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SITTING DAYS—2010

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RADIO BROADCASTS
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FORTY-SECOND PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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
Deputy Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

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 McAwen
Chief Opposition Whip—Senator Stephen Shane Parry
Deputy Opposition Whips—Senators Judith Anne Adams and David Christopher Bushby
The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert
Family First Party Whip—Senator Steve Fielding

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

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

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

Heads of Parliamentary Departments

Clerk of the Senate—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, Energy Efficiency and Water
Senator Hon. Penny Wong

Minister for the Environment Protection, 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 and Energy
Efficiency
Hon. Greg Combet AM, MP

Minister for Employment Participation and Minister Assisting the
Prime Minister for 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**

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<tr>
<td>Leader of the Opposition</td>
<td>Hon. Tony Abbott MP</td>
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<tr>
<td>Shadow Minister for Foreign Affairs and Deputy Leader of the Opposition</td>
<td>Hon. Julie Bishop MP</td>
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<tr>
<td>Shadow Minister for Trade, Transport, Regional Development and Local Government and Leader of The Nationals</td>
<td>Hon. Warren Truss MP</td>
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<tr>
<td>Shadow Minister for Resources and Energy and Leader of the Opposition in the Senate</td>
<td>Senator Hon. Nick Minchin</td>
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<td>Shadow Minister for Employment and Workplace Relations and Deputy Leader of the Opposition in the Senate</td>
<td>Senator Hon. Eric Abetz</td>
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<td>Shadow Treasurer</td>
<td>Hon. Joe Hockey MP</td>
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<td>Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House</td>
<td>Hon. Christopher Pyne MP</td>
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<td>Hon. Ian Macfarlane MP</td>
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<td>Shadow Attorney-General</td>
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<td>Shadow Minister for Health and Ageing</td>
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<td>Shadow Minister for Families, Housing and Human Services</td>
<td>Hon. Kevin Andrews MP</td>
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<td>Shadow Minister for Climate Action, Environment and Heritage</td>
<td>Hon. Greg Hunt MP</td>
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<td>Shadow Minister for Indigenous Affairs and Deputy Leader of The Nationals</td>
<td>Senator Hon. Nigel Scullion</td>
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<td>Shadow Minister for Finance and Debt Reduction and Leader of the Nationals in the Senate</td>
<td>Senator Barnaby Joyce</td>
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<td>Shadow Minister for Agriculture, Food Security, Fisheries and Forestry</td>
<td>Hon. John Cobb MP</td>
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<td>Shadow Minister for Small Business, Deregulation, Competition Policy and Sustainable Cities</td>
<td>Hon. Bruce Billson MP</td>
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<td>Shadow Minister for Broadband, Communications and the Digital Economy</td>
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<td>Shadow Minister for Innovation, Industry, Science and Research</td>
<td>Mrs Sophie Mirabella MP</td>
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<tr>
<td>Chairman of the Coalition Policy Development Committee</td>
<td>Hon. Andrew Robb AO MP</td>
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[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 and Shadow Minister for the Status of Women
Senator Marise Payne 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 Education and School Curriculum Standards
Mrs Jo Gash MP 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
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 12.30 pm and read prayers.

BUSINESS

Withdrawal

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (12.31 pm)—I withdraw government business notice of motion no. 1 standing in the name of Senator Ludwig for today proposing a variation to the days and hours of meeting.

Rearrangement

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (12.31 pm)—I move:

That government business notice of motion no. 2, proposing the exemption of bills from the cut-off order, be postponed to a later hour of the day.

Question agreed to.

TELECOMMUNICATIONS

LEGISLATION AMENDMENT

(COMpetition AND CONSUMER

SAFEGUARDS) BILL 2009

Second Reading

Debate resumed from 11 March, on motion by Senator Wong:

That this bill be now read a second time.

Senator RONALDSON (Victoria) (12.31 pm)—I think this is my No. 3 go at this, Mr President!

The PRESIDENT—Senator Ronaldson, I await anxiously your contribution to the chamber!

