what happened. One thing I can advise you of officially, Minister, in case you have not noticed, is that there was a change in leadership in the Liberal Party; there was a reshuffle as a consequence and, yes, there have been some changes in shadow ministerial responsibilities. If that is too complicated for the Rudd Labor government to follow in their pursuit of getting legislation through the parliament, I cannot help them. It is not that complicated.

Finally, those amendments, which we circulated again as a courtesy yesterday in the Senate, had previously been circulated by Senator Mason, who then had responsibility for this legislation. They should not have come as any surprise whatsoever to the government. We understand that the government thinks it can do everything by regulation, but do you know what? On occasions the opposition does not agree. We do not agree with this principle that you have these empty vessel pieces of legislation and you put all of the detail into the regulations. Every now and then we think that something is important enough to be properly integrated into the legislation itself. That is why we move opposition amendment (1), which relates to the risk management approach to re-registration, which we do believe ought to be enshrined into the legislation with the view of ensuring a more rigorous auditing regime during the re-registration process—a re-registration process where state authorities have a proper look at the financials of the various education facilities, properly consider the accreditation level of staff employed, and consider things like the time the providers have been in operation. We think that is an important addition to this legislation and we do commend it to the committee. I now move:

(1) Schedule 1, item 11, page 5 (after line 7), after subsection 9A(1), insert:

(1A) A designated authority for a State must use a risk-management approach when considering whether to recommend that an approved provider should be re-registered.

Senator HANSON-YOUNG (South Australia) (6.32 pm)—The Greens circulated amendments quite similar to this back in 2009 when we were first discussing, or thought we were going to be discussing, this bill. We had similar concerns with the bill and we thought some of the measures could go a bit further. I was not necessarily concerned as to whether it went in the legislation or in some other form like regulations, as long as they were addressed by the government.

I mentioned in my speech on the second reading debate that I had withdrawn the amendments because the Greens had come to an agreement with the government to implement our concerns through regulation. I have tabled that letter. I do not know whether it has actually been circulated yet, but I did table the document. The Greens cannot support the amendment, but I do hear what Senator Cormann is saying. As long as we keep our eye on the ball and keep the pres-
sure on the government to deliver on the promises they have made through the regulations, I think we can move forward.

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (6.33 pm)—The government does not support this amendment. I think Senator Hanson-Young spelt out the reasons for this quite clearly just a moment ago. The policy intent has been supported by the opposition, but they feel the need to make further changes despite the assurances that have been given as to the government’s intent. The opposition suddenly have discovered that they do not like umbrella legislation of this type, despite the fact that this occurred consistently throughout their term. This legislative framework is the same pattern that was established in precedent by the parliamentary draughtsman for well over a decade in this parliament. So it is not a new approach; this is a common approach that has been taken on many pieces of legislation. I will not detain the committee by detailing each and every one of those.

The fact remains that the government has indicated that the proposed amendments relating to the risk management approach have already been agreed by the relevant ministers at the Commonwealth and state levels, and have been finalised with all the states and territories through the Joint Committee on International Education. So these practices are already operational. The minister’s assurances have actually been put into effect through the Ministerial Council on Education, Employment, Training and Youth Affairs processes.

I need to draw attention to the proposition that Senator Cormann referred to in regard to the government’s failure to follow the comings and goings of the opposition. The bill, of course, was introduced last August. It takes time to get bills together. As I said, there has been a process of policy development and there has been a response by the minister, particularly through cooperation with the states, given that the primary approach to the regulation of this industry has for some time been dealt with by state education authorities. You may well argue that that needs to change. It is certainly an argument I have put. But the fact remains that the current administrative law has it that the Commonwealth minister for education has to deal with the state ministers for education. That is exactly what the Deputy Prime Minister has been doing, and the necessary administrative framework has been established to see that there is progress being made on improving the regulations in regard to quality assurance.

The bill was presented with these improvements in terms of the regulation of education agents and other matters, which was a bone of contention throughout the last decade under the previous government. This minister has done something about it. The matter was referred to a Senate committee and we have sought from that time urgent passage of the bill. The opposition have actually said they will vote for it, but, like so much else in the Senate, they say one thing and do another. What has happened is that the Liberal Party are now being run by the extreme right of the party. They see it as their job to oppose and oppose and oppose, and they have no constructive engagement in terms of the management of the affairs of this country.

After the change—the formal coup that occurred with Mr Abbott’s one-vote victory last year—the minister’s office sought clarification from the shadow minister on who was responsible, and we were told that it would be Senator Cormann. Noting that the legislation was going through the Senate this week, the minister’s office engaged his office, providing background and seeking again to have it dealt with on a non-
controversial basis to get a timely passage. They indicated that this would be considered and they would get back to us. There was no response. There was no response from your office, Senator Cormann—no response at all. Not having heard back from Senator Cormann’s office after several days, contact was again made with your office. We were told that the matter was actually being dealt with by Senator Mason. We are not talking about ancient history here. You cannot even work out this week who is responsible.

The TEMPORARY CHAIRMAN (Senator Forshaw)—Order! Minister, you should direct your remarks through the chair.

Senator CARR—Thank you very much, Mr Temporary Chairman. Senator Cormann issued a press release yesterday regarding this legislation, so it is not surprising that the Deputy Prime Minister’s office sought further clarification. We were told, this time from the coalition whip at a meeting this morning, that in fact now Senator Cormann was going to have to deal with the bill. You want to lecture us on the management of these matters and you cannot even manage your frontbench. If there was ever an old saying that has truth, it is, ‘If you can’t run your own party, you can’t run the government.’ This is a group of extremists that are now seeking to take control of the treasury bench in this country. Let’s get real, Senator Cormann—you know nothing about it and you are going to have to do a damn sight better if you are going to play these sorts of games.

Let me deal with your second amendment before you move it so we do not waste any more time. The proposed amendments were put forward to require providers to use education agents who have completed the education agents training course and who have belonged to a professional body, where one exists. In our view that is more appropriately and more flexibly dealt with in regulations. I note that the Deputy Prime Minister has already given undertakings to consult with stakeholders on regulatory changes regarding agents and agents training and professional associations that are still developing. These regulations will allow greater flexibility for making adjustments to the policy over time. The fact is that this industry is too important to play around with. That is a position I have maintained throughout my time in this place. I would ask senators yet again: this is an opportunity to deal with this quickly. If amendments are carried to this legislation it will have to go back to the House and there will be still further delay on the passage of this important bill.

Senator HANSON-YOUNG (South Australia) (6.40 pm)—Senator Cormann, have you got a copy of the tabled document from the minister? If you do, could you elaborate, briefly—and then perhaps Senator Xenophon would like to add something.

The TEMPORARY CHAIRMAN (Senator Forshaw)—If he does, I will call him.

Senator CORMANN (Western Australia) (6.40 pm)—Rather than elaborate, in the first instance I would like to ask a question of the minister. If, like the minister is telling us, all of this is happening—all of this the government agrees to but wants to happen through administrative and regulatory arrangements—what is the problem with putting it into the legislation? If you agree with that—if it does not cause you a problem, if you agree with the opposition that we ought to apply those risk management principles and if you agree with all of the statements that we have made—what is the problem with actually making absolutely clear beyond doubt by enshrining it in legislation that that is a requirement that is applied? I do not understand what the problem is. I understand
that governments always want to leave themselves a back door, that they want to have as much flexibility as possible and that they do not like it if the parliament ties them down. But, other than the ‘Yes, Minister’ reasons, like the department telling you, ‘We don’t want the parliament to prescribe what we should and should not be doing,’ what is the problem? I have listened to what you have just said and to your comments, which are essentially, ‘We agree with all of this, but we are already doing it through ministerial councils and regulation.’ I have read the letter that the Deputy Prime Minister has written to Senator Hanson-Young very carefully. There is a lot of very friendly language and the Deputy Prime Minister is very generous in her comments towards Senator Hanson-Young. She essentially says, ‘Yes, we are going to do all of this’—tick, tick, tick—‘through regulation through this and that.’ If you agree with it and are going to do it, why not agree to put it into this legislation and be done with it? Why are you wasting time, Minister?

Senator XENOPHON (South Australia) (6.42 pm)—Can I put to Senator Cormann in relation to the amendment—

Senator Cormann—He is the government.

Senator XENOPHON—I do note that Senator Carr represents the government on this, but it is Senator Cormann’s amendment. I am not being critical of Senator Cormann or the amendment, but it makes reference to having a risk management approach. I think the government says there will be a risk management approach to dealing with these things. The difficulty I have with the opposition’s amendment—again, not being critical of the intent of the amendment, which I think is a good one—is that simply specifying that there ought to be a risk management approach in the absence of specifying what the parameters of that approach should be, what the criteria would be for that approach and what resources would be employed in relation to that approach does not actually mandate anything. I am not saying the government would do this, but it could comply with this amendment with a one-line document saying, ‘This is our risk management approach’—I cannot think of an absurd enough example, but it could be anything. It does not actually force the government to do anything other than to say, ‘This is an approach.’ But how would you enforce this from that point of view? Again, this is not a criticism; I understand the intent, but I wonder whether putting an amendment in that does not have any framework or context will take us anywhere.

Senator CORMANN (Western Australia) (6.43 pm)—The opposition recommends to the Senate that we should make absolutely clear what our intent is. Our intent is that there ought to be a more vigorous auditing regime during the reregistration process and that the risk management principles be enshrined into the legislation. Of course, the opposition supported that part of the Greens second reading amendment which also related to the prioritisation of providers for reregistration.

Senator Xenophon, you might well have a view of this government that is: ‘Hi. I’m from the government. Trust me.’ But we on this side are a bit more suspicious. The government has written a lot of nice words in the letter to Senator Hanson-Young, but there were a lot of weasel words in there, too—‘best endeavours’, ‘we’ll try’ and ‘we’ll seek to achieve through regulation’. The reason that I am getting a bit suspicious is that this minister has said exactly the same words: ‘We’re going to do it. We’re already doing it. It’s all happening.’ If that is the case, why is the government resisting so badly the inclusion of a provision which makes it clear be-
beyond doubt that this Senate wants to enshrine risk management principles into the legislation, that it wants to make sure that it actually does happen so that it can test whether the risk management principles that are included in the regulations are appropriate? If we do not think they are appropriate when the regulations come in, we would be able to take what we might consider to be appropriate action at that point in time.

Senator Xenophon, you seem to be arguing that the amendment is not prescriptive enough, that perhaps we should be going into even more detail. We have tried to approach it in a very balanced way. We want to get the balance right, which is to make it very clear that we think it is important for those risk management principles to be enshrined in the legislation. We want to make it very clear that the Senate will be looking very carefully at that part of the regulations when they eventually come through.

What makes me very suspicious is: why is the government spending so much time resisting this amendment if, as it is essentially saying to us, ‘It’s already happening anyway; it will be happening anyway.’ I smell a rat, Senator Xenophon.

Senator XENOPHON (South Australia) (6.46 pm)—Can I assure you, Senator Cormann, that I am naturally suspicious of any government, whether they are Liberal, Labor, Callithumpian or whatever. I am also suspicious of oppositions, but less so. I think that is what crossbenchers ought to be doing. Can Senator Cormann clarify this: is he saying that his amendment would have the effect of requiring the government to produce regulations with respect to risk management issues? If that is the case, what is to prevent the government from having an absolutely minimalist approach in relation to that? That is my concern in relation to this.

The minister can either respond now or perhaps I could get a response overnight, but I indicated in my second reading contribution that, given the Baird review—I think was a good initiative of the government to have the Hon. Bruce Baird look at these issues—will the government undertake to bring back this bill with appropriate amendments within six months of the Baird review being handed down and the government considering it so that we know that this is the first of subsequent steps to improve the sector? I would like a response from the government and the opposition in relation to this.

Senator CORMANN (Western Australia) (6.49 pm)—Perhaps I can assist Senator Xenophon further by reading out the amendment. The amendment would require: ‘A designated authority for a state must use a risk-management approach when considering whether to recommend that an approved provider should be re-registered.’ This is schedule 1, item 11, page 5 (after line 7), after subsection 9A(1), which states:

A designated authority for a State may recommend that an approved provider for that State that, as at the commencement of this section, is registered to provide a specified course for that State to overseas students be re-registered under this Act to provide that course to overseas students.

We are saying that there has to be that additional requirement. The designated authority for a state must use a risk management approach when considering whether to recommend that an approved provider should be re-registered. I would take the view that, if the Senate were to go along with this provision, the government have to take steps as they implement this legislation to make that happen. That is what we are trying to force the government to do.
Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (6.49 pm)—Senator Xenophon, I agree with your interpretation of the wording in the amendment. I know of states that would claim and have for some years claimed that they have been acting on the basis of a risk management approach and have allowed these rorts to go on and on and on. I can give you the assurance that you sought in regard to the Baird review being dealt with within six months of its being received by the government.

Progress reported.

Ordered that the committee have leave to sit again on the next day of sitting.

DOCUMENTS

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

Consideration

The following government document tabled earlier today was considered:


ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Economy

Senator HURLEY (South Australia) (6.51 pm)—The Rudd government’s economic stimulus package has been an overwhelming success, helping to keep our nation out of recession and contributing to keeping more than 100,000 workers off the unemployment queue. The $42 billion Nation Building Economic Stimulus Plan has been underway for a year and has assisted the Australian economy to weather the global financial crisis. The Australian economy is now emerging as an international case study for its economic management during the crisis. Yet, despite the support of Treasury, the Reserve Bank, the IMF, employer and employee representative organisations, and the international community through the G20, the opposition have continued to oppose the government’s effective stimulus rollout. Furthermore, they continue to denigrate the valuable infrastructure, education and community work being undertaken as a result of the economic stimulus. Most recently, the shadow finance minister described the building of new school halls as a ‘squandering of money’. That Senator Joyce believes that investing in education facilities for our children amounts to squandering money is, for me, impossible to comprehend and shows a lack of understanding of what is happening in the community. I am certain that many parents and community organisations who often share the use of these facilities feel the same.

Over the Christmas break, I was fortunate enough to witness first hand the economic and community benefits of stimulus projects in regional South Australia and I take this opportunity to share some of those experiences. In early December last year, I attended the opening of the refurbished Port Pirie swimming pool. Port Pirie is located on the eastern shore of the Spencer Gulf and was South Australia’s first provincial city. It has a thriving industrial and commercial centre, large market gardens and a major fishing industry. As part of the economic stimulus package, the government dedicated $1 billion to a regional and local infrastructure program and it was this program that provided $625,000 towards the $1 million up-
grade for the local swimming pool in Port Pirie. I launched the project to coincide with the local swimming club exhibition time trials and a free open day for children and families.

The original pool in Port Pirie was built more than 40 years ago and had major problems associated with leaking and with rusted pipes. This work has improved the maintenance of the pool, the overall look of the project and the usability of the pool. It has enabled the local swimming club to look forward to hosting regional events at the pool. Indeed, it was wonderful to see the enthusiasm of the people in the swimming club. I had the opportunity to speak to a lot of the members of the swimming club and the town generally. The project employed five people during construction and provided a short-term economic boost to the local community when it was needed most. The pool is a wonderful facility for health and recreation for families in that community.

Later in December, I went to the Maitland Lutheran School to open its multipurpose hall and gymnasium, done through the Building the Education Revolution. Building the Education Revolution is a key component of the nation building plan. Through the BER, we have invested $16.2 billion in schools right around the country on major infrastructure and refurbishment projects in primary schools and new or refurbished science and language centres in secondary schools. This is a plan both to support jobs and to stimulate economies. When I visited the Maitland Lutheran School to open their new multipurpose hall, I saw a clear example of the success of this project.

Maitland lies in the heart of the Yorke Peninsula, approximately 170 kilometres west of Adelaide, and is the centre of rich farming land. The limestone soils are ideal for the growing of barley and wheat and the town serves a local population of just over 1,000 residents. The Maitland Lutheran School received $75,000 under the national school pride element and $850,000 under the Primary Schools for the 21st Century element of the BER.

The local principal, teachers, parents and tradespeople worked together to deliver this important project, the first to be delivered under the BER around Australia. I was very proud to take part in this opportunity to recognise the work undertaken by the school. The rapid delivery required great cooperation between the architect, the school and the government and worked so well because the opening of this wonderful facility coincided with the end-of-year school presentations. The multipurpose hall will double as a gymnasium. Building it employed approximately 40 people and was a worthy testament to the success of the government’s stimulus package and the enthusiasm of the school community.