Senator RONALDSON—And I am only some 12 minutes into it too! Any other surprises? Have I got four or five goes at this on the way through?

I think when I last spoke about this, on Thursday, I was referring to the letter that Telstra had sent out to its shareholders dated 2 March 2010 in relation to the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009. The letter says:

Telstra’s position on this Bill has not changed: while we support the Government’s National Broadband Network (NBN) vision and sensible reforms for our industry, we have always said this legislation is likely to destroy shareholder value and makes an agreement with NBN Co and the Government harder to achieve. In particular:

• denying Telstra access to spectrum will harm not only shareholders, but also consumers—especially those in rural and regional Australia who rely on Telstra for their mobile services;

• the unprecedented and largely unconstrained powers the legislation gives the ACCC and the Minister send a negative signal to investors in our industry and this country; and

• functional separation could cost Telstra $1 billion and take five years to implement, damaging customer service and providing no real benefits to consumers.

The letter then went on to refer to the NBN Co. exposure draft legislation, which honourable senators would no doubt be aware of. It said:

On 24 February, the Government also released draft legislation that would govern how NBN Co is operated and regulated. Although this is only draft legislation, it raises for the first time the prospect of NBN Co becoming a Government-funded retailer, not just a wholesale network provider. Such an outcome would run counter to the core purpose of the NBN and the Government’s primary policy objective of restructuring the industry to have separate providers for retail and wholesale fixed network services. We are very concerned about this potential change in the Government’s position. If enacted, we would need to factor this into the financial consideration required to achieve an agreement that is in the company’s and your best interests—
that is, the interests of the Telstra shareholders to whom this letter is directed. It went on:
In closing, let us reassure you that the interests of our investors, customers and staff will remain paramount throughout the negotiations. We are strongly representing your interests to all parties. Our concerns about the potential shift in NBN Co’s scope will be strongly and clearly stated in our submission on the draft legislation due on 15 March.

Yours sincerely

Catherine Livingstone AO, Chairman
David Thodey, Chief Executive Officer

There has been considerable discussion about this matter in the public domain over the last week, as you would be acutely aware, Madam Deputy President Troeth, and what we have made quite clear is that we are extremely concerned about Telstra’s 1.4 million shareholders and 30,000 employees and we believe this legislation is a direct assault on them.

I want to talk about some of the arguments that have apparently underpinned this legislation, the rationale for it. I look at the competition that has developed over the last two decades to see where this industry has been going, and I can just take one company in particular, Macquarie Telecom—and this is a company that started, I think, in 1992—to show how successful various changes have been over those last two decades. This notion that the government is moving to increase competition within the industry is fascinating when you look at the new entrants, the Macquarie Telecoms of this world, who are very good companies providing a very good service and who are competitive and making money. It is not just Macquarie Telecom; there are many others. This is a competitive industry.

We are not prepared to sit back and watch the government hold a sword or a knife to Telstra’s throat in relation to this legislation. They are, as has been said in this chamber before, blackmailing Telstra in order to prop up their NBN program. Everyone in this chamber knows this will not be commercially viable. This is $43 billion of taxpayers’ funds without so much as a business plan. If you read of a company doing this, you would do one of two things: firstly, if you were an investor you would bail out quick smart or, secondly, if you were not an investor you would not touch it with a barge pole. What we are seeing is a minister who has completely and utterly lost the plot. How could you not have a business plan, and no cost-benefit analysis? It absolutely beggars belief. This is $43,000 million of someone else’s money. I will repeat that: $43,000 million of someone else’s money. This is not the government’s money. This is taxpayers’ money. This is Australians’ money: forty-three thousand million for which there is no cost-benefit analysis or business plan.

Senator Minchin on behalf of the coalition clearly articulated our position in this chamber more than a week ago when he spoke on this legislation. I will just repeat for the public record exactly what we have said. We are more than prepared to debate and engage on the competition and consumer reforms when all the information is available. But these issues should be considered comprehensively, following both the release and detailed consideration of the NBN implementation study—where is this implementation study?—and of the final legislation for the NBN Co., the National Broadband Network Companies Bill 2010 and the Telecommunications Legislation (National Broadband Network Measures—Access Arrangements) Bill 2010, which is currently in its draft form. We are more than happy to sit down and talk about this, but we are not going to see bits and pieces cherry-picked out of a debate as important as this. We are not prepared to sit back and watch cherry-picking of
something as important to regional and rural Australians as the outcome of this legislation.