In January, I went to Ardrossan. The town hall in Ardrossan had kitchen facilities which had aged to the point where it was extremely difficult for organisations to cater for community events. The town hall is nearly 100 years old. The District Council of Yorke Peninsula received $30,000 from the government’s $1 billion Regional and Local Community Infrastructure Program. Ardrossan is located about 490 kilometres north-west of Adelaide, also on the Yorke Peninsula, and services a population of approximately 7,500 permanent residents. During holidays it can double in size. It is a beautiful tourist town right on the coast and serves as a regional centre for many other small tourist towns along the coast.

It is particularly important in tourist areas that the local community has a vibrant, strong, permanent community. The chair of the progress association, in his speech, talked
about the family ceremonies that are held in that town hall—the weddings, the anniversaries, the birthdays, the major events of the community. Now this kitchen is upgraded, it will service those functions so much better. The District Council of Yorke Peninsula also benefited from funding for a disabled access and bathroom upgrades for the Minlaton Guide Hall and from $125,000 for essential footpath access upgrades.

Later, I went to the Tumby Bay council area and the newly upgraded Port Neill foreshore playground area. This benefited from a contribution of $100,000 from the economic stimulus. For a community that services a population of 2,658 people, incorporating the districts of Ungarra, Lipson, Port Neill and Tumby Bay, this financial assistance is invaluable. All of those councils and the school involved told me that the direct injection of funds was very important to them—particularly for the councils, as it freed up their budget to do other important works and provided money that they could use for leverage. There had been work undertaken by volunteers in progress associations, particularly in Ardrossan and Port Neill. With the support of the community, they were able to use that money, leverage it up, to provide facilities that the community had been looking for for some time. It is clear from going out to those communities and talking to people that the stimulus package has achieved its desired impact of creating jobs, sparking investment and achieving long-term benefits for communities in rural and regional South Australia. I can only encourage members opposite to get out and have a look at the excellent work that has been done as a result of that package.

Health

Senator NASH (New South Wales) (7.01 pm)—There is a new day dawning in this country. It is quite exciting watching the sun come up over the far horizon, because with the dawning of that new day we are seeing a realisation among many people right across this country. The realisation that people are starting to come to is that this Prime Minister, Kevin Rudd, is all talk and no action.

It might sound quite simplistic to say that, but the number of people who are now coming up to me and saying, ‘What on earth is this Prime Minister on about?’ is really interesting. He keeps talking about stuff but nothing ever happens. It does not matter which portfolio or area you look at, it is all in the future, it is all down the track. At the moment he is talking about what is going to happen in 2050. People are not focused on what is going to happen in 2050; what they actually want to know is: Prime Minister, Mr Rudd, what is actually going to happen, what are you going to do, in 2010?

The government is very fond of saying that it is going to keep all of its pre-election promises. One absolute ripper, a promise that the Prime Minister has not kept one little bit, was on health. This is where the Australian people are starting to wake up, because they can remember the campaign; they can remember what the Prime Minister—the then Leader of the Opposition—said during the campaign. In advertisements right across the country he said, ‘Kevin Rudd will fix our hospitals.’ If that is not the biggest furphy that we have ever seen in an election campaign from a leader—who is now Prime Minister—I do not know what is. I still have the advertisement because it gobsmacked me so much at the time that he would have the brazenness to say, ‘I’ll just go and fix that,’ and expect people to believe him. It said:

If state governments have not improved services by 2009 a Rudd Labor government will seek to take control of all Australia’s 750 public hospitals.
Well, what has he done? It has been 812 days since he made that statement in his campaign launch, and what have we seen in terms of action on health? Absolutely nothing. The Australian people are waking up to this; they know that from this Prime Minister all you get is words—words, words, words—with no action, nothing to back it up.

I think the Prime Minister of Australia actually undersells the people of Australia, because he thinks they are going to keep believing him. It is like fairies at the bottom of the garden for him, because they are not. They want to see action. They want to see things being done. They remember these promises and they know they are not coming about. Nothing is being done about health. I see here my good colleague Senator Adams, who understands regional health and who goes into regional hospitals, as we all do. Has there been any improvement? Absolutely none.

On 14 November 2007 the Prime Minister, on hospitals, said:

We have put forward a national plan to end the buck passing between Canberra and the states. I have a long-term plan to fix our nation’s hospitals.

I’ll say it’s a long-term plan! How long does it have to be? ‘Long-term plan’ means that maybe one day, in a couple of decades, he may actually get around to doing something about health. That is what he means by ‘long-term plan’. He says:

I will be responsible for implementing my plan, and I state this with absolute clarity—the buck will stop with me.

Not only has the buck stopped with him; any plan for action has also stopped with him, because there is not one single bit of forward motion in terms of improving health in this country. It is appalling. It is not fair on the people of Australia.

The other absolute ripper that the Prime Minister came out with recently, when he was talking on Sunrise on 29 January, was:

… we have increased the Australian government’s contribution to hospitals and health across the country, to the states and to the territory who run them by 50 per cent.

Go to anybody who has been anywhere near a hospital in the last while and ask them to show you where the state governments have spent any of that 50 per cent increase in funding that Kevin Rudd is so happy to claim. Not one bit of it could possibly have got out to the hospitals, because they are just as bad as they were before.

The Minister for Health and Ageing, Nicola Roxon, in mid-2009 said there have been ‘positive signs’ of improvement in our public hospitals. I do not know which dream she was waking up from when she said that, but if you go and talk to working families out there in the community who are trying to get access to decent hospital care they will tell you that there is not one sign of improvement. We have had situations where hospitals have had to go and borrow bandages from the local vet; hospitals that have not been serving meat because the local butcher’s bill has not been paid. If that is ‘improvement’ then our Labor government has completely misled the Australian people, because that is not improvement.

The minister and the Prime Minister have now been to 101 of 750 hospitals. How many hospitals do they need to visit to finally realise that they should do what they said they were going to do: fix our hospitals? The problems are the same: there are not enough nurses or doctors and the waiting lists are too long. What we see from this Prime Minister, who so valiantly promised to fix our public hospitals, is absolutely nothing. People are sick and tired of listening to words.
It is interesting when we look at the North Coast area of New South Wales. The health service there has had a $30 million cutback. Let us just have a little look at this. The Prime Minister says, ‘We have increased the funding by 50 per cent,’ and yet we see a $30 million cutback in the North Coast Area Health Service. There is one huge disconnect there somewhere along the line. Perhaps the Prime Minister ought to be a little more cautious about increasing funding to the states by 50 per cent for health, and maybe there should be some requirement to show the Australian people where that money is being spent. Let me tell you, there are people on the North Coast coming out of the woodwork who are furious about the fact that there has been absolutely no action on health.

Tania Murdock, our Nationals candidate for Richmond, who works in a pharmacy—her husband is a pharmacist and they have a pharmacy business—absolutely understands the effect this has on mums and dads, families and others right across the community. They are out there living in it. They understand those health issues—not like the Prime Minister down here in the bunker, who has not a clue. He could not possibly have, otherwise he would have done what he said he was going to do and fix our hospital.

Tania Murdock is as mad as a cut snake about all this because she understands all of those issues. She is a mother of small children and is representative of all those people out there who are absolutely sick to death of nothing being done about health. The Tweed Hospital patients are being treated in corridors. Murwillumbah hospital has all but lost its maternity unit—and this is fixing the problem, according to our Prime Minister. He is not doing a thing.

If we go south, to Page, Lismore hospital has even sacked the chaplain. Casino Hospital has no doctors—nada; none; not any. They have to go to Lismore, which is miles away. Other hospitals in the area have lost security and cleaning staff. Grafton hospital still has not been fixed. It is just appalling. The Nats have a fantastic candidate in Page, a fellow by the name of Kevin Hogan. His wife is a nurse. You cannot get anybody closer to the coalface than a nurse and, I must say, I take my hat off to all our doctors and nurses right across this country who work so hard in incredibly difficult conditions. None of the lack of health provision is due to the doctors and the nurses.

This is predominantly about state Labor governments not doing what they should. Why on earth is the Prime Minister even talking about having to take over health? If the state Labor governments had done what they were supposed to do and had delivered decent health services, the Commonwealth would not even need to be talking about it.

But our Prime Minister did weigh in during the campaign and promised the people of Australia that he would fix health, that he would fix our hospitals and that the buck would stop with him—and people across Australia are waking up to the fact that that was all bunkum. He promised them one thing and has delivered them absolutely nothing. If that is not a broken promise of the highest order, I do not know what is. There is no more important issue for our families and our communities right across this country—particularly regional communities, which are hardest hit—than health. The Prime Minister promised to fix it and he did not. It is as simple as that. We know he has lied to the Australian people and they know now that he has too.

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator Nash, I will let that go past but it is not appropriate to use the word ‘lie’ in that sense.
Senator NASH— I withdraw that word and will perhaps insert ‘misled’.

Burma

Senator LUDLAM (Western Australia) (7.11 pm) — I would like to speak briefly on a very different matter and make a couple of remarks this evening about a trip that a colleague, Felicity Hill, and I took very early this year to the Thai-Burma border to a small community called Mae Sot, which is a regional city very close to the Burma border. It is the location of what is called the Thai-Myanmar Friendship Bridge and is one of the major crossing points between Thailand and Burma. We spent a couple of days there and then a night in Chiang Mai, meeting with people who are working on issues more relevant to the northern part of the country.

Last year, the parliament was visited by a remarkable Burmese woman, Dr Cynthia Maung and a number of her colleagues. She runs a health clinic in the town of Mae Sot, on the Thai side of the border, called the Mae Tao Clinic. She came to Canberra to inform Australian policymakers about the plight of her people and, in particular, those living in the eastern part of Burma, where there are roughly half a million internally displaced people on the Burmese side of the border and probably an equal number of displaced people on the Thai side. She invited all of the people who came to see her to visit the clinic and see the kind of work that she and her colleagues are doing. I took up her invitation.

Burma is a slow-burning conflict. It does not always attract the same kind of attention as other conflicts, but since 1962 a brutal and vicious regime has been in control of this small but resource-rich country. The protracted nature of that conflict has led to a degree of international fatigue, and so it only really breaks the surface of mass consciousness from time to time—although I think most of us do at all times remember one of the world’s most famous political prisoners, Daw Aung San Suu Kyi. But there are thousands of other political prisoners and this is a situation that just seems to go from bad to worse. In that time the generals of that regime have become very good at manipulating the geopolitical system, talking the talk and gradually buying themselves more and more time. They have become very adept at that indeed. They have formed friendships and partnerships with countries and corporations that, in return for plundering the country’s natural resources, essentially provide a revenue flow to keep that regime in place.

In 2007, I first opened my eyes to this situation, due to the work of the wonderful Burmese community in Perth. There was world attention during the Saffron uprising because, for the first time, the regime had taken on the Sangha—they had taken on the monks. Some analysts at the time said, ‘Now it is only a matter of time. They have taken on the Buddhist monks and that is really the beginning of the end.’

But it has really just brought to the surface and highlighted a situation that has been ongoing in Burma for such a long period of time, whether it be forced labour, conscripted child soldiers, more than two thousand political prisoners and 15 million people nationwide living in poverty; about a quarter of the population lives on under a dollar a day. If there is a worse regime and a worse situation in our region, I struggle to think of it. It certainly would be one of the worst places to live anywhere in the world, and of course it is in our region.

Of the roughly half a million people displaced in the eastern part of Burma, about 230,000 are in temporary settlements, 111,000 are hiding in remote areas most affected by military skirmishes and about 128,000 people—men, women and children—have been forcibly relocated. Between
August 2008 and July 2009 about 75,000 people were forced to leave their homes in eastern Burma. That is in the space of under a year.

The majority of these people do not have access to any services and they are not receiving any aid money including from the recently increased aid contribution provided by Australia through United Nations agencies and NGOs, because most of Australia’s aid budget and most of the international community’s budget is filtered through groups based in Rangoon. It is partly due to the rough terrain and the political infrastructure that exists in Rangoon, but the fact is that eastern Burma was, and is today, a war zone and it is incredibly difficult to deliver aid in that context. Australia’s increased aid budget was certainly appreciated by the Australian Greens, and I can tell you that it is appreciated by the people working on policy there in the places that we visited. But very little of it is actually hitting the ground in eastern Burma where it is needed the most; the people in the border area on either side of the border are suffering all of the awful conditions of living in Burma plus the fact that they are in a war zone where there are regular or irregular military operations that could descend on villages at any time. It is truly an appalling situation—all of the worst aspects of living in a country like Burma plus the fact that you are in a conflict zone.

We were told that the survival and health of women is threatened in particular ways in a climate of abuse and impunity, coupled with a breakdown of social order. Rape is used systematically as a weapon by the dictators and by the military, as documented in a horrifying report called Licence to rape by the Shan Human Rights Foundation and the Shan Women’s Action Network, which found its way into the United Nations system and actually caused the regime a lot of alarm. But in fact these abuses still continue today.

They have these tireless advocates, like Dr Maung and the organisations working in the Thai Burma Border Consortium, who remind as many people as they can of their plight, and the visit here last year was a part of that. But as well as the advocacy role they play, they are also engaged in providing vital health services, food and support to people who can get out and cross the border. I was really honoured to visit Dr Maung’s clinic in the first couple of days this year.

Dr Maung left Burma in 1989 during the worst of the violence in the events consequent to the failed election there. At that time she and her five colleagues established a clinic with one building and six medical staff. Today it is a large complex with 300 professionals volunteering, providing regular vaccination services, which was happening when we were there, prostheses for 200 landmine victims and care for children. Also, over 13,000 outpatients were looked after last year. So there is an enormous amount of work going on that is entirely funded by non-government organisations and huge numbers of volunteers. I should mention that nearly everywhere we went up there we bumped into Australians. The Australian culture of volunteering in these circumstances is obviously alive and well. And people love working up there. Inasmuch as you are surrounded by that kind of trauma, there is also an incredible amount of solidarity and good work that goes on. That was exceptionally inspiring. Last year the clinic experienced a 20 per cent increase in patient numbers, with about 1,000 people a week coming to the clinic. They are really struggling under the workload.

One of the things that I really wanted to highlight is the people who cannot leave Burma—the people who cannot cross by the bridge. They cross on big rubber tyres or they cross the river further downstream away from checkpoints. These are the people who
come from the Burma side of the border into Thailand for medical training, to pick up supplies and then move back into the country to deliver that support and expertise. The work of these so-called ‘backpack medics’ is misunderstood by many people. They are not foreigners trekking into Burma to deliver aid and cash. Mostly, they are Burmese people who do not really have the opportunity to leave their community or are choosing not to exercise that opportunity. They are moving into Thailand, where they can reach the limited support the non-government organisations can provide, and then taking those resources and that material back into the country. And this is all there is by way of the healthcare system in eastern Burma because the regime has basically wiped out the civil infrastructure in that part of the country. It is something that I hope that our aid agency and our foreign ministry understand extremely well, because aspects of this work are exceptionally dangerous, but it is work that we should be supporting. As I said, most of Australia’s foreign aid goes into Rangoon and very little of it is actually touching the ground up in the border areas, where it is needed the most.

The experience of visiting an orphanage run by Social Action for Women was remarkable because it was a mix of joy and trauma, I suppose. We made friends with these kids—the language barrier did not really seem to be a problem. The women who run the centre told us that the number of orphans is obviously enormous due to the nature of that conflict.

We spent a period of time in the Mae La camp, which is about 80 kilometres from Mae Sot and has 50,000 people living under bamboo and palm leaves. They have been there for well over a decade. They are expecting an influx of more people to come over the border during this year in the run-up to the so-called elections that the regime is promising. They made the point very strongly to us that the military is so constrained by funding that they have to occasionally cancel military offensives against these people that we were meeting, because they do not have the funds.

In closing I want to make a plea, firstly, for Australia to consider more of our aid budget moving up to these areas, where the funding can reach the people who really need it the most, but also that we take a good hard look at the trade and investment policy of Australia, because there is $50 million a year in bilateral trade between Australian companies and Burmese companies. All of it must occur with the consent of this vicious regime, which is effectively like doing business with a country run by organised criminals. I will have much more to say about this. I just want to record my thanks to the people who showed us around and gave us so much of their time.

Mr Peter Wood

Senator MOORE (Queensland) (7.21 pm)—Last week in Toowoomba people gathered to farewell Peter Wood at his very specific request to share in an informal and joyous celebration of his life. In her beautiful eulogy to her father, Stephanie Wood talked about three aspects of his life. The public man was described by Premier Anna Bligh as:

… a committed and passionate contributor to the public life of our state … whose name is synonymous with making Toowoomba the great regional city that it is today and will be in years to come.