There is this manic desire to put something on the table, anything on the table, to show that something is being done. Our view is this is far too important a decision to be cherry-picked. It is far too important a matter to be done in a piecemeal approach. Let us put all the information on the table, including the implementation study. Let us see a cost-benefit analysis. Let us see a business plan. Let us make an informed and intelligent decision about where telecommunications in this country will go over the next 10, 15, 20 years. At the moment, we are not in a position to do so. At the moment, as legislators we cannot make an informed decision about the way forward. We cannot do that because we have a minister and a Prime Minister who are trying to get some rubber on the road in relation to telecommunications reform.

It is a bit like rubber on the road in relation to the environment, rubber on the road in relation to the pink batt fiasco: being seen to be doing something, anything, to get some rubber on the road so you look as if you are doing something. Invariably, when you do it without proper planning, when you do it without business plans, when you do it without coordination, you see what happens. You get 110 house fires. You see an industry that is actually torn apart. You see people who have lost their jobs, as there are in Colac, where a company that runs insulation as part of its business—a longstanding family small business—has put off 10 people. Why? Because there is complete and utter lack of planning. Why? Because the government has not done the hard work to substantiate these policy decisions. If we can see a government that will start finally doing some matters and doing the hard yards, then we will have a look at it. But don’t come to us after you have put some rubber on the road when all you are doing is wasting good rubber. If we are going to see some rubber on the road, let us at least have it coming from a vehicle that is delivering some long-term outcomes. There is no vehicle delivering any long-term outcome in relation to this matter.

I will finish my contribution, which, as I said, has been going for over a week, on this note. One of the damning outcomes in a policy sense in the last 10 days has been the quite remarkable admission from the government that this NBN Co. will now potentially become a retailer. It just completely and utterly destroys every iota of their rationale for this NBN Co. put up over the last 12 months. It has in one fell swoop removed from this debate any sense of legitimacy at all. It is a cheap assault on Telstra. It is a cheap assault on 1.4 million taxpayers. It is a cheap assault on mum-and-dad investors who invested in Telstra with the legitimate expectation that their government would not do something that was going to destroy that shareholder value, and certainly not after they had purchased their shares. This bill is a disgrace. The government’s approach to telecommunications reform is an absolute disgrace. I thank the chamber for the opportunity to address this matter.

Senator BIRMINGHAM (South Australia) (12.44 pm)—It is my pleasure to speak on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009. It is a nicely named bill whose title makes it sound fairly innocuous, but it is a bill that strikes at the very heart of shareholder risk, sovereign risk and issues to do with the long-term structure of not just Australia’s communications market but, importantly, the wealth and holdings of many thousands of Australian families.

I have had the pleasure of serving on the Senate Environment, Communications and the Arts Legislation Committee with you,
Madam Acting Deputy President Troeth, which inquired into this bill and every step of this government’s National Broadband Network—all phases of this government’s National Broadband Network; indeed, of course, all the different variations of this government’s National Broadband Network. It is quite apparent to anybody who cares to give this even the most cursory of glances that this is a government that is hell bent on pursuing some type of policy under the name of the National Broadband Network, wherever the cost. We have seen from this government already the tragic consequences of its headlong pursuit of a policy where there has been no consideration of the implications of pursuing that policy.

With much fanfare, back when the Prime Minister was the Leader of the Opposition and Senator Conroy was the shadow minister for communications, the government announced the establishment of a national broadband network as a key part of its election platform. They waved it around to the Australian people and said: ‘This is a fabulous new plan. This is a plan that will fix Australia’s broadband problems and deliver for all Australians.’ The plan was based on a fibre-to-the-node broadband network. The system was based on the premise that upgrading parts of the network would deliver faster speeds and benefits across the network.

When the government were elected they started attempting to implement their fibre-to-the-node network policy. In doing so they spent millions of dollars and failed to meet every deadline they set themselves. Consultants were the major beneficiaries of this. As always when this government seems to spend its money, the winner was the consultants, who reaped millions and millions of dollars from the study of how the national fibre-to-the-node broadband network would be implemented.

What happened? After spending millions of dollars and after investing significantly in the development of that network, they discovered—they claimed—that none of the bids they received could deliver it. Had they listened along the way to the many concerns from people who suggested that the structure and approach the government were pursuing were inadequate and inappropriate, and had they listened to the concerns of the opposition along the way about the issues surrounding their National Broadband Network stage 1 proposal, they would not have ended up wasting millions of taxpayers’ dollars. But, no, they went down that path. As we have seen time and time again with home insulation, green loans and other portfolio areas where this government has pursued an agenda without listening to the warnings and without heeding any of the commentary around it, it resulted in Australian taxpayers being worse off.

So we got to the end of the National Broadband Network stage 1 with the government having spent millions of dollars and not finding a successful tenderer or proponent to deliver on its fibre-to-the-node network. The Prime Minister and the Minister for Broadband, Communications and the Digital Economy, on a few airline flights that crisscrossed the country, decided that the government’s $4-odd billion fibre-to-the-node network was not good enough and could not be delivered, so in a panic they upped the stakes. Boy did they up the stakes—it went from a $4-odd billion network to a $43 billion network. That is upping the stakes all right. That was the Prime Minister saying: ‘We’ll put it all in. We’ll put it all on red.’ This government has a continuous capacity to put it all on red—and to drive us into the red, in fact, in terms of the debt and spending of this government.

So they came up with a new national broadband network. The stage 1 fibre-to-the-
node network was placed in the bin and totally forgotten about—never mind the millions of dollars wasted along the way. We now had National Broadband Network stage 2. Some 18 months into the government—never mind that no cable has been laid, no fibre has been laid and no new services have been delivered and there is nothing for Australia’s communication users; do not worry about any of that—we have a new model and a new plan that is even better. We are told it is even better because the government are going to spend some $43 billion on building it.

They believe they are going to miraculously get private sector investors. They believe that somehow they are going to keep the government shareholding in this to $51 billion. They believe that somehow Australian mums and dads are going to part with their hard-earned money to buy Aussie Infrastructure Bonds in this miraculous new National Broadband Network.

We have seen with this new process in place the government again failing to meet all their own deadlines. They are dragging their heels. They are desperately hoping they can hold together this farce of a policy until after the next election, because they know this policy will not be attractive to investors, they know it will not be attractive to Australian mums and dads who might wish to put their hard-earned money somewhere and they know they are not going to come up with the billions of dollars they need in Aussie Infrastructure Bonds or from investors to cobble together this new fibre-to-the-home broadband network.

Not only were they upping the stakes in the dollars spent but, instead of just taking fibre to the node to a point that would hopefully increase services, they decided to go the whole hog and take it all the way to the home. They did this without any cost-benefit analysis or any study as to how it might be achieved. It was the Prime Minister and Senator Conroy sitting on the Prime Minister’s jet crisscrossing the country saying in panic: ‘We can’t deliver on our first promise, so we’d now better find a new way to deliver a better promise. We’d better find something that is big enough and bold enough that it might capture the public imagination and fool people long enough to get us through the next election.’ That is what this, of course, has been all about.

The government, in introducing this legislation, has attempted to claim somehow that it is not core to the National Broadband Network and not central to the development of the NBN. Yet even strong supporters of this legislation, such as David Forman from the Competitive Carriers Coalition, told the Senate inquiry into this bill:

If you suggested to me that the NBN was likely to succeed in the absence of this legislation I would suggest that that is a pretty big bet.