Peter’s family has a particular place in Queensland's political history. A strong Labor family, Peter and his twin brother, Bill, both followed their dad, Les, into Queensland parliament—Les and Peter representing the city of Toowoomba under different boundaries and Bill serving as the member
for Cook and Barron River in North Queensland and later several years as an MLA in the ACT. That is a total of over 30 years of service in state parliaments, including several years of having twin brothers serving together in the Queensland parliament. This is probably a record unlikely to be beaten.

In his first speech on 23 August 1966 the new member of parliament for Toowoomba East made a confident commencement to a career described by Kerry Shine, the current MP for Toowoomba North, as showing:

... breadth and depth of knowledge, his remarkable intellect, ability to properly deliver and explain his message, his gifted mental agility—he was quick on his feet—his consistency for causes that were worthwhile to him, and above all his sincerity.

Peter Wood’s first speech noted the election of Vi Jordan of Ipswich as the second woman in Queensland parliament and made a plea for more women in parliament. That was obviously very popular with me, although I was at primary school at the time. He went on to acknowledge the inspiration of his father and a range of important local issues for his electorate: decentralisation, the pain of local people losing their jobs, and the need for the then Darling Downs Institute of Advanced Education, then in construction, to be a full tertiary institution. This new member finalised his speech with an immediate suggestion for a change in parliamentary question procedure. That was a very confident start to his career. When he was in government his real devotion was to his region and to key issues, particularly education—he was trained as a teacher, his strong advocacy for the arts, the Australian Opera Company and the Queensland Art Gallery, evident.

Both Peter and Bill Wood were defeated in the 1974 election—not a real good time for the Labor Party in Queensland!—and were unable to work back in the Department of Education, a particular feature of the then Queensland administration. Peter returned to Toowoomba and worked at the DDIAE. He almost immediately began working as a representative with the local council. This part of his career went on for 22 years, including 13 years as deputy mayor. His local government career included a real focus on planning issues and genuine engagement with the local community. The former mayor of Toowoomba Di Thorley sent her message about the value of their working relationship and the capability, loyalty and dedication of Peter Wood.

As a Toowoomba person, I enjoyed the comments that Stephanie made about the way to remember this man of our town:

As you drive through the streets of this city, today, tomorrow and in the weeks ahead, look for a few ... memorials to him—my father’s victories. The beautiful Empire Theatre in Neil Street. Daddy campaigned tirelessly for the preservation of the crumbling art deco theatre, a grand relic of the golden age of movies that was seemingly doomed for demolition. It reopened in 1997 and has been at the heart of Toowoomba’s culture and community ever since.

Next, The Toowoomba Regional Gallery in Ruthven Street. Housing the significant Lionel Lindsay collection and the city collection, it is considered one of the state’s top regional galleries.

And ... the charming heritage streets of the city. In the late 1990s—
as in so many parts of our country—old houses and buildings were being demolished at an alarming rate.

He took a really direct approach. He took a group of councillors—maybe not voluntarily—and a heritage architect, put them in a bus and toured them around the city. The tour, and the trapped seminar it involved, plus his very strong advocacy, led to a comprehensive heritage action plan in our town, and we all now see the legacy in our place. Peter Wood was recognised for his community service of over 40 years with the Order
of Australia and the Centenary Medal, and for his service to the Australian Labor Party by the life membership.

Stephanie Wood went on to describe the family man, the private man, and his warm relationship with his family: a devoted husband to Robin—so much of the memorial service was dedicated to their very special relationship—the loving and caring father to Stephanie and David, and the proud grandfather to Marni and Finn, the children of David and Jo. Our sympathies and those wishes of so many people are with you all for the loss of this remarkable man.

The third aspect that Stephanie talked of about her dad was something not many people in the wider public knew about. He had a very long and very difficult struggle with clinical depression. This was a story that he really wanted told. For many years he suffered silently and stoically. That battle was also shared by his family. As a man who loved and crafted words, he was a genuine wordsmith. At the service we had some examples of that with some stories he wrote about his time as a regional teacher in the Darling Downs, and they are well worth reading. This man who loved words, during the time when he was struggling with depression, turned to the internet and worked with an Australian website where people with depression could share and find support and comfort. Stephanie talked about the impact Peter’s contribution had on so many other people struggling with the depths of depression. His comments were able to touch others, to offer guidance and to console. At the service, Stephanie was able to quote from some people he had known who talked about the value that her dad gave to their lives and the difference that he made. That work will continue.

Peter Wood will be remembered. There is no doubt about that. His public life was dedicated to community. That has been acknowledged with awards and respect. The celebration of a life that we shared revealed the passion of the man and his love of words, beautiful classical music and his family. I also think that the final words should go to Stephanie, and I want to quote from her eulogy. This is what she said, amongst other things, about her dad:

... I think what I most want to give are insights into the most decent and honourable of men, a man of great dignity, a complex and multi-faceted man who, despite great personal challenges, did his best for his family, his community and for the causes that mattered most to him. And a man of humility, neither puffed-up nor self-interested, a man who never fully recognized his own worth. He may not have recognised his own worth, but so many people in our community did. At the service in Toowoomba there were representatives from government and local government, people with whom he had worked, people who had known him through many aspects of his career. We will remember Peter Wood, and I am so pleased to know that he came from my town and that we are able to have people like that who can represent Toowoomba and the Darling Downs.

**Senate adjourned at 7.30 pm**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- Audio-Visual Copyright Society Limited (Screenrights)—Report for 2008-09.
- Copyright Agency Limited—Report for 2008-09.
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. 2 of 2010—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2010L00173]*.

Appropriation Act (No. 1) 2004-2005—Determination to Reduce Appropriations Upon Request (No. 4 of 2009-2010) [F2010L00202]*.

Appropriation Act (No. 2) 2009-2010—Determination to Reduce Appropriations Upon Request (No. 3 of 2009-2010) [F2010L00201]*.

Civil Aviation Act—

Civil Aviation Regulations—Instruments Nos CASA—

31/10—Direction – number of cabin attendants [F2010L00110]*.

34/10—Instructions – RNAV (RNP-AR) approaches and departures [F2010L00133]*.

EX03/10—Exemption – gross weight for operation of Aerohutte 34m² powered parachutes [F2010L00113]*.

EX06/10—Exemption – solo flight training using ultralight aeroplanes registered with Recreational Aviation Australia Incorporated at Parafield Aerodrome [F2010L00143]*.

EX07/10—Exemption – solo flight training using ultralight aeroplanes registered with Recreational Aviation Australia Incorporated at Launceston Aerodrome [F2010L00145]*.

EX08/10—Exemption – solo flight training using ultralight aeroplanes registered with Recreational Aviation Australia Incorporated at Cambridge Aerodrome [F2010L00147]*.

Civil Aviation Safety Regulations—

Airworthiness Directive—

AD/PPF/19—Blade Leading Edge Protection [F2010L00172]*.

Instrument No. CASA EX10/10—Exemption – display of markings and carriage of identification plates [F2010L00188]*.

Corporations Act—ASIC Class Order [CO 10/45] [F2010L00187]*.

Defence Force (Home Loans Assistance) Act—Warlike service – OPERATION SLIPPER Declarations—

2009/1 [F2010L00175]*.

2009/2 [F2010L00174]*.

Environment Protection and Biodiversity Conservation Act—Amendments of lists of exempt native specimens—

EPBC303DC/SFS/2009/41 [F2010L00184]*.

EPBC303DC/SFS/2009/42 [F2010L00180]*.

Financial Management and Accountability Act—Determinations—

2010/02—Section 32 (Transfer of Functions from AGD to Finance) [F2010L00199]*.

2010/03—Section 32 (Transfer of Functions from DEEWR to SWA) [F2010L00200]*.

Health Insurance Act—Health Insurance (Cataract Surgery) Determination 2010 [F2010L00203]*.

Judiciary Act—Legal Services Amendment Directions 2009 (No. 1) [F2010L00194]*.

Military Rehabilitation and Compensation Act—Military Rehabilitation and Compensation (Warlike Service) Determination 2009/3 [F2010L00179]*.

National Greenhouse and Energy Reporting Act—National Greenhouse and Energy Reporting Regulations—National Greenhouse and Energy Reporting (Auditor Reg-
Departmental and Agency Grants

Departmental and Agency Grants—Order for Production of Documents—Document

The following document was tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency grants—Additional estimates—Letter of advice—Education, Employment and Workplace Relations portfolio agencies.

Departmental and Agency Appointments and Vacancies

Departmental and Agency Appointments and Vacancies—Order for Production of Documents—Documents

The following documents were tabled pursuant to the order of the Senate of 24 June 2008, as amended:

Departmental and agency appointments and vacancies—Additional estimates—Letters of advice—Defense portfolio agencies.

Education, Employment and Workplace Relations portfolio agencies.
QUESTIONS ON NOTICE
The following answers to questions were circulated:

Prime Minister and Cabinet: Legal Advice
(Question No. 2321)

Senator Barnett asked the Minister representing the Prime Minister, upon notice, on 17 September 2009:

(1) How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.
(2) How much was spent on: (a) internal; and (b) external, legal advice.
(3) What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

It would be an unreasonable diversion of government resources for the Department of the Prime Minister and Cabinet (PM&C) to provide a detailed answer to all components of the question. In accordance with the Legal Services Directions, each agency is required to make its legal services expenditure for 2008-09 publicly available by 30 October 2009 (PM&C has published this information on its website). However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally.

To review all of PM&C’s internal and external legal services expenditure for 2008-09 to isolate expenditure on legal advice in that year would be an unreasonable diversion of government resources, as would ascertaining the nature, duration, cost, method of procurement and provider in relation to each legal advice procured.

PM&C advises that its total legal services expenditure for the 2008-09 financial year was approximately $605,796. This comprised:

(a) Approximate total internal legal services expenditure of $230,000; and
(b) Total external legal services expenditure of $375,796, comprising payment to:
   AGS: $345,133
   Blake Dawson Waldren: $2,047
   Counsel (and disbursements): $28,617

PM&C procures legal services in accordance with the Commonwealth Procurement Guidelines and Legal Services Directions. PM&C has signed a Memorandum of Understanding with the Department of Finance and Deregulation (Finance) so that from 1 November 2009 it can procure legal services from the Finance Legal Panel service providers.

PM&C portfolio agencies have provided the following answers to the honourable senator’s questions.

Australian Institute of Family Studies (AIFS)

(1) The AIFS spent $36,020 (inclusive of GST) on legal advice for the 2008-09 financial year.
(2) The AIFS spent $0 on internal advice and $36,020 on external advice.
(3) —

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<td>Three years</td>
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**Australian National Audit Office (ANAO)**

(1) Payments for legal advice 2008-09:
   - Australian Government Solicitor - $81,142
   - Mallesons - $130,551
   - Minter Ellison - $16,835
   - Phillips Fox - $50,497
   - Total: $279,025.

(2) The ANAO does not have any in-house legal services.

(3) Legal services are provided by a panel of legal service providers.

**Australian Public Service Commission (APSC)**

The APSC is unable to quantify the amount spent on internal legal advice. In 2008-09 the APSC employed three people who provided legal advice as part of their role. The proportion of the time devoted to non-legal duties varied for each of the employees. The other duties included: exercising the Merit Protection Commissioner’s review functions; providing secretariat support on corporate governance work; processing FOI matters, and Privacy Contact Officer.

It is not possible to identify separately the time spent on providing legal advice. The APSC spent $443,321 on these staff for the year 2008-09; this figure includes costs such as salaries, leave, superannuation and training costs and apportioned indirect costs such as accommodation, cleaning, and electricity.

In 2008-09 the APSC spent:

(a) $443,321 on its legal staff and related costs; and
(b) $155,132.33 on external legal advice.

The external legal advice was provided by the Australian Government Solicitor and Blake Dawson Lawyers. Details of expenditure are as follows:

- Australian Government Solicitor: $132,142.71
- Blake Dawson: $22,989.62

AGS and Blake Dawson are members of the APSC’s legal panel established in 2006 for the duration of 3 years and the services were obtained in accordance with the panel arrangements.

**National Archives of Australia**

(1) Total expenditure on legal services for 2008-2009: $206,407.87

(2) (a) Nil internal expenditure for this period. (b) External legal services expenditure for this period: $206,407.87

(3) This consisted of payments to:
   - Australian Government Solicitor: $203,657.32
   - Minter Ellison: $2,750.55

All procurement was sourced directly.
Nature of legal services included: Administrative Appeals Tribunal (FOI); review of copyright licenses; insurance and indemnity; leases; finance; FOI statement of reasons; transfer of records; licence agreement for storage space; payroll and recruitment; updating contract template.

Office of the Official Secretary to the Governor-General

1. The Office of the Official Secretary to the Governor-General’s legal advice expenditure was $44,630 (inclusive of GST).

2. All legal advice was external.

3. Deeds for the provision of legal services were established in May 2007 following a joint open tender with another portfolio agency. The deeds operate for a period of three years. The procurement took approximately 2 months and the costs are not known. All legal advice in 2008-09 was provided by the Australian Government Solicitor.

National Australia Day Council

1. Total advice spend in 2008-09: $43,000. The two pieces of advice received relate to intellectual property but are included for completeness.

2. External advice total: $43,000

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Office of the Commonwealth Ombudsman

1. Total legal expenditure in 2008-09 was $385,453.79. It is not possible to identify how much of this figure specifically relates to the provision of legal advice.

2. (a) Total internal legal expenditure for undertaking investigative, legal advice, policy, information access and related functions was $355,851.40. It is not possible to identify how much of this figure specifically relates to the provision of legal advice. (b) $29,602.39.

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<td>Advice relating to an investigation</td>
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<td>$98,788.29</td>
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<td>Australian Government Solicitor</td>
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Office of National Assessments (ONA)

1. ONA spent $28,658.39 (inclusive of GST) on legal advice during the 2008-09 financial year.

2. (a) No funds were spent on internal legal advice. b) $28,658.39 (inclusive of GST) was spent on external legal advice.

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<thead>
<tr>
<th>Nature</th>
<th>Duration</th>
<th>Cost</th>
<th>Procurement Method</th>
<th>Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subpoena</td>
<td>2 months</td>
<td>$10,142.01</td>
<td>Direct (National Security)</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>ONA Policy</td>
<td>1 month</td>
<td>$5,121.60</td>
<td>Direct (National Security)</td>
<td>Australian Government Solicitor</td>
</tr>
</tbody>
</table>
### Office of the Privacy Commissioner

(1) During 2008-09 the Office of the Privacy Commissioner spent $122,209.99 (inclusive of GST) on legal advice.

(2) (a) Internal: $0 (b) External: $122,209.99.

(3) —

<table>
<thead>
<tr>
<th>Nature</th>
<th>Cost</th>
<th>Procurement Method</th>
<th>Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provisions of ongoing advice</td>
<td>$114,160.17</td>
<td>Through a Memorandum of Understanding between the Office of the Privacy Commissioner and the Australian Human Rights Commission</td>
<td>Australian Human Rights Commission</td>
</tr>
<tr>
<td>Advice on compliance issue.</td>
<td>$1903.00</td>
<td>Direct source.</td>
<td>Alan Robertson SC</td>
</tr>
<tr>
<td>Advice on policy issue.</td>
<td>$6146.82</td>
<td>Direct source.</td>
<td>Neil Williams SC</td>
</tr>
</tbody>
</table>

### Office of the Inspector-General of Intelligence and Security (OIGIS)

(1) OIGIS spent $53,673.68 (inclusive of GST) on legal advice in the 2008-09 financial year.

(2) OIGIS spent $0 on internal legal advice and $53,673.68 on external legal advice.

(3) The table below provides details of the duration, nature, cost and method of procurement and the name of the lawyers or law firm which provided the advice referred to in (1) and (2).

<table>
<thead>
<tr>
<th>Nature</th>
<th>Contract Duration</th>
<th>Cost</th>
<th>Procurement Method</th>
<th>Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advice on terms in the OIGIS short-form contract</td>
<td>12 May 2009 – 30 June 2009</td>
<td>$4,840.00</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>Advice on issues arising during a certain IGIS inquiry</td>
<td>1 July 2008 – 31 October 2008</td>
<td>$21,588</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>Advice on application of the term ‘propriety’ in the IGIS Act 1986 and in other legislation.</td>
<td>10 July 2008 – 8 August 2008</td>
<td>$6,600.55</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>Advice on issues arising during a certain IGIS inquiry</td>
<td>30 March 2009 – 19 May 2009</td>
<td>$2116.40</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>Advice on issues arising during a certain IGIS inquiry</td>
<td>9 February 2009</td>
<td>$831.60</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>Advice on the drafting of an OIGIS collective agreement.</td>
<td>21 August 2008 – 17 December 2008</td>
<td>$2,155.45</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
</tbody>
</table>
Old Parliament House

(1) Old Parliament House incurred $20,406.00 in expenditure on legal services in 2008-09. This was procured from the Australian Government Solicitor by direct sourcing.

(2) There was no internal legal expenditure.

(3) —

<table>
<thead>
<tr>
<th>Nature</th>
<th>Cost</th>
<th>Procurement Method</th>
<th>Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cleaning contract (renewal and other</td>
<td>$2,528</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>requirements)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lease negotiations (various)</td>
<td>$7,417</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>Privacy agreement</td>
<td>$3,389</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
<tr>
<td>Trademark advice</td>
<td>$7,042</td>
<td>Direct sourcing</td>
<td>Australian Government Solicitor</td>
</tr>
</tbody>
</table>

Foreign Affairs and Trade: Legal Advice
(Question Nos 2328 and 2329)

Senator Barnett asked the Minister representing the Minister for Foreign Affairs and the Minister representing the Minister for Trade, upon notice, on 17 September 2009:

(1) How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.

(2) How much was spent on: (a) internal; and (b) external, legal advice.

(3) What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

Senator Faulkner—The Minister for Foreign Affairs and the Minister for Trade have provided the following answer to the honourable Senator’s question:

Department of Foreign Affairs and Trade (DFAT)

(1) Under the Legal Services Directions, each agency is required to report on its legal services expenditure. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally.

To require agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year would involve an unreasonable diversion of government resources, having regard to the extent of their legal services expenditure.

The Department’s overall legal services expenditure for the 2008-09 financial year was $6,082,601.

(2) The Department’s legal services expenditure for the 2008-09 financial year was (a) internal – $3,352,305; and (b) external – $2,730,296.

(3) Ascertaining the nature, duration, cost, method of procurement and the names of the legal service providers in relation to each legal advice would be an unreasonable diversion of government resources, having regard to the extent of the Department’s legal services expenditure.

Most legal advice in Australia is provided by the Department’s panel firms. The current members of the panel are:
The four legal providers on the Department’s legal panel were selected through a competitive tender process. Deeds of standing offer with each of the panel members commenced on 1 June 2006 for a term of three years, with two options to renew for one year. The Deeds with each panel member have been extended for one year, commencing 1 June 2009.

**Austrade**

1. Under the Legal Services Directions, each agency is required to report on its legal services expenditure. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally.

To require agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year would involve an unreasonable diversion of government resources, having regard to the extent of their legal services expenditure.

Austrade’s legal services expenditure for the 2008-09 financial year was $1,074,379.

2. Austrade’s legal services expenditure for the 2008-09 financial year was (a) internal – $267,450; and (b) external – $806,929.

3. Most legal advice in Australia is provided to Austrade by a panel of firms. The current members of the panel are:
   - Australian Government Solicitor
   - Minter Ellison
   - Mallesons Stephen Jaques
   - Sparke Helmore

The four legal providers on Austrade’s legal panel were selected through a competitive tender process. Deeds of standing offer with each of the panel members commenced on 1 June 2006 for a term of three years, with two options to renew for one year. The Deeds with each panel member have been extended for one year, commencing 1 June 2009.

**Australian Centre for International Agricultural Research (ACIAR)**

The Australian Centre for International Agricultural Research did not incur any expenditure on legal advice for the 2008-09 financial year.

**Export Finance and Insurance Corporation (EFIC)**

1. The Export Finance and Insurance Corporation (“EFIC”) is required to report on its legal services expenditure to the Office of Legal Services Co-ordination (“OLSC”) in accordance with the Legal Services Directions 2005. EFIC has complied with this requirement and disclosed total legal services expenditure of $1,725,958.15 for the 2008-2009 financial year.

As a non-FMA body, EFIC is not required to make its report to OLSC publicly available. In addition, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally. To require EFIC to review all of its legal services expenditure for the 2008-2009 financial year in order to isolate expenditure on legal advice in that year would involve an unreasonable diversion of EFIC’s resources, having regard to the extent of the expenditure and the range of matters and transactions to which the expenditure relates.

2. EFIC’s legal services expenditure for the 2008-09 financial year was (a) internal - $1,350,092.00; and (b) external - $375,866.15.
(3) Ascertaining the nature, duration, cost, method of procurement and the names of the legal service providers in relation to each piece of legal advice would be an unreasonable diversion of EFIC’s resources, having regard to the extent of EFIC’s legal services expenditure and the range of matters and transactions to which the expenditure relates. Furthermore, providing information as to the nature of legal advice obtained by EFIC may have the effect of waiving privilege in respect of that advice, thereby potentially prejudicing EFIC.

AusAID

(1) Under the Legal Services Directions, each agency is required to report on its legal services expenditure. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally.

To require agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year would involve an unreasonable diversion of government resources, having regard to the extent of their legal services expenditure.

AusAID’s total legal services expenditure for the 2008-09 financial year was $833,649.00 (incl. GST).

(2) AusAID’s legal services expenditure for the 2008-09 financial year was (a) internal – $463,725.00; and (b) external – $369,924.00.

(3) Most legal advice in Australia is provided to AusAID by a panel of firms. The current members of the panel are:
- Australian Government Solicitor
- Minter Ellison
- Blake Dawson

The three legal providers on AusAID’s legal panel were selected through a competitive tender process. Deeds of standing offer with each of the panel members commenced on 1 December 2007 for a term of seven months, with an option to renew for a period of up to 3 years. The Deeds with each panel member have been extended in accordance with the option for a further period of three years, commencing 1 July 2008.


Finance and Deregulation: Legal Advice

(Question No. 2332)

Senator Barnett asked the Minister representing the Minister for Finance and Deregulation, upon notice, on 17 September 2009:

(1) How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.

(2) How much was spent on: (a) internal; and (b) external, legal advice.

(3) What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

Senator Conroy—The Minister for Finance and Deregulation has supplied the following answer to the honourable senator’s question:

(1) For the 2008-2009 financial year, the Department of Finance and Deregulation spent $25,323,842.86 (GST inclusive) on legal advice. This information can be found on the Department’s “Statement under the Legal Services Directions 2005” located at http://www.finance.gov.au/about-the-department/docs/expenditure_report_2008-09.pdf.
For the 2008-2009 financial year, the Australian Electoral Commission spent $1,084,737.50 (GST inclusive) on legal advice. This information can be found on the Commission’s “Statement under the Legal Services Directions 2005” located at http://www.aec.gov.au/About_AEC/Publications/legal.htm.

For the 2008-2009 financial year, Comsuper spent $2,059,637 (GST inclusive) on legal advice.

For the 2008-2009 financial year, the Future Fund Management Agency spent $1,080,849.27 (GST inclusive) on legal advice. This information can be found on the Agency’s “Statement under the Legal Services Directions 2005” located at http://www.futurefund.gov.au/__data/assets/pdf_file/0018/3492/FFMA_legal_services_expenditure_report_08-09.pdf.

For the 2008-2009 financial year, the Australian Reward Investment Alliance spent $312,477.07 (GST inclusive) on legal advice.

(2) Of the total expenditure specified above, the breakdown between internal and external expenditure (GST inclusive) for the Department of Finance and Deregulation is:

<table>
<thead>
<tr>
<th></th>
<th>Internal</th>
<th>External</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$2,874,200</td>
<td>$22,449,641.86</td>
</tr>
</tbody>
</table>

Of the total expenditure specified above, the breakdown between internal and external expenditure (GST inclusive) for the Australian Electoral Commission is:

<table>
<thead>
<tr>
<th></th>
<th>Internal</th>
<th>External</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$495,370</td>
<td>$589,367.50</td>
</tr>
</tbody>
</table>

Of the total expenditure specified above, the breakdown between internal and external expenditure (GST inclusive) for Comsuper is:

<table>
<thead>
<tr>
<th></th>
<th>Internal</th>
<th>External</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$1,792,025</td>
<td>$267,612</td>
</tr>
</tbody>
</table>

Of the total expenditure specified above, the breakdown between internal and external expenditure (GST inclusive) for the Future Fund Management Agency is:

<table>
<thead>
<tr>
<th></th>
<th>Internal</th>
<th>External</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$958,029.74</td>
<td>$122,819.53</td>
</tr>
</tbody>
</table>

Of the total expenditure specified above, the breakdown between internal and external expenditure (GST inclusive) for the Australian Reward Investment Alliance is:

<table>
<thead>
<tr>
<th></th>
<th>Internal</th>
<th>External</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>nil</td>
<td>$312,477.07</td>
</tr>
</tbody>
</table>

(3) In relation to the Department of Finance and Deregulation, the total costs paid (GST inclusive) to each firm for the 2008-2009 financial year are as follows:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Government Solicitor</td>
<td>$6,982,648.24</td>
</tr>
<tr>
<td>Blake Dawson</td>
<td>$1,095,525.06</td>
</tr>
<tr>
<td>Clayton Utz</td>
<td>$1,424,211.94</td>
</tr>
<tr>
<td>Corrs Chambers Westgarth</td>
<td>$1,170,214.47</td>
</tr>
<tr>
<td>DLA Phillips Fox</td>
<td>$2,286,572.65</td>
</tr>
<tr>
<td>Finlaysons</td>
<td>$23,031.60</td>
</tr>
<tr>
<td>Freehills</td>
<td>$3,051,988.12</td>
</tr>
<tr>
<td>Mallesons Stephen Jaques</td>
<td>$190,372.99</td>
</tr>
<tr>
<td>Minter Ellison</td>
<td>$1,400,605.50</td>
</tr>
<tr>
<td>Norton White</td>
<td>$1,614.14</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
This list does not include disbursements and payments made directly to Counsel (thereby making up the total amount of external legal expenditure in answer (2)). In addition, a number of payments were made to other Agencies as reimbursements for legal expenditure or for other work provided by that Agency. While these payments were included in Finance’s overall legal expenditure, Finance is unable to provide information on which firms (if any) were utilised by those Agencies.

The procurement of external legal services for Finance was undertaken from a panel arrangement and direct sourcing. In relation to the nature and duration of legal advice provided to Finance, under the Legal Services Directions 2005, each agency is required to make a report on its legal services expenditure publicly available by 30 October 2009. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally. To require agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year would be unreasonable, as would ascertaining the nature, duration, cost and the names of the legal service providers in relation to each legal advice.

In relation to the Australian Electoral Commission, the total costs paid (GST inclusive) to each firm for the 2008-2009 financial year is as follows:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Government Solicitor</td>
<td>$301,117.13</td>
</tr>
<tr>
<td>Blake Dawson</td>
<td>$178,366.11</td>
</tr>
<tr>
<td>Minter Ellison</td>
<td>$330.00</td>
</tr>
</tbody>
</table>

This list does not include disbursements and payments made directly to Counsel (thereby making up the total amount of external legal expenditure in answer (2)).

The procurement of external legal services for the Australian Electoral Commission was undertaken from a panel arrangement. In relation to the nature and duration of legal advice provided to the Australian Electoral Commission, under the Legal Services Directions 2005, each agency is required to make a report on its legal services expenditure publicly available by 30 October 2009. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally. To require agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year would be unreasonable, as would ascertaining the nature, duration, cost and the names of the legal service providers in relation to each legal advice.

In relation to Comsuper, all external legal advice and services were provided by the Australian Government Solicitor. The Australian Government Solicitor provided a variety of advices over the course of the 2008-2009 financial year to quality assure and reduce risk in contractual arrangements with its vendors. The procurement of external legal services for Comsuper was undertaken from a panel arrangement.

In relation to the Future Fund Management Agency, the total costs paid (GST inclusive) to each firm for the 2008-2009 financial year are available on the Future Fund website at http://www.futurefund.gov.au/_data/assets/pdf_file/0018/3492/FFMA_legal_services_expenditure_report_08-09.pdf. They are as follows:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deacons</td>
<td>$23,736.35</td>
</tr>
<tr>
<td>DLA Phillips Fox</td>
<td>$20,257.38</td>
</tr>
<tr>
<td>Corrs Chambers Westgarth</td>
<td>$51,092.22</td>
</tr>
<tr>
<td>Clayton Utz</td>
<td>$1,158.00</td>
</tr>
<tr>
<td>Australian Government Solicitor</td>
<td>$9,610.70</td>
</tr>
<tr>
<td>Ladbray Consortium</td>
<td>$4,906.00</td>
</tr>
</tbody>
</table>

This list does not include disbursements and payments made directly to Counsel (thereby making up the total amount of external legal expenditure in answer (2)).

The procurement of external legal services for the Future Fund Management Agency was undertaken from a panel arrangement. In relation to the nature and duration of legal advice provided to the Future Fund Management Agency, under the Legal Services Directions 2005, each agency is required to make a report on its legal services expenditure publicly available by 30 October 2009. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally. To require agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year would be unreasonable, as would ascertaining the nature, duration, cost and the names of the legal service providers in relation to each legal advice.

In relation to the Future Fund Management Agency, the total costs paid (GST inclusive) to each firm for the 2008-2009 financial year are available on the Future Fund website at http://www.futurefund.gov.au/_data/assets/pdf_file/0018/3492/FFMA_legal_services_expenditure_report_08-09.pdf. They are as follows:
This list does not include disbursements (thereby making up the total amount of external legal expenditure in answer (2)).

The nature of the legal advice provided related to the Agency’s operations and matters associated with investment transactions and the implementation of the investment program. The duration of each matter varied throughout the year. The procurement of external legal services for the Agency was undertaken from panel arrangements and direct sourcing.

In relation to the Australian Reward Investment Alliance, the total cost paid (GST inclusive) to each firm during the 2008-2009 financial year, along with the advice they focused on is as follows:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Nature of Advice</th>
<th>Cost (GST inclusive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mallesons Stephen Jaques</td>
<td>Numerous advices on regulatory disclosure</td>
<td>$284,192.70</td>
</tr>
<tr>
<td>Henry Davis York</td>
<td>Advice on insurance</td>
<td>$9,123.40</td>
</tr>
<tr>
<td>DLA Phillips Fox</td>
<td>Advice on member claims</td>
<td>$13,424.40</td>
</tr>
<tr>
<td>Choy Lawyers</td>
<td>Advice on trademark correspondence</td>
<td>$638.00</td>
</tr>
<tr>
<td>Australian Government Solicitor</td>
<td>Advice on superannuation scheme rules</td>
<td>$5,098.50</td>
</tr>
</tbody>
</table>

The duration of each matter the firms worked on varied through the financial year. The procurement of external legal services for the agency was undertaken through direct sourcing.

Innovation, Industry, Science and Research: Legal Advice
(Question No. 2335)

Senator Barnett asked the Minister for Innovation, Industry, Science and Research, upon notice, on 17 September 2009:

1. How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.

2. How much was spent on: (a) internal; and (b) external, legal advice.

3. What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

Senator Carr—The answer to the honourable senator’s question is as follows:

Under paragraph 11.1(ba) of the Legal Services Directions 2005, each agency regulated by the Financial Management and Accountability Act 1997 (FMA agency) must, by 30 October each year, make publicly available records of its legal services expenditure for the previous financial year.

Pursuant to that requirement, the Department of Innovation, Industry, Science and Research (Department) and relevant portfolio agencies reported the following legal services expenditure for the 2008-09 financial year:

<table>
<thead>
<tr>
<th>FMA agency (Note: All figures are GST inclusive)</th>
<th>Aggregate Legal Services Expenditure</th>
<th>Internal Legal Services Expenditure</th>
<th>External Legal Services Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department</td>
<td>$5,146,350.87</td>
<td>$1,790,195.30</td>
<td>$3,356,155.57</td>
</tr>
<tr>
<td>IP Australia</td>
<td>$616,943.23</td>
<td>$0</td>
<td>$616,943.23</td>
</tr>
<tr>
<td>Australian Research Council</td>
<td>$109,640.73</td>
<td>$0</td>
<td>$109,640.73</td>
</tr>
</tbody>
</table>

This information is published on Portfolio websites and is available at the following locations:


Please note these figures contain details of each agency’s legal services expenditure but there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally. To require agencies to review all of their legal services expenditure for financial year 2008-09 in order to isolate expenditure on legal advice in that year would be extremely time consuming and would require an unreasonable diversion of government resources, as would ascertaining the nature, duration, cost, method or procurement and the names of the legal service providers in relation to each legal advice.

**Attorney-General, and Home Affairs: Legal Advice**

*(Question Nos 2338 and 2348)*

Senator Barnett asked the Minister representing the Attorney-General and Minister representing the Minister for Home Affairs, upon notice, on 17 September 2009:

(1) How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.

(2) How much was spent on: (a) internal; and (b) external, legal advice.