It is a very big bet; it is all on red already. The government has pushed its $40-odd billion dollars in there. It is all on red and it would be a very big bet to think that this bill is not central to the government’s NBN objectives. It is central to it because of what this bill does to Telstra. The government is using this bill to try to blackmail Telstra into structurally separating, to try to force Telstra’s hand and, in doing so, it is going to jeopardise the shareholder value for hundreds of thousands of Australian families and jeopardise Australia’s reputation as a centre, a nation, where investments are sound, where governments do not go and pull the rug out from underneath investors on an ad hoc basis.

The coalition has argued consistently from day one that this and all other NBN legislation should wait until we see the implementation study. It is not an unreasonable propo-
sition, seeing that we know there was no cost-benefit analysis and no study done into whether fibre-to-the-home broadband could actually be delivered. There was nothing of consequence done by this government before announcing its back-of-the-envelope plan after a couple of plane rides by the Prime Minister and Senator Conroy. We have said, quite reasonably, that the government should release the implementation study into its NBN before we as a Senate and as a parliament go tearing up Australia’s communications framework, rewriting all of the legislation, trampling all over the rights of mum-and-dad shareholders and of a major Australian company, Telstra, risking Australia’s sovereign risk and putting in jeopardy the perceptions of investors right around the world. We have said, ‘Let us see the implementation study.’ Why have we said that? Every time we have questioned the government on its NBN, every time any of us have questioned Senator Conroy or anybody else, their response has been, ‘We have to wait for the implementation study,’ or, ‘That will be in the implementation study.’

Let us just have a look at the implementation study and what the government has said about it. During budget estimates last year Senator Conroy told the committee:

The government will shortly commence its implementation study, which will, among other things, work through the detailed network design and rollout schedule for the NBN. It will also investigate the extent of coverage that will be achieved by [fibre-to-the-premise], next-generation wireless broadband and satellite elements. That implementation study is due for completion in early 2010.

That was a generic statement, a fairly all-encompassing one, mind you, as to what might be in the implementation study.

Let us look at some of the key areas related to how you develop a national broadband network. Let us start with pricing, which is fairly fundamental: what will consumers pay and what will retail providers of broadband services pay? On 14 May 2009 Senator Conroy said:

Pricing levels on the National Broadband Network will be a key issue considered in the implementation study …

When asked on 26 May 2009 by Senator Minchin:

Can you guarantee that the wholesale fixed line prices will be no higher than they currently are?—could Senator Conroy guarantee that wholesalers and retailers who take up this service would not be paying any more in wholesale prices—Senator Conroy replied:

That is why we are having an implementation study.

In relation to the costs of this proposal, Senator Minchin asked:

Are you able to give the committee at least some breakdown of that $43 billion in terms of wages, equipment, capital and expenditure?

Senator Conroy on 26 May 2009 replied:

The implementation study is examining most of those issues.

In response to a question on notice asked by Senator Abetz on 17 August last year:

What is the total Federal Government contribution to its cost …

Senator Conroy responded:

To be determined as part of the Government’s consideration of the Implementation Study.

Asked about what other funding sources might be involved in the project cost, Senator Conroy answered:

Strategies to maximise private sector investment will be investigated as a part of the Implementation Study …

When asked about the timing of the rollout and completion phases and when we might expect to see some progress, he replied:
The phasing and associated costs for the full roll-out will be developed as part of the Implementation Study.

When asked about cost-benefit or other modelling that might have been done before the project was approved, Senator Conroy responded:

The Government has commenced the process to undertake a detailed Implementation Study that will include business case modelling.

When asked about rural and regional Australia and in particular the Glasson report, Senator Conroy has provided little information.

The Glasson report, started under the previous government, detailed a whole range of improvements that were necessary to services in rural and regional Australia, and the coalition funded the National Communications Fund to address those improvements. This government has raided that fund to pour into its $43 billion National Broadband Network. This government has taken the $2 billion of capital that was left to ensure rural and regional Australians were never left behind and it is of course going to pour those funds into this great monolith called the NBN. When asked about the processes for delivery of the Glasson report requirements around broadband services, what was response from Senator Conroy? He said:

We will see what the implementation study provides to us and then we might be in a better position to make an assessment along the lines that you are calling for.