(3) What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

Senator Wong—The Attorney-General and the Minister for Home Affairs have provided the following answer to the honourable senator’s question:

For agencies in this portfolio other than those listed below, to answer the questions would be an unreasonable diversion of government resources. Under the Legal Services Directions, each agency is required to make a report on its legal services expenditure publicly available by 30 October 2009. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally.

To require agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year would be unreasonable, having regard to the extent of their legal services expenditure, as would ascertaining the nature, duration, cost, method of procurement and the names of the legal service providers in relation to each legal advice.

The following agencies have provided the following answers:

**Administrative Appeals Tribunal**

(1) $13,694.96

(2) (a) $104.46

(b) $13,590.50

(3) All external legal advice was obtained from the Australian Government Solicitor via direct sourcing.

**Australian Commission for Law Enforcement Integrity**

(1) $29013.16

(2) (b) Australian Government Solicitor $18,668.65 (GST inclusive)

Blake Dawson $10,344.51 (GST inclusive)

**Australian Federal Police (AFP)**

(1) The AFP spent $7,410,243.80 (GST exclusive) on legal advice for the 2008-09 financial year, including disbursements.

(2) (a) The AFP spent $3,601,765.45 (GST exclusive) on internal legal advice.
(b) The AFP spent $3,808,478.35 (GST exclusive) on external legal advice, including disbursements.

External legal advice was provided by:

(i) the AFP’s three legal panel firms: Australian Government Solicitor; Clayton Utz and DLA Phillips Fox;
(ii) Holding Redlich;
(iii) Attorney-General’s Department;
(iv) Blake Dawson;
(v) Primo Afeau Legal Services, Honiara;
(vi) Lionel Robberds QC; and
(vii) Peter Hastings QC

Internal legal advice was provided by AFP Legal.

The duration of legal advice varied depending upon the complexity of the matters for which advice was required, and ranged from a matter of minutes through to other cases which remain ongoing and will continue to be ongoing for the foreseeable future.

The total cost of external legal advice provided by each firm was:

(i) Australian Government Solicitor $2,896,172.74 (GST exclusive), and $354,280.88 (GST exclusive)
(ii) Clayton Utz $94,424.00 (GST exclusive), and $1,880.67 (GST exclusive)
(iii) DLA Phillips Fox $222,268.00 (GST exclusive), and $23,300.61 (GST exclusive)
(iv) Holding Redlich $17,754.00 (GST exclusive), and $900.00 (GST exclusive)
(v) Attorney-General’s Department $16,768.72 (GST exclusive)
(vi) Blake Dawson $22,263.71 (GST exclusive)
(vii) Primo Afeau Legal Services, Honiara $971.73 (GST exclusive)
(viii) Lionel Robberds QC $18,348.19 (GST exclusive)
(ix) Peter Hastings QC $3,550.91 (GST exclusive)

The AFP’s three legal panel firms were procured via a Request for Tender process.

The other external legal providers were procured in accordance with the Legal Services Directions and the Model Litigant Policy.

Australian Human Rights Commission

(1) It is not possible to isolate a figure for the amount spent by the Commission on legal advice as the Commission receives most of its legal services from an internal legal section which provides both advice and representation to the Commission.

(2) (a) Not possible to calculate: see (1).

(b) The Commission spent $698 on external legal advice.

(3) $698 was spent on a one-off advice from the Australian Government Solicitor.

National Capital Authority (NCA)

(1) $303,879.71 (GST inclusive)

(2) All the NCA’s expenditure is for external advice, therefore $303,879.71

(3) The NCA used the services of:

Australian Government Solicitor - $231,901.21
Minter Ellison - $48,176.15
Chamberlains - $23,802.35

The NCA has a Deed of Standing Offer with these firms.
The NCA believes that to answer the remainder of this question would be an unreasonable diversion of
its resources.

National Native Title Tribunal
As required by the Legal Services Directions, the Tribunal has published a report on its legal services
expenditure for the relevant period on its website. However, there is no requirement to report on expendi-
ture on legal advice as a distinct item within legal services expenditure more generally. Further, legal
advice may be a component part of the provision of other legal services.

(1) It is not possible to provide an accurate figure for the reasons set out below.
(2) (a) The Tribunal is not able to isolate its expenditure on legal advice for the 2008-09 year from its
expenditure on other legal and non-legal services provided by its internal legal services unit.
That data is not collected as the Legal Services Directions do not require the Tribunal to report
on expenditure on legal advice as a distinct item. **Total Internal Legal Services Expenditure**
(including overheads and GST) was **$642,761**
(b) $31,807 (Note that expenditure on legal advice is taken to include expenditure on the drafting
of contracts but not litigation services)

(3) **External legal services expenditure on legal advice**

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<tr>
<th>Firm</th>
<th>Total cost</th>
<th>Procurement method</th>
<th>Period</th>
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<tbody>
<tr>
<td>Australian Government Solicitor</td>
<td>$13,629</td>
<td>Panel</td>
<td>July 2008 to April 2009</td>
</tr>
<tr>
<td>Blake Dawson</td>
<td>$8,788</td>
<td>Panel</td>
<td>February and May 2009</td>
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<tr>
<td>Malleson Stephen Jaques</td>
<td>$9,390</td>
<td>Limited expression of interest</td>
<td>October 2008 to June 2009</td>
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<td><strong>$31,807</strong></td>
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Office of Parliamentary Counsel
(1) $1,803
(2) (a) Snil
(b) $1,803
(3) Duration - 6 hours
Cost - $1,803
Method of Procurement - Deed of Standing Offer
Name of lawyers - Australian Government Solicitor

Australian Government Solicitor (AGS)
The AGS advises that the question is not applicable to them. The question appears to be directed at de-
partments and relevant agencies that receive legal advice from in-house and/or outsourced arrange-
ments, rather than the legal practices, such as private legal firms and AGS, that provide externally based
legal advice and other legal services to government.
Special Minister of State: Legal Advice
(Question No. 2339)

Senator Barnett asked the Special Minister of State, upon notice, on 17 September 2009:
(1) How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.
(2) How much was spent on: (a) internal; and (b) external, legal advice.
(3) What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

Senator Ludwig—The answer to the honourable senator’s question is as follows:
Please refer to the response to question 2332 to the Minister representing the Minister for Finance and Deregulation.

Human Services: Legal Advice
(Question No. 2343)

Senator Barnett asked the Minister representing the Minister for Human Services, upon notice, on 17 September 2009:
(1) How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.
(2) How much was spent on: (a) internal; and (b) external, legal advice.
(3) What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

Senator Ludwig—The Minister for Human Services has provided the following answer to the honourable senator’s question is as follows:

(1) Under the Legal Services Directions, each agency is required to make a report on its legal services expenditure publicly available by 30 October 2009. However, there is no requirement to report on expenditure on legal advice as a distinct item within legal services expenditure more generally.

(2) Agencies within the Human Services portfolio have spent the following amount on legal services (which includes legal advice) during 2008-09:
- Department of Human Services: $6,369,562 on external legal services; $2,224,624 on internal legal services.
- Centrelink: $6,076,673 on external legal services; $15,735,182 on internal legal services.
- Medicare Australia: $1,937,911 on external legal services; $1,653,792 on internal legal services.
- Australian Hearing: $640,802 on external legal services; nil on internal legal services.

(3) The agencies within the Human Services portfolio procure legal services through a legal services panel arrangement. The providers used by the portfolio were selected following a tender for legal services completed in 2006. The law firms on the Human Services legal services panel are:
- Australian Government Solicitor;
- Blake Dawson;
- Clayton Utz;
- Corrs Chambers Westgarth;
- DLA Phillips Fox;
- Minter Ellison; and
However, to require these agencies to review all of their legal services expenditure for 2008-09 in order to isolate expenditure on legal advice in that year and to ascertain the nature, duration, cost, and method of procurement and the names of the legal service providers in relation to each legal advice would be an unreasonable diversion of government resources.

**Small Business, Independent Contractors and the Service Economy: Legal Advice**

(Question No. 2351)

**Senator Barnett** asked the Minister representing the Minister for Small Business, Independent Contractors and the Service Economy, upon notice, on 17 September 2009:

1. How much has the department and relevant agencies spent on legal advice for the 2008-09 financial year.
2. How much was spent on: (a) internal; and (b) external, legal advice.
3. What was the nature, duration, cost and method of procurement and the name of the lawyers or law firm that provided the legal advice.

**Senator Carr**—The Minister for Small Business, Independent Contractors and the Service Economy has provided the following answer to the honourable senator’s question:

Please refer to the answer provided to Parliamentary Question on Notice 2335.

**Mongolia**

(Question No. 2372)

**Senator Bob Brown** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 21 October 2009:

(a) What representations of any kind has Australia made to Mongolia regarding mining and the taxation of mining (please detail); and (b) when and by whom were these representations made.

**Senator Faulkner**—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

The current Australian Government has made representations to the Mongolian Government that a stable regulatory environment is essential to attract foreign investment and would be beneficial to Mongolia’s economic development. Such representations have been made, for example, during visits to Mongolia by Australia’s non-resident Ambassador and in meetings with Mongolia’s Ambassador to Australia.

In a meeting held on 22 July 2009 between the Hon Stephen Smith MP, Minister for Foreign Affairs, and Mr Damdin Tsogtbaatar, State Secretary, Ministry of Foreign Affairs and Trade, Government of Mongolia, Mr Smith said Australia would like to see an investment agreement for the Oyu Tolgoi mine progressed by the Mongolian parliament.

The Mongolian Government has shown interest in learning from Australia’s experience with taxation and regulation of mining and the regulation of foreign investments in the mining sector. Information on Australia’s taxation mining royalties, mining regulation and foreign investment regulation regimes, has been provided to the Mongolian Government, including most recently to Mongolian Government officials during the second Joint Working Group on Mining and Energy Cooperation held in Canberra on 9 September 2009.
Mongolia
(Question No. 2373)

Senator Bob Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 21 October 2009:

Can details be provided, including dates, of financial, diplomatic or other assistance that has been given, or is being given, by the Australian Government to: (a) the Mongolian Government; (b) World Growth Mongolia; (c) Ivanhoe Mines Ltd; (d) Rio Tinto Limited; and (e) the Oyu Tolgoi mining project in Mongolia.

Senator Faulkner—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(a) Since Australia’s development cooperation program to Mongolia commenced in 1992-93, successive Australian Governments have provided more than $50 million in aid to Mongolia. The Australian Government expects to provide another $6.4 million in aid to Mongolia in 2009-10. The largest portion of Australia’s aid to Mongolia is administered through AusAID’s bilateral program, the Mongolia Australian Scholarships Program. The remainder is allocated across a number of programs, including the South East Asia Regional Program; the Australia-NGO Cooperation Program; the Australian Youth Ambassadors for Development program; and the Australian Leadership Awards Scholarships. Under AusAID’s bilateral program, Australia provided $3 million in 2008-09 and will provide an estimated $3.3 million in 2009-10 for Mongolians to study in Australia. Scholarships are targeted to assist the human resource needs of particular Mongolian Government agencies and priority economic sectors including agriculture, energy and mining.

In addition, since 2006, Australia has contributed a total of $1.45 million to a World Bank administered Extractive Industries Transparency Initiative (EITI) Multi-Donor Trust Fund. Mongolia is an EITI candidate country and has been the recipient of grants and technical assistance sourced from the Trust Fund. EITI is a voluntary scheme aimed primarily at resource-rich developing countries. It sets and manages a global standard for the full verification and publication of company payments and government revenue from oil, gas and mining.

In June 2008, AusAID provided $35,000 to fund, in coordination with the World Bank and Mongolia’s Ministry of Foreign Affairs, a study tour to Alaska for Mongolian Government officials from different ministries to learn about the effective utilisation of public revenues generated from natural resources.

AusAID provided $100,000 to the World Bank to assist development of an Infrastructure Strategy for Southern Mongolia. Supporting the development of this strategy, a delegation including 11 senior Mongolian Government officials, four private sector officials and three World Bank representatives undertook a study tour to Australia in November 2008, focused on mining infrastructure in Newcastle, the Hunter Valley and Western Australia.

In 2008-09, Australia provided $500,000 to enable the start-up and capacity building of an independent mining sector policy think tank in Mongolia.

In June 2009, Australia provided $5 million to support a multilateral response to the impact of the global recession in Mongolia. Mongolia’s economy was severely affected by the collapse of mineral prices that accompanied the Global Financial Crisis. Heavily dependent on mining revenues, Government revenues for the first half of 2009 fell by nearly a third in real terms (29.2%) compared with the first half of 2008, largely due to halving of the value of copper and gold exports. In response, the Government of Mongolia negotiated a stand-by loan with the International Monetary Fund (IMF) of almost US$230 million to support Mongolia’s external financing needs. The IMF required Mongolia meet a budget financing gap of US$204 million before the stand-by loan would be released. The Government of Mongolia requested assistance from the international donor com-
community to meet the IMF conditions. Australia’s contribution was channelled through the World Bank, and ear-marked to support key areas, including policy reform in the mining sector, fiscal policy and management, social protection and the banking sector.

(b) The current Australian Government has not provided any assistance to World Growth Mongolia.

c) The current Australian Government has not provided any assistance to the Canadian company Ivanhoe Mines Ltd in respect of its operations in Mongolia.

d) The current Australian Government, in pursuit of Australia’s national interests, maintains a good working relationship with Rio Tinto Limited. Rio Tinto has briefed the Australian Government, both in Australia and overseas, on its operations in Mongolia. The Australian Government has not undertaken any direct advocacy on behalf of Rio Tinto with the Mongolian Government, nor provided direct financial, diplomatic or other assistance to Rio Tinto in respect of its operations in Mongolia.

The current Australian Government has shown support for Australian companies by raising with senior Mongolian Government officials Australia’s expertise in the mining sector, the strong track record of Australian mining companies in areas such as safety, environment, and community development, and the benefits for Mongolia of opening its mining sector to foreign participation. This general advocacy undertaken by the Australian Government may have indirectly benefited Australian companies with past, current or future interests in the Mongolian mining sector, including Rio Tinto.

e) The current Australian Government has not provided any assistance to the Oyu Tolgoi mining project. In a meeting held on 22 July 2009 between the Hon Stephen Smith MP, Minister for Foreign Affairs, and Mr Damdin Tsogtbaatar, State Secretary, Ministry of Foreign Affairs and Trade, Government of Mongolia, Mr Smith said Australia would like to see an investment agreement for the Oyu Tolgoi mine progressed by the Mongolian parliament.

Environment

(Question No. 2375)

Senator Bob Brown asked the Minister representing the Minister for the Environment, Heritage and the Arts, upon notice, on 21 October 2009:

(1) Will the Minister require a referral under the Environment Protection and Biodiversity Conservation Act 1999 for the proposed high voltage power line between Dumaresq and Lismore.

(2) Will the Minister require the proponent of the line to show why it is needed.

(3) Will the Minister take into account alternatives to centralized coal-fired electricity generation when making any federal decision about the line.

Senator Wong—The Minister for the Environment, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(1) I am advised that the proposal is still in the planning stage. If the proposal will have, or is likely to have, a significant impact on any matter of national environmental significance protected under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), then the proponent is required to refer the proposal for consideration by the Minister under the Act. The department has written to the proponent to advise it of its obligations under the Act.

(2) and (3) The EPBC Act does not give the Minister a power at the referral stage to require the proponent to show why a proposed action is needed. Should a proposed action require assessment and approval under the Act, however, the proponent is required to provide in its assessment documentation a detailed description of the proposed action, including, to the extent reasonably practicable, any feasible alternatives including, if relevant, the alternative of not taking the action.
Aged Care

(Question No. 2378)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 26 October 2009:

With reference to comments made by Dr David Cullen during the 2009-10 Budget estimates hearings of the Community Affairs Legislation Committee, that the average earnings before interest, taxes, depreciation and amortization for efficient aged care providers for high care beds is 10 per cent (Committee Hansard, 4 June 2009, CA 54):

(1) Does the department stand by the statement that the evidence from the General Purpose Financial Returns for 2006-07 indicates a 10 per cent return on investment for both mixed care facilities and for high care beds.

(2) Given that this information was derived from the 2006-07 General Purpose Accounts data and is based on the financial performance of the providers in the top quartile, how has the department accounted for the following outliers in the data as released on the department’s website (serial no.): 55, 97, 109, 202, 226, 297, 324, 394, 435, 439, 495, 513, 551, 781, 844, 885, 898, 1008 and 1022.

(3) Were all of the above aged care providers contacted by the department to check the data before it was used in analysis put forward as evidence to a number of Senate committees and before it was uploaded to the department’s website; if not, why not.

(4) What would the average profit margin be if the above outliers were not included in the top quartile results.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) As indicated, the rate of return for the top quartile of all services calculated from the General Purpose Financial Reports is in the order of 10 per cent. This rate is of a similar order of magnitude for both high care and mixed care facilities, each of which showed returns in excess of 9 per cent.

(2) While the 20 providers listed in the question have the highest financial results from the 2006-07 general purpose financial reports, they are not necessarily outliers. Their financial accounts are a fair and reasonable account of their financial performance and have been verified as so by a registered company auditor.

(3) Contact was made with 14 of the 20 listed providers to follow up identified issues such as irregularities in the data.

(4) The Department does not consider it appropriate to exclude the providers from these calculations.

Australia Post

(Question No. 2379)

Senator Milne asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 26 October 2009:

(1) With reference to the management of Australia Post delivery contractors:
   (a) what mandatory quality assurance and performance evaluation provisions are in place for contractors; and
   (b) how frequently are each of these evaluations undertaken.

(2) (a) How frequently are individual delivery contracts for Australia Post reviewed; and
(b) what is the threshold for determining the loss of a contract due to non-compliance with delivery agreements and standards of behaviour?

(3) Is the Minister aware of:

(a) repeated complaints regarding the failure to deliver unaddressed mail by Australia Post contractors in many areas of Tasmania; and

(b) such complaints coming specifically from the Exeter delivery area in Tasmania, pertaining to the failure to deliver unaddressed mail, magazine and other subscriptions, and the failure or late delivery of addressed mail on a regular basis.

(4) Can the Minister:

(a) give an undertaking that Australia Post will enforce its contracts and quality standards for contractors in Tasmania; and

(b) guarantee the reliable and consistent delivery of unaddressed mail in Tasmania.

Senator Conroy—The answer to the honourable senator’s question is as follows:

(1) (a) The Mail Contractor Agreement outlines the Performance Requirements contractors must meet, including:

- timely and accurate delivery of articles;
- timely and accurate uploading of scanning data for parcels;
- completeness of scanning data (e.g. names and signatures); and
- customer complaints (no more than 1 per month).

At tender contractors are required to provide Australia Post with operational and contingency plans. These plans are reviewed as part of the tender assessment process to ensure the contractor can provide a quality delivery service to the community.

(b) Evaluation of contractor performance occurs through:

- investigation and monitoring of complaints lodged through the Customer Contact Centre (CCC) and other channels;
- review of scanning compliance data for parcel contractors;
- monitoring of on-time delivery of parcel products;
- external monitoring of the parcel and letters networks; and
- day-to-day supervision by the delivery/facility manager.

These evaluations occur on an ongoing basis - daily, weekly/monthly and as required.

(2) (a) Mail services are reviewed for delivery volumes, distance and hours worked each time a contract is tendered (contract terms generally range from between 1 - 5 years).

Contractors and Australia Post can also request a review of a contract where there has been a material change in the work being undertaken or the volumes delivered.

The Mail Contractor Agreement also enables the contractor to request an annual review of their cost base. A periodic review for fuel is available to contractors provided three months have passed since the last review and the price of fuel has increased by more than 7%.

(b) Australia Post has the right to terminate a Mail Contractor Agreement if the contractor has caused a material breach or incurred three or more remedial breaches in a 12-month period.

Delivery failures would typically be dealt with as a remedial breach, which requires the contractor to meet with their Australia Post Manager and put in place an improvement plan to ensure that the failure will not occur again. Failure to comply with the requirements of a breach notice may also trigger the termination of a contract.
(3) (a) and (b) Australia Post advises that it is not aware of repeated complaints – either to its Customer Contact Centre or direct to management – regarding:
- the delivery of unaddressed mail across many areas of Tasmania; or
- the delivery of unaddressed mail, magazine and other subscriptions, and addressed mail in the Exeter area.

Australia Post has advised that it is aware that six complaints about the non-delivery of unaddressed advertising mail were lodged at the Exeter Licensed Post Office. The Licensee has provided Australia Post with a list of the names of the six customers concerned.

Australia Post’s preliminary investigation of these complaints was unable to substantiate the non-delivery of the items in question. These complaints have since been forwarded to Australia Post’s Corporate Security Group for further investigation.

(4) (a) and (b) Yes. Australia Post has assured me that it will continue to monitor contractor performance in Tasmania to ensure contractors meet the Performance Requirements outlined in their Mail Contractor Agreement and provide a quality delivery service to the community.

Aged Care

(Question No. 2380)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 26 October 2009:

With reference to the order of the Senate agreed to on 19 August 2009 (Senate Journals, p. 2336), requiring that certain documents relating to national ‘deidentified data from the audited General Purpose Accounts of aged care providers’ be laid on the table, by no later than 12 pm on 20 August 2009, and the following comments made by the Minister for Ageing (Ms Elliott), regarding reports by KPMG and Access Economics on the 2006-07 data, ‘The Minister has also advised me that it is not in the public interest to release the reports by Access Economics and KPMG on this data as these reports were commissioned as part of the review of the Conditional Adjustments Payment primarily to inform the Cabinet’s consideration of the 2009-10 Budget’:

(1) On what date were the Access Economics and KPMG reports commissioned.
(2) On what date was the Conditional Adjustment Payment review announced.
(3) What communication exists to show that the reports were commissioned as part of Cabinet deliberations.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) The contract between Access Economics and the Department was executed on 13 May 2008. The contract between KPMG and the Department was executed on 13 May 2008.
(2) The Minister for Ageing announced the review of the Conditional Adjustment Payment on 13 May 2008 and called for public submissions on 9 September 2008.
(3) It is not the usual practice of Governments to comment on materials that have been commissioned as part of Cabinet deliberations.
Aged Care
(Question No. 2381)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 26 October 2009:

With reference to the order of the Senate agreed to on 19 August 2009 (Senate Journals, p. 2336), requiring that certain documents relating to national ‘deidentified data from the audited General Purpose Accounts of aged care providers’ be laid on the table, by no later than 12 pm on 20 August 2009, and the following comments provided by the Minister for Ageing (Ms Elliot), tabled on 20 August 2009, ‘With respect to the 2005-06 audited General Purpose Financial Reports of aged care providers, the Minister has advised me that the financial reports were of such poor quality that it is not in the public interest to release the de-identified data that was derived from these accounts as such data would be misleading and not contribute to the understanding of the issue’:

(1) When did the Minister or the department determine that the information was of ‘poor quality’.

(2) Has the Minister, her office or the department relied on information from the 2005-06 audited General Purpose Financial Reports of aged care providers in any decisions affecting the aged care sector; if so, can details be provided of these decisions.

(3) Has information derived from the 2005-06 audited General Purpose Financial Reports of aged care providers ever: (a) appeared in any departmental publication, website, letter, bulletin, or other written material; and (b) been used by departmental officials or the Minister in answering questions at any Budget estimates hearings or other parliamentary inquiry.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) It became apparent to the Department in June 2007 on receipt of the consolidated 2005-06 data from the consultant that there were significant quality issues with the data, particularly in relation to completeness.

(2) No. However, I cannot comment on what use former Ministers or their offices may have made of this data.

(3) (a) The 2005-06 audited general purpose financial reports were used to provide individual reports to aged care providers, including summary information on how they compared with the broader sector. This occurred before the Department was aware of the full extent of the gaps in the data. The individual reports were prepared and supplied by Bentleys MRI Perth (later called Grant Thornton Perth), under contract but at arm’s length from the Department. The Department has not used the 2005-06 data in any departmental or public documents, or as a basis for advice to Government.

Aged Care
(Question No. 2382)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 26 October 2009:

(1) With reference to the order of the Senate agreed to on 19 August 2009 (Senate Journals, p. 2336), requiring that certain documents relating to national ‘de-identified data from the audited General Purpose Accounts of aged care providers’ be laid on the table, by no later than 12 pm on 20 August 2009, and the following comments provided by the Minister for Ageing (Ms Elliot), ‘With respect to the 2007-08 audited General Purpose Financial Reports of aged care providers, the Minister has advised me that the de-identified database for these reports is not complete as a number of aged care providers have been given extensions to the reporting deadline in accordance with the provi-
sessions of the governing legislation': How many extensions have been granted for the 2007-08 data and for how long has each extension been granted.

(2) Given that Mr Andrew Stuart, First Assistant Secretary of the Ageing and Aged Care Division of the department, stated at the inquiry of the Finance and Public Administration Committee into residential and community aged care in Australia on 21 April 2009 (Committee Hansard, F&PA2) that 'The general purpose financial reports that the department receives from all aged-care providers show a general improvement in financial performance to 2007-08. By contrast, the Grant Thornton survey alone shows a deterioration in the financial performance in the 2007-08 financial year, and the department again would note its concerns with the representativeness of the Grant Thornton survey sample, which we have been unable to obtain for verification despite requests':

(a) why are departmental officials relying on incomplete data;

(b) has the Minister, her office, or the department relied on the incomplete 2007-08 data to assist in any other decision making; if so, what decision or decisions were taken with reference to the incomplete data; and

(c) is there an inconsistency in the department criticising the representativeness of the Grant Thornton survey whilst relying on data from an incomplete audit process.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) Extensions for the lodgment of the 2007-08 general purpose financial reports were given to 120 providers. While most of the extensions were only for one-two months, five providers were given extensions for three months, five for four months, four for six months, six for seven months and two for more than seven months. Only the last two providers have yet to lodge their 2007-08 financial reports.

There has also been a substantial process of going back to providers to address identified issues, irregularities and checking that the data have been accurately extracted from the general purpose financial reports.

(2) (a) The Department has not specifically relied on these data. It is one of a number of sets of data available to the Department.

(b) No.

(c) The Department has not placed any particular reliance on the 2007-08 data. The Department monitors and makes use of a range of data to monitor the performance of the sector, including the Grant Thornton survey, carefully taking into account the representativeness of different samples and data quality.

Commonwealth Scientific and Industrial Research Organisation
(Question No. 2387)

Senator Abetz asked the Minister for Innovation, Industry, Science and Research, upon notice, on 29 October 2009:

(1) (a) Does the Commonwealth Scientific and Industrial Research Organisation (CSIRO) stand by its 2003 report that Mount Hotham and Mount Buller would lose 25 per cent of their snow cover by 2020; and (b) how is the evidence thus far matching with the prediction.

(2) (a) What is the total cost of administration and other fees for the 9,800 CSIRO credit cards; (b) how many CSIRO staff do not have a CSIRO-issued credit card; and (c) what is the maximum number of credit cards held by any CSIRO official.
Senator Carr—The answer to the honourable senator’s question is as follows:

(1) (a) The report in question does not state that Mount Hotham and Mount Buller would lose 25% of their snow cover by 2020. Rather it provides projections for both low and high impact climate change on

- snow cover (the area covered by snow),
- snow depth (the depth of the snow cover), and
- average snow cover duration (the period of time, expressed in days, where the snow cover exceeds one centimetre in depth)

in 2020 and 2050, relative to the 20 year period centred on 1990.

With respect to snow cover the report provides projected changes averaged over the whole alpine region, not specific mountains. Projected changes in snow depth for specific mountains are provided as is the average snow duration at specific mountains, including Mount Hotham and Mount Buller.

The report estimates that the average snow cover duration at Mount Hotham (at an elevation of 1882 metres) is 129 days per year at present (1979-1998), decreasing to 97-124 days by 2020 and 21-114 days by 2050. Hence the projected decrease in the average snow cover duration at Mount Hotham is expressed as ranges of 4-25% by 2020 and 12-84% by 2050.

The report estimated that the average snow cover duration at Mount Buller (at an elevation of 1740 metres) is 108 days per year at present (1979-1998), decreasing to 70-102 days by 2020 and 7-89 days by 2050. Hence the projected decrease in the average snow cover duration at Mount Buller is expressed as ranges of 6-35% by 2020 and 18-94% by 2050.

The report shows observed changes in maximum snow depth at four sites from the 1950s to the early 2000s: Spencers Creek, Deep Creek, Rocky Valley Dam and Three Mile Dam. A small decline is evident at three of the four sites.

(b) No assessment of the predictions has been made.

(2) (a) The credit card providers do not charge CSIRO any administration or other fees.

(b) 1,576 CSIRO staff do not have a CSIRO issued credit card.

(c) The maximum number of credit cards held by any CSIRO official is two, one purchasing card and one travel card.

Australian Bureau of Statistics

(Question No. 2388)

Senator Birmingham asked the Assistant Treasurer, upon notice, on 29 October 2009:

With reference to the answer to question BET-128 taken on notice during the 2009-10 Budget estimates hearings of the Economics Legislation Committee, does the Australian Bureau of Statistics consider that, in relation to the Survey of Education and Training Committee, does the Australian Bureau of Statistics consider that, in relation to the Survey of Education and Training about which letters were sent to prospective participants in April 2009, it would have been helpful to include in these letters to prospective participants more information on eligibility, such as maximum age or minimum number of hours worked.

Senator Sherry—The answer to the honourable senator’s question is as follows:

The Australian Bureau of Statistics (ABS) considered scope and coverage questions for the Survey of Education and Training prior to the survey being enumerated. To ensure the quality of ABS statistics it was considered preferable to have ABS interviewers assess eligibility of inclusion in the Survey of Education and Training, rather than to have it determined by the respondents themselves.
Senator Johnston asked the Minister representing the Prime Minister, upon notice, on 2 November 2009:

With reference to delegations visiting Australia between 3 December 2007 and 29 October 2009:

(1) What was the total number of:
(a) delegations; and
(b) delegates on each delegation.

(2) For each delegation:
(a) from which country was each delegate from;
(b) what were the dates of their visits, including the arrival and departure dates for each delegate; and
(c) what were the names and positions of all officials, including support staff.

(3) (a) Which states and/or territories did each delegate visit; and
(b) can a list be provided of the name of every hotel they used.

(4) For each delegate, what was the cost to the Government for:
(a) international and domestic airfares, including the class of travel, for each flight;
(b) meals;
(c) layovers in other countries;
(d) hospitality;
(e) internal transport;
(f) ceremonies;
(g) accommodation (per night);
(h) travel allowance;
(i) gifts;
(j) functions;
(k) travel insurance; and
(l) other expenses.

(5) What has been the total cost to the Government of all official delegates to Australia, including for all of the items listed in (4) above.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

Between 3 December 2007 and 29 October 2009, there were 56 visits to Australia under the Guest of Government (GoG) Program administered by the Department of the Prime Minister and Cabinet. This total was comprised of seven head of state visits, 15 head of government visits, 33 ministerial visits, and one royal visit.

It is considered that provision of detailed answers to all of the above questions in respect of those visits would require an unreasonable diversion of resources. However, the following general information is provided by way of background.

With head of state and head of government visits, the Australian Government accepts financial responsibility for the leader and spouse (if accompanying), and eight party members – ie a maximum of 10
people. With ministerial visits, the Australian Government accepts financial responsibility for the minister and spouse (if accompanying), and one other party member – i.e. a maximum of three people.

In all cases, if the spouse does not travel, that entitlement is not transferable to another party member.

In all cases, the entitlement is for a maximum of five nights/six days. Most visits are for less than the maximum.

For heads of state, heads of government and ministers, a suite is provided at the respective hotels. For other members of a party for whom we are responsible, a standard room is provided.

A RAAF VIP aircraft is provided (if available) for all air travel within Australia for heads of state and heads of government. Business class air travel on scheduled flights is provided for ministers for travel within Australia.

Ground transport for all visits is arranged through Comcar. Up to four vehicles are provided for each visit. Although the principal is always in a Comcar, the other three vehicles can be any mix of cars and/or buses.

For GoG visits, gifts are provided to the principal (and spouse if accompanying). Gifts are not provided to other members of a visiting party.

One major Australian Government hospitality occasion is provided during each GoG visit. This is usually a lunch or a dinner, but on some occasions has been a reception.

For GoG visits, no assistance is provided with international air travel, nor is any assistance provided with layovers in other countries.

Travel allowance and travel insurance are never provided to visitors under the GoG program.

All of the 56 visits referred to above were funded from the relevant annual State occasions and official visits administered item, for which budget and actual expenditure are reported in the Department’s Portfolio Budget Statements and Annual Report.

**Immigration and Citizenship: Retirement Visas**

*(Question No. 2391)*

Senator Cormann asked the Minister for Immigration and Citizenship, upon notice, on 2 November 2009:

With reference to the requirement that 410 visa holders maintain ‘fully comprehensive’ health insurance:

(1) How does the department define ‘fully comprehensive’ health cover for the purposes of holding a subclass 410 visa.

(2) What is the scope of the cover required.