How might this rollout occur? In relation to the cabling issues, will we see fibre strung up and down every street in Australia? Will it all be overhead wiring? How will it be rolled out? Senator Conroy on 16 June said:

... we have said we are having an Implementation Study to go through all these issues.

I am sorry if this is repetitive, Madam Acting Deputy President, to you or the chamber or the people in the gallery, but it goes to the heart of the fact that, on every detail this government has been asked about when it comes to this National Broadband Network, Senator Conroy has responded time and time again by citing the implementation study as the vehicle that will provide the detailed answers.

In relation to ownership levels, the government has indicated a minimum shareholding of 51 per cent. ‘Has the government indicated a maximum shareholding in this company?’ Senator Minchin asked on 26 May last year, indicating further that at that time, as is still the case today in 2010, the government owned all the shares. The response from officials at Senate estimates was:

... issues relating to the structure of the company will be finally determined after the implementation study.

When asked about equity, where the money will come from, the timing of the program from which the money will come and how much the taxpayer has to put in first before we get any of the private sector money that is allegedly coming to this, the response was:

It is an issue that will also be dealt with as part of the implementation study as the appropriate mechanisms to utilise.

It is transparently clear that this government has charged ahead on this issue, trying to ram legislation through this parliament without having considered, without having publicly released and without having informed the parliament or the senators within it of the details of this implementation study. We knew it was due to the government in February. We understand that the minister has received it.

Senator Cormann—They’re sitting on it.

Senator BIRMINGHAM—They are sitting on it indeed, Senator Cormann. The minister revealed that he had had a knock at the door at six o’clock on a Friday night to
say, ‘Minister, here’s your implementation study.’

Senator Cormann—Interrupting his snowboarding.

Senator BIRMINGHAM—It could have been interrupting anything. I guess. It was far more likely to be interrupting the minister’s soccer viewing. So the minister has his implementation study. Given that it is canvassing all of these issues—pricing, probity, delivery to rural and regional Australia, cabling, aerial deployment, shareholding, pricing; you name it, it is canvassed in the implementation study—I assume it was a large truck that rolled up to Senator Conroy’s door at six o’clock that Friday night to deliver him the implementation study.

I can tell the Senate what would make life easier for Senator Conroy and make it easier to digest his implementation study, and that would be for him to release it instantly. If he were to release it instantly, I can tell you that there are many people on this side of the chamber, many people on the crossbenches, many people in the telecommunications sector, many business analysts and many reporters who would all love to help Senator Conroy assess the validity of his implementation study. But, most importantly, we would all love—particularly those of us who are asked to make judgments on significant and important legislation like this—to know whether it all stacks up, whether it will all work out or whether it is just going to go the way of National Broadband Network stage 1. Eventually, after millions of dollars have been spent on consultants, after the government has built up expectations throughout the community, after the government has baffled investment in so many other areas of the communications sector—because nobody wants to act, believing that the government is going to come charging through like a herd of elephants and trample all over this sector—we want to know whether it is going to stack up, whether it is actually deliverable, whether Australians will take it up, at what price it is going to have to be subsidised and whether indeed the private sector investment that the implementation study says is needed to make this happen will occur.

We want to know the answers to all of those questions because we are trying to take a responsible approach from this side of the chamber. We are trying to assess whether or not what the government says it can achieve by this can be achieved by this before we go and give it a blank cheque. This bill is effectively a blank cheque to the minister and the ACCC to tear apart the structure of Telstra, to potentially jeopardise the delivery of wireless services in Australia for years to come and to do so without having provided us with the answers to any of the fundamental questions. I and the rest of the opposition will continue to argue against this until such time as Senator Conroy comes into this place, answers questions and gives us his implementation study, rather than continuing to bat them away, saying it is in the never-never somewhere.