(3) What percentage of costs is required to be covered.

(4) What is meant by Medicare equivalent cover.

(5) What would fall outside the scope of ‘fully comprehensive’ health cover.

(6) What oversight, if any, does the department undertake to ensure that overseas visitors’ health cover meets its policy.

(7) Does the department undertake any assessment of premium increases for overseas visitors’ health cover.

Senator Chris Evans—The answer to the honourable senator’s question is as follows:

(1) For the purposes of Retirement visas (Subclass 410), “fully comprehensive” health cover equates to access to Medicare or a health insurance policy that provides at least “Medicare equivalent” cover.
(2) The health insurance policy should cover hospital expenses, emergency treatment, outpatient medical practitioner expenses (including general practitioners and specialists) and pharmaceutical costs.

(3) The current arrangements are intended to cover approximately eighty five percent of visa holders’ health care costs. This is designed to be consistent with Medicare cover which pays eighty five percent of the Medical Benefits Schedule. This schedule is updated and maintained by the Department of Health and Ageing.

(4) The intention is that Medicare equivalent health cover would provide a subclass 410 visa holder with the same level as coverage as someone entitled to access Medicare.

Medicare provides free treatment as a public patient in a public hospital, subsidised treatment by medical practitioners such as GPs, specialists and allied health providers as per the Medicare Benefits Schedule and subsidised prescription medicines under the Pharmaceutical Benefits Scheme.

(5) The Department requires a minimum level of health cover in order to mitigate costs to the public purse. As with Medicare, certain health services will not be covered. These include services such as non-therapeutic cosmetic surgery, chiropractic and naturopathy. Visa holders can choose to purchase a health insurance policy that provides a higher level of coverage.

(6) When assessing the health insurance requirement for a visa application, the visa decision maker would generally be expected to confirm that the insurance policy held meets the minimum requirements for grant of a visa. In the context of subclass 410 visas, however, as these are only available to applicants who already hold a subclass 410 visa, under policy the visa decision maker is only expected to confirm that the visa applicant maintained their health insurance policy whilst holding their previous visa and has proof of ongoing cover.

(7) No.

Health and Ageing: Elective Surgery
(Question No. 2392)

Senator Cormann asked the Minister representing the Minister for Health and Ageing, upon notice, on 4 November 2009:

(1) Given that in January 2008 the Federal Government provided $150 million for an additional 25 000 elective surgery procedures to be carried out by the States and Territories, how many additional elective surgery procedures have been carried out.

(2) Given that the Minister and the Prime Minister have used the figure that 41 000 additional elective surgery procedures were carried out (http://www.pm.gov.au/node/6249):

(a) who produced this figure; and

(b) how was it derived.

(3) (a) With reference to the Victorian Auditor-General’s report, Access to public hospitals: Measuring performance, dated April 2009, which found that information provided by some hospitals has been manipulated (p. 55), how can the Commonwealth be sure that its funding has been manipulated (p. 55), how can the Commonwealth be sure that its funding has delivered the results it claims; and

(b) given that similar concerns in relation to the manipulation of waiting list numbers have been reported in the New South Wales report, Final report of the special commission of inquiry: Acute care services in NSW public hospitals, dated 27 November 2008, and in an article of The Adelaide Advertiser ‘SA hospitals fail waiting list test’ on 15 October 2009, does the Minister consider that manipulation is occurring.

(4) Are the waiting list figures provided by the states and territories accurate or inaccurate.
(5) What action does the department take to ensure waiting list statistics provided to the Commonwealth by the states and territories are accurate.

(6) (a) Is the Minister or the department aware of ‘secret’ waiting lists, as reported in an article of the Sunday Mail, ‘Secret surgery waiting lists exposed’ on 9 August 2009; if so, does the department have an estimate of numbers on these ‘secret’ waiting lists.

(7) Is the department aware that the New South Wales State Government included dental surgery treatments in its last report of additional elective surgery procedures; if so:

(a) did the Commonwealth allow the New South Wales State Government to include dental surgery treatments in order to meet the Commonwealth’s requirements for cutting waiting list numbers; and

(b) for what other reasons has the Commonwealth allowed the New South Wales State Government to include dental surgery treatments in its report.

(8) Is dental surgery normally included in elective surgery waiting lists.

(9) Have any other states or territories included dental surgery in their reports of elective surgery procedures.

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

(1) Final full year figures for Stage One of the Elective Surgery Waiting List Reduction Plan (the Plan) show that a total of 41,584 additional elective surgery procedures were performed nationally in 2008. This exceeds the 25,278 target by 64 percent.

(2) (a) and (b) At the Australian Health Ministers’ Conference of 5 March 2009 State and Territory Health Ministers released a communiqué indicating how many additional procedures had been undertaken in their respective States and Territories. The Commonwealth calculated the total, being 41,584, by summing the state and territory figures. This total was also consistent with quarterly data provided by State and Territory Health Departments.

(3) (a) The Elective Surgery Waiting Reduction Plan has delivered an additional 62,000 elective surgery procedures since 2008.

Prior to the commencement of Stage One, the Commonwealth, states and territories began working together on the reliability of data required for reporting performance under the Plan. The work focused on consistency of definition, timelines of delivery and validation. Checking procedures were applied to submitted data prior to finalisation of results and submission to Ministers.

States and territories are responsible for how they require hospitals to manage their surgery wait lists and the numbers of surgeries they perform. States commit to accurately reporting their hospitals’ data to the Commonwealth. This is reflected in the National Healthcare Agreement, the Plan requirements and the National Health Information Agreement.

State and territory governments have increasingly adopted mechanisms to improve the transparency and accuracy of their data, in part noting the example of other jurisdictions. Western Australia has independently audited performance data, NSW is proposing an independent Bureau of Health Information and Victoria now requires patient notification and has introduced spot audits.

(b) As noted in the answer to 3(a), several jurisdictions have adopted or propose to adopt mechanisms to ensure improvements in the transparency and accuracy of their hospital data.

(4) Refer to answer to question 3(a).

(5) Refer to answer to question 3(a).
(6) (a) Information about hospital elective surgery waiting lists is readily accessible through state and territory health department websites, individual hospital websites and waiting time coordinators in most jurisdictions. Patients are not placed on a hospital elective surgery waiting list until they have been clinically assessed by a medical specialist to determine if they require hospital surgery or other hospital treatment that may obviate the need for surgery.

(7) (a) and (b), (8) and (9) Elective public hospital admissions for dental procedures occur routinely. In 2007-08 there were almost 25,000 admissions to public hospitals nationally for ‘dental surgery’ (Australian Hospital Statistics 2007-08). They are mainly same-day admissions for restorations (fillings) and extractions, which are commonly done in children and special needs patients who require a general anaesthetic.

**Therapeutic Goods Administration**

(Question No. 2395)

Senator Cormann asked the Minister representing the Minister for Health and Ageing, upon notice, on 4 November 2009:

With reference to the pandemic (H1N1) 2009 influenza vaccine (commonly known as the swine flu vaccine):

(1) Is the Therapeutic Goods Administration (TGA) or the department monitoring the debate about Thimerosal and its associated safety concerns.

(2) (a) How many phone calls has the adverse reaction line, listed on the TGA website, received; and
(b) how many online reports have been made.

(3) (a) Does the TGA receive information on a routine basis from other regulators about adverse events; and
(b) have arrangements been put into place for the swine flu vaccine.

(4) Will the TGA actively share information with other regulators about adverse reactions to the swine flu vaccine.

(5) (a) Will information about adverse reactions to swine flu vaccines be made available outside the normal Adverse Drug Reactions Advisory Committee reporting processes; and,
(b) will the TGA separately report information about adverse reactions to swine flu vaccines.

(6) (a) What is the monitoring process adopted by the TGA for adverse events; and
(b) have alternate arrangements been made in relation to swine flu.

(7) (a) How extensive was the information provided by CSL Limited to the TGA; and
(b) how many people were in the trials on which the TGA based its decision.

(8) (a) What is the average length of time for a vaccine to be registered by the TGA;
(b) how did the swine flu vaccine compare against this figure; and
(c) how long did it take for the TGA to evaluate the swine flu vaccine.

**Senator Ludwig**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The safety of thiomersal was considered by the Therapeutic Goods Administration (TGA) as part of the decision to register the pandemic H1N1 influenza vaccine (Panvax®). In accordance with all the major regulatory authorities the Global Advisory Committee on Vaccine Safety (GACVS) of the World Health Organization has concluded that “there is currently no evidence of mercury toxicity in infants, children or adults exposed to thiomersal-containing vaccines” and that “there is no

QUESTIONS ON NOTICE
reason to change current immunisation practices with thiomersal-containing vaccines on the
grounds of safety.”

On 22 September 2009, after considering the available evidence, the Australian Technical Advisory
Group on Immunisation (ATAGI), issued the following statement. “ATAGI considers that influenza
vaccines containing thiomersal are safe in infants, children, adolescents and adults (including preg-
nant women). This is based on consistent safety data from several laboratory and clinical studies
and the conclusions of independent systematic reviews that have examined data on the use of
thiomersal-containing vaccines, including influenza vaccines, in all these groups; and ATAGI notes
that use of thiomersal-containing vaccines (including influenza vaccines) is endorsed by the World
Health Organization and by several countries comparable to Australia.”

A more detailed discussion of ATAGI’s considerations is available on the Department of Health and
Ageing’s website at:
www.healthemergency.gov.au/internet/healthemergency/publishing.nsf/Content/national-
vaccination-program/$file/thiomersal.pdf

(2) (a) As at Tuesday 3 November 2009 a total of 775 calls had been received on the adverse reaction
line by the TGA. Not all of these calls resulted in the submission of an adverse event report.

(b) As at Tuesday 3 November 2009 a total of 793 reports had been lodged via the web. It should
be noted that the phone operators working on the adverse reactions line use the web form to
enter details provided by callers and therefore this number includes all reports received via the
adverse reaction phone line.

(3) (a) and (b) The TGA has well-established arrangements for sharing information with other regula-
tors including those in the USA, Canada, Switzerland, Singapore, New Zealand, Europe and China.
Information regarding adverse reactions to medicines including Panvax is shared between the TGA
and overseas regulators on a routine and regular basis. A dedicated secure website has been estab-
lished on which adverse event information can be shared between the TGA, Health Canada,
Swissmedic and the Health Sciences Authority, Singapore. This arrangement is possible because of
mutual confidentiality arrangements between these four organisations. Other international informa-
tion sharing occurs on a bilateral basis.

(4) See answer to Question (3).

(5) (a) and (b) Information about adverse reactions to Panvax will be made available on the TGA web-
site.

(6) (a) The TGA administers a post-market vaccine safety surveillance system as part of its overall
function of monitoring the safety of medicines in Australia. The core of this safety surveillance sys-
tem is a mechanism for receiving and analysing reports of suspected adverse events following im-
munisation (AEFI). The TGA’s AEFI monitoring system is a surveillance framework that relies in
large part on voluntarily reporting of AEFIs by immunisation providers and consumers, with man-
datory reporting by sponsors of all adverse events of which they become aware. This system is de-
signed to detect early warning signals and generate hypotheses about possible new vaccine adverse
events or changes in frequency of known ones.

All AEFI reports from sponsors, vaccination providers and consumers are promptly triaged as seri-
ous or non-serious using generally accepted criteria, and then coded using standard terminology in
accordance with the Medical Dictionary for Regulatory Activities (MedDRA), a document en-
dorsed by the International Conference on Harmonisation (ICH) of Technical Requirements for
Registration of Pharmaceuticals for Human Use. Where necessary, reports of serious AEFIs are fol-
lowed up to obtain corroborating information and, if not provided at the time of reporting, informa-
tion necessary for the assessment of causality, such as timing of vaccination in relation to the onset
of the reaction and the results of any investigations conducted and the reaction outcome.

QUESTIONS ON NOTICE
All AEFI reports received by the TGA are forwarded for review and causality assessment by the Adverse Drug Reactions Advisory Committee (ADRAC) and ADRAC’s views actively inform any subsequent regulatory decisions. If potential safety signals are identified, the TGA may also convene an ad-hoc expert panel to augment the in-house and advisory committee expertise.

The majority of States and Territories have requirements in place for vaccination providers to notify AEFIs to their health authorities. An agreement exists whereby each fortnight the TGA’s Office of Medicines Safety Monitoring provides copies of reports it receives of AEFIs for vaccines in the National Immunisation Schedule to the relevant State or Territory to allow them to reconcile them against their own records. This practice is being observed for all reports of suspected AEFIs to Panvax received by TGA.

(b) In relation to the monitoring of Panvax, the TGA’s routine pharmacovigilance mechanisms and processes are in place to monitor and respond to reports of adverse events. To facilitate this, a dedicated call centre has been established within the TGA to receive reports of adverse events made by telephone, via the Pandemic hotline. In addition, a simplified web reporting form can be accessed from the homepage of the TGA website. Promotional information disseminated to health professionals and consumers about the vaccine encourages the reporting of adverse events and provides information about the different ways these can be reported.

In addition to routine pharmacovigilance, a number of additional activities are being undertaken in association with the rollout of the Panvax vaccine.

CSL (the sponsor of Panvax) has agreed to undertake fortnightly signal detection and provide the TGA with monthly simplified Periodic Safety Update Reports outlining all serious adverse events associated with the vaccine reported to CSL both within Australia and internationally, thereby providing comprehensive international safety information.

Where spontaneous reports of adverse events of special interest, such as anaphylaxis, convulsions or Bell’s palsy are received these will be actively followed up to determine the relationship between the adverse event and the use of the vaccine.

Following any reported exposure of pregnant women to the vaccine, CSL will follow up the case to pregnancy outcome, and report these outcomes to the TGA.

An active surveillance system is being established through neurologist networks, with support from the Australian and New Zealand Association of Neurologists, to assist in the detection of any cases of Guillain-Barré Syndrome (GBS). The surveillance system will be supported by both CSL and the TGA. This will reflect a model similar to that of the Australian Paediatric Surveillance Unit (APSU) which has been successful in evaluating specific vaccine safety concerns such as the association between acute flaccid paralysis and polio vaccine.

To ensure that reported cases of the adverse events of special interest are true cases of the conditions, internationally agreed case definitions are used in assessing all cases reported in association with the vaccine. These have been distributed to the relevant areas of State and Territory health departments and should be used in assessing these cases. Clinical follow up forms have also been developed and provided.

The TGA has also established a panel of experts in pharmacoepidemiology who have reviewed the safety monitoring framework, and will provide advice on methods for further evaluation of any emerging signals. Also, the TGA has established a panel of experts in neurology to review any suspected neurological adverse events such as GBS.

In addition weekly review of adverse event reports is being undertaken by ADRAC, augmented by the expertise of additional vaccine expert, an immunologist/allergist and an obstetrician.

(7) (a) CSL applied to register CSL H1N1 pandemic influenza vaccine as a major variation to the trivalent seasonal influenza vaccine Fluvax®. Fluvax® and other trivalent inactivated seasonal in-
fluenza vaccines have been registered in Australia for several decades, and each year several million doses are administered in Australia. The manufacture process for the pandemic H1N1 2009 influenza vaccine is the same as the manufacture process for the seasonal influenza vaccines.

Quality and biopharmaceutical data and clinical study data were evaluated. The quality and biopharmaceutical data were more extensive than data that would support a change in seasonal influenza virus strains. The clinical study data were an interim report of immunogenicity and safety after one dose of 15 micrograms or 30 micrograms of virus haemagglutinin. The study was designed to assess two vaccine doses but the first dose results supported efficacy and safety of a single 15 micrograms dose.

(b) In clinical study CSLCT-CAL-05-09 there were 240 adult participants aged between 18 years to 64 years.

(8) (a) Between 2004 and 2009, 18 new vaccines were registered by the TGA. The average registration time for these applications was 175 working days (range 84 to 248 working days). Applications to change the formulation of a seasonal influenza vaccine are typically approved in a period of around a month based on quality and biopharmaceutical data.

(b) The registration time for this application was consistent with other variations to seasonal influenza vaccines.

(c) The application was accepted for evaluation on 20 August 2009 and approved on 18 September 2009. The evaluation time for this application was 22 working days.
QUESTIONS ON NOTICE

Immigration and Citizenship
(Question No. 2398)

Senator Cormann asked the Minister for Immigration and Citizenship, upon notice, on 4 November 2009:

For each financial year from 2001-02 to 2008-09, and for the period 1 July to 2 November 2009:

(1) How many non-residents have sought entry to Australia.

(2) For each class and subclass of visa: (a) how many non-residents: (i) have applied for admission to Australia, and (ii) were approved for admission to Australia; and (b) into which Australian state or territory did those granted entry arrive.

(3) Given that the United Nations High Commissioner for Refugees handles offshore processing of refugees, does the department keep records of applicants for refugee status made from outside Australia; if so, by claimed country of origin, how many have applied.

Senator Chris Evans—The answer to the honourable senator’s question is as follows:

(1) Table 1 below shows the number of applications received by the Department from non-residents to come to Australia. This includes New Zealanders and non-resident Australian Citizens seeking entry to Australia.

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\(^1\)Special category visas are granted on arrival.

Notes:

Arrivals data is based on a sample of arrivals for settler (permanent) arrivals and visitor or temporary entrant arrival as indicated from the incoming passenger card.
A small number of permanent arrivals have been included as special category visa when they have arrived on another visa.

(2) (a) (i) Table 2 below on pages 4 to 7 shows the number of applications received by the Department from non-residents to come to Australia.

Table 2

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### QUESTIONS ON NOTICE

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* Please note that these visa subclasses were repealed.

1 Offshore applications only. Include both primary and secondary applicants.

Table 3 Visa Grants to Non-residents: 1 July 2001 to 31 October 2009

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* Please note that these visa subclasses were repealed.

1 Offshore grants only. Include both primary and secondary applicants.

Please note that all data has been extracted from a 'live system'. As this system is constantly updated there will be slight variations in data across different extract dates.

(2) (b) Table 4 and 5 below on pages 15 to 18 provide a breakdown of arrivals of settlers and temporary entrants in Australia for 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and July-September 2009.

Table 4 - Settler Arrivals by state of Intended Residence

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Non-program eligibility category includes New Zealand citizens and also non-resident Australian citizens (eg overseas born children of Australian citizens)

Table 5 – Temporary entrant arrivals by State of intended residence

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QUESTIONS ON NOTICE

Wednesday, 3 February 2010
### QUESTIONS ON NOTICE

#### STATE OF (INTENDED) RESIDENCE

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**Notes:**

Data is for arrivals, not persons. A person making more than one journey is counted for each arrival.

State/territory is based on intended state/territory of residence as given on the incoming passenger card and may not be that of actual residence.

Above data is based on a sample of arrivals.

(3) Data on country of origin for Refugee visa applicants was not published for the 2001–02 to 2005–06 program years. Recreating this information from 2009 systems would not be consistent with previously published data. Total applications under the refugee category are provided in Table 1 below.

Table 2 (attached) shows the declared country of birth of visa applicants’ under the Refugee category of the Humanitarian Program (subclasses 200, 201, 203 and 204) for the 2006–07 to 2009–10 program years.

Whilst the majority of Refugee category applications are referred by that the United Nations High Commissioner for Refugees (UNHCR), this is not a criterion for the grant of a Refugee visa. Therefore, application numbers also include self-referred applicants and split family of Refugee visa holders in Australia. In select circumstances, amendments are made to an applicant’s visa subclass during the assessment process. For example, an application under the Special Humanitarian Program (subclass 202) might be upgraded to a Woman at Risk (subclass 204) application if the applicant is female, without the protection of a male relative and vulnerable to victimisation, harassment or serious abuse because of their gender.
Table 6: Total Refugee category applications

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Table 7: Offshore Refugee applications by year and country of birth

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QUESTIONS ON NOTICE
Aged Care
(Question No. 2399)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 5 November 2009:

(1) How does the Department determine future residential aged care service needs.
(2) How does the Department determine the unmet aged care needs in the community (i.e. those who are eligible for residential aged care but cannot access care in a facility of their choice and remain on waiting lists).
(3) Does the Department maintain any data about residential aged care facility waiting lists; if so, by state and territory, what is the current size of those waiting lists.
(4) How many ageing Australians are currently deemed eligible to enter residential aged care as assessed by Aged Care Assessment Teams.
(5) How many residential aged care beds are currently operational in Australia.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

The number of operational aged care places made available by the Commonwealth across Australia is governed by a set of national target provision ratios, which ensure growth in the number of places is in line with growth in the population of older people in Australia. The first target provision ratios were established in 1986. Since they were first introduced, the ratios have been revised a number of times, to provide for a greater emphasis on care delivered in a community setting and on high level care.

The current national target provision ratio is for there to be 113 operational aged care places across Australia for every 1000 people aged at least 70.

Within this target overall provision ratio there is a subsidiary national target balance of care type provision ratio, which seeks to ensure an appropriate balance between care delivered in a residential and a community setting. The current national target balance of care type provision ratio seeks to ensure that, across Australia, 88 out of every 113 aged care places are delivered in a residential setting (residential care) and that 25 out of every 113 aged care places are delivered in a community setting (community care).

Subject to the constraints imposed by the national target provision ratio, and the subsidiary national provision ratios, based on the advice of the Department of Health and Ageing, I determine the number, type and level of new subsidised aged care places to be made available each year in each state and territory.

In general, new aged care places are distributed between the states and territories so as to move each state and territory towards the national target provision ratios, including the subsidiary provision ratios. However, there is no specified target provision ratio, or subsidiary provision ratio, for each state and territory.

The allocation of available places within states and territories is undertaken by the Department of Health and Ageing and is governed by the provisions of the Aged Care Act 1997, which specifies that the objectives of the aged care planning process (Section 12-2) are:

(a) to provide an open and clear planning process;
(b) to identify community needs, particularly in respect of people with special needs; and
(c) to allocate places in a way that best meets the identified needs of the community.
The allocation of available places within states and territories is also guided by the advice of independent Aged Care Planning Advisory Committees.

(2) See answer to question (1).

(3) The Department does not maintain any data about residential aged care facility waiting lists.

(4) In 2007-08, Aged Care Assessment Teams made 335,358 approvals for care subsidised under the Aged Care Act 1997, including 127,753 approvals for permanent residential care and 127,857 approvals for residential respite care in 2007-08.

Note, however, that:
- a person may receive more than one approval for a given type of care during a year;
- a person may be approved for more than one type of care during a year; and
- some approvals for residential care are granted to people who are already receiving residential care.

(5) As at 30 June 2009, there were 178,379 operational residential aged care places.

Swine Influenza
(Question No. 2401)

Senator Cormann asked the Minister representing the Minister for Health and Ageing, upon notice, on 5 November 2009:

With reference to the pandemic (H1N1) 2009 influenza vaccine (commonly known as the swine flu vaccine):

(1) Does the department monitor the implementation of each jurisdictional pandemic plan.

(2) What are the arrangements for distribution to each state and territory.

(3) What is the Government doing to ensure access to the swine flu vaccine for vulnerable groups, such as Indigenous Australians and rural and remote communities.

(4) For each state and territory, to 4 November 2009 what percentage of vaccinations have been bulk-billed.

(5) Have the costs associated with general practitioners administering the vaccine been included in the total costs associated with its roll-out.

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

(1) Each jurisdiction has its own vaccine implementation plan, which guides the implementation of the Pandemic (H1N1) 2009 Influenza Vaccination Program within jurisdictions. The planning and implementation of the vaccination program has been co-ordinated by the Department of Health and Ageing through the Australian Health Protection Committee, and the Australian Health Protection Committee/National Immunisation Committee Pandemic Vaccine Working Group. While it is not the responsibility of the Commonwealth to monitor jurisdictional pandemic and implementation plans, close contact is maintained through regular meetings and other reporting arrangements, to ensure a national overview of the rollout.

(2) The vaccine’s manufacturer, CSL Limited, transports vaccine from its primary store in Melbourne to central stores in each of the jurisdictions, according to the population based allocation plan developed by the Department of Health and Ageing. CSL controls all of these jurisdictional stores except those in the Northern Territory and the ACT. As prescribed under the Department’s contract with CSL, CSL also manages the distribution of the vaccine from the repositories to immunisation providers, except in the ACT and the NT where the jurisdictions themselves control this function.
(3) The Department continues to work closely with jurisdictions to ensure vaccine is distributed to, and readily available within rural and remote communities.

The Department has conducted a comprehensive communications campaign about the availability of the H1N1 vaccination which has included advertising in rural and remote locations. An Indigenous specific advertising and public relations campaign has also been conducted across Australia.

The Department is working with the Indigenous Flu Network, which provides a point of contact through which the Department is able to communicate with, and provide support to Indigenous immunisation providers and Aboriginal Medical Services.

Throughout the pandemic the Department has also been regularly engaged with the Australian College of Rural and Remote Medicine and the Rural Doctors Association of Australia.

(4) There are no specific items in the Medicare Benefits Schedule (MBS) for H1N1 vaccination. Attendance items which might be associated with vaccination include Item 10993 - immunisation provided to a person by a practice nurse on behalf of a medical practitioner, Item 3 - Level A general practitioner surgery consultation and Item 52 - Brief surgery consultation to which no other item applied.

It is not possible from Medicare data, to determine what proportion of attendances claimed under Items 3, 52 or related items were for immunisation. Nor is it possible to determine what proportion of Item 10993 claims were for the Panvax® vaccine.

H1N1 vaccination became available from 30 September 2009. Details of the percentage of services bulk billed for Item 10993, for the date of processing period 30 September to 4 November 2009 (inclusive) by State/Territory of patient, are as follows:

| Practice Nurse Immunisation (Item 10993) and Brief GP Surgery Attendances (Item 3 & 52) - Percentage of Services Bulk Billed by State/Territory (Based on Patient Enrolment Postcode) between 30 September and 4 November 2009 (Date of Processing) |
|----------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Item Number | NSW     | VIC     | QLD     | SA      | WA      | TAS     | NT      | ACT     | AUST     |
| 10993     | 97.2%   | 95.5%   | 95.9%   | 95.0%   | 93.0%   | 96.8%   | 94.0%   | 90.2%   | 95.7%   |
| 3 & 52    | 95.5%   | 95.1%   | 93.1%   | 95.3%   | 93.2%   | 93.6%   | 87.9%   | 79.5%   | 94.3%   |

These statistics only relate to services rendered on a ‘fee-for-service’ basis for which Medicare benefits were paid, and Item 10993 relates to all immunisations performed, not just those relating to Panvax®.

(5) 2009-10 MBS estimates do not include any additional allowance for the cost of General Practitioners (GPs) and practice nurses administering the vaccine. However, costs may be off-set to some extent by the fact that services GPs and practice nurses would otherwise be providing (and their costs) are foregone.

Aged Care

(Question No. 2404)

Senator Cormann asked the Minister representing the Minister for Ageing, upon notice, on 5 November 2009:

(1) As at 1 October 1997, how many residential aged care beds and Community Aged Care Packages (CACPs) were:
   (a) allocated; and
   (b) operational.

(2) As at 30 June 2009, how many residential aged care, CACPs, Extended Aged Care at Home Packages and Extended Aged Care at Home Dementia Package places were:
   (a) allocated; and

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

(b) operational.

(3) Of the residential aged care places allocated since 1 October 1997, how many became operational in each financial year allocated as:
(a) high care; and
(b) low care.

(4) What would be the cost impact on government outlays if the current high and low care allocations of residential aged care places of 44 places per 1000 persons aged 70+ were to be replaced with allocations of 88 places per 1000 persons aged 70+.

(5) (a) What analysis has the department conducted on the aged care recommendations contained in the final report of the National Health and Hospitals Reform Commission; and
(b) what was the outcome of that analysis.

(6) When will the Conditional Adjustment Payment (CAP) review report be made publicly available.

(7) How many low care residents have utilised allied health services each year under Medicare Benefits Scheme (MBS) items 10950 to 10970 following preparation of a care plan contributed to by a general practitioner using MBS item 731.

Senator Ludwig—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) Information on allocated aged care places is held on departmental files and, for later years, in departmental computer systems. Calculating the number of residential aged care places and Community Aged Care Packages that were allocated and operational at 1 October 1997 would require the examination of a significant number of files. Summary information is routinely prepared for 30 June each year and this information is provided below.

As at 30 June 1997, departmental records indicate that there were:
- 138,987 Australian Government subsidised operational residential aged care places;
- 4,441 operational Community Aged Care Packages; and
- 152,027 allocated aged care places.

(2) (a) As at 30 June 2009, there were:
- 203,766 residential aged care;
- 42,694 Community Aged Care Packages;
- 5,515 Extended Aged Care at Home (EACH) packages;
- 2,568 EACH Dementia packages.

Residential aged care places include those delivered in aged care homes, Multi-Purpose Services and National Aboriginal and Torres Strait Islander Aged Care Services. Low level community care places include Community Aged Care Packages and those delivered through Multi-Purpose Services and National Aboriginal and Torres Strait Islander Aged Care Services.

(b) As at 30 June 2009, there were:
- 178,379 residential aged care;
- 40,195 Community Aged Care Packages;
- 4,478 EACH packages;
- 2,036 EACH Dementia packages.

Residential aged care places include those delivered in aged care homes, Multi-Purpose Services and National Aboriginal and Torres Strait Islander Aged Care Services. Low level community care
places include Community Aged Care Packages and those delivered through Multi-Purpose Services and National Aboriginal and Torres Strait Islander Aged Care Services.

(3) Information on allocated aged care places is held on departmental files, and for later years, in departmental computer systems. The following table includes data from 1 November 1999 onwards.

Number of residential care places allocated from 1/11/1999 which became operational in each financial year, by high care and low care

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<td>3,208</td>
<td>2,758</td>
</tr>
</tbody>
</table>

(4) It is not possible to meaningfully estimate the impact of the change proposed in the question. The impact would be dependent on the behaviour of care providers and whether they would choose to change the current mix of resident admissions either in favour of people assessed as requiring low care or high care.

(5) (a) The Government is currently considering the National Health and Hospitals Reform Commission’s report and has conducted consultations on its recommendations in all states and territories to date; engaging the public in a mature debate about the future of our health care system.

(b) The Government will respond formally in due course.

(6) No decision has been made to release this report.

(7) Departmental and Medicare records do not distinguish between low and high care residents.

Sensor Policy Framework

(Question Nos 2405 and 2406)

Senator Cash asked the Minister representing the Minister for Competition Policy and Consumer Affairs, upon notice, on 12 November 2009:

With reference to the Trade Practices Amendment (Clarity in Pricing) Act 2008 (the Act) and the Productivity Commission report, Review of Australia’s consumer policy framework (the review):

(1) What specific recommendations did the review make in relation to component pricing.

(2) Did the Government adopt the review’s final recommendations in the Act; if not, why not.

(3) (a) What steps, if any, did the Government take to notify the restaurant/hotel industry of the impact of the changes to component pricing and in particular, to single pricing; and

(b) if steps were taken, how was this communicated to the relevant parties.

(4) How does the Australian Competition and Consumer Commission (ACCC) monitor compliance and adherence to single pricing in the restaurant/hotel industry.

(5) Since the commencement of the Act, has the ACCC undertaken any investigations or prosecutions of restaurants or hotels concerning breaches of the Act in relation to single pricing; if so: (a) what were the names of the relevant restaurants or hotels; and (b) can information relating to the nature of each breach be provided.

Senator Sherry—The Minister for Competition Policy and Consumer Affairs has provided the following answer to the honourable senator’s question:

(1) The Productivity Commission’s Review of Australia’s consumer policy framework (the review) did not make any recommendations in relation to component pricing.

(2) Not applicable – see response to Question 1 above.
(3) The Government released exposure draft legislation for public comment on 30 March 2008. Submissions from 24 organisations and individuals were received in response, including from representatives of the restaurant and catering industry.

The Australian Competition and Consumer Commission (ACCC) has been educating all businesses about the new requirements for component pricing since the passage of the Act on 25 November 2008. This has taken a number of forms, including: speeches and presentations by commissioners, senior staff and regional outreach managers; articles published in the general media and in a range of industry association journals and websites; and the development of several publications about the application of section 53C, both generally and to specific industries, which are available in hard copy and electronic formats.

The ACCC has also met on a number of occasions with representatives of peak restaurant and hotel industry associations including Restaurant and Catering Australia (RCA) and the Australian Hotels Association (AHA) to discuss the application of the amendments to those sectors. A specific publication, News for business: Component pricing – restaurants, cafes and hotels was developed for the sector and released on 26 October 2009, along with articles and a ‘frequently asked questions’ document that were provided to RCA and the AHA for electronic dissemination to their membership. The ACCC website also hosts a page that addresses the application of component pricing to restaurants, hotels and particular industry practices such as corkage, side dishes and weekend surcharges.

(4) There are a number of ways in which the ACCC can monitor compliance with the TPA, including the complaints and inquiries it receives from consumers and other businesses, as well as its own market surveillance.

(5) The ACCC has not undertaken any investigations or prosecutions of restaurants or hotels in relation to single pricing since the commencement of the Act.