Senator CORMANN (Western Australia) (1.04 pm)—The coalition is totally opposed to Labor’s attempt to force the break-up of Telstra through this legislation. We urge the Senate to join us in opposing it. The Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009 is, of course, a distraction. Labor’s attempt to force the break-up of Telstra is a distraction. It is a distraction from Labor’s failure to deliver on their pre-election promise to roll out the National Broadband Network. Labor are pursuing a political strategy to develop an excuse. When they go to the people at the next election they want to be able to say, ‘If only this legislation had passed. If only this obstructionist Senate had not stopped us from passing this disgraceful
piece of legislation then we would have of course been able to deliver all of the things that we promised you before the last election. That is what this is all about.

This minister has been completely incompetent in managing the communications portfolio and, in particular, in managing the delivery of the pre-election commitment to roll out the National Broadband Network. If I were the minister I would start looking over my shoulder and listening for the steps of Minister Greg Combet down the corridor. No doubt the time will come when the Prime Minister will have no choice but to go back to Minister Combet and get him to sort out yet another failed portfolio in his government.

There is a view that some parts of this legislation are good initiatives, that some parts of this legislation would be good for rural and regional Australia. However, the problem is that the things in this legislation that are bad are so bad, and they are so bad for rural and regional Australia. The way the break-up of Telstra is proposed to proceed under this legislation is so bad that this legislation cannot possibly be supported. I say to people in rural and regional Australia that they cannot trust what the Rudd Labor government promise to deliver for rural and regional Australia. They have a very bad track record when it comes to rural and regional Australia.

I just remind people across rural and regional Australia that it was the Rudd Labor government which abolished the $2.4 billion Communications Fund which was established by the coalition for telecommunications upgrades in rural and regional Australia. It was this government that cancelled the $2 billion Opal project, which would have seen fast and affordable broadband services delivered throughout underserved rural and regional areas this year. And it is, of course, this government, the Rudd Labor government, which is winding back the Australian broadband guarantee program, which provides for subsidised services for Australians living in underserved areas. If the government had only proceeded with our plan, rural and regional Australia would have fast and affordable broadband now. But no. For purely political reasons and pride the minister is intent on going down a path that now leaves rural and regional Australia, along with the rest of Australia, sold short. It is a path that, if he had given it any thought or consideration, or if he had listened to the advice that was provided to him at the time, he would have avoided.

Of course, the government’s plan has been widely condemned. I make the point that was made by previous speakers: this is a plan that was put together on the back of a beer coaster or envelope—a $43 billion commitment of taxpayers’ money with no proper business plan and no proper process. Labor’s attempt to roll out the National Broadband Network and the way this legislation has been handled by the government so far has been roundly condemned. I will read a few extracts from some comments that have appeared in the press in recent times. On 8 August last year, Rachel Hewitt in the Herald Sun wrote:

It will take at least 18 years for most Australian homes to be connected to the Rudd Government’s National Broadband Network, according to financial services giant Goldman Sachs JBWere.

In Communications Day, on page 1 on 9 September 2009, it said:

The National Broadband Network is about as risky as it gets for potential investors … and is ‘lacking in any measure of financial or commercial rigour’.

A few weeks later Communications Day said:

Communications, Electrical and Plumbing Union national president Ed Husic was concerned that
the new bill had been crafted with very little engagement with unions. ‘Frankly, from our perspective, the Government could have done a lot better on consultation.’

An article from Petroc Wilton, also in Communications Day, said:

According to an AAP report—

I note that our friends from AAP, as always, are in the gallery with us today—

the Australian Shareholders Association decried the proposal as lacking a single positive aspect from a shareholder’s perspective—

there are 1.4 million shareholders across Australia, overwhelmingly mum-and-dad investors, who are going to be seriously impacted by this sort of terrible legislation that has been put forward by the government—

forecasting nothing but pain for Telstra stock owners should the bill pass into law.

I think it’s a giant kick in the teeth for Telstra shareholders; it severely damages the earnings potential of the company and there’s really not one—

—positive thing in it. Here is another headline, ‘Rudd playing Ned Kelly with Telstra’, an article by Peter Swan. It says:

We rightly denigrate corrupt communist officials when we see instances of this.

I am quoting. These are not my words; these are the words of Peter Swan. He continues:

Australians believe in fair play, so much so that our forefathers enshrined the right to just compensation for expropriation in section 51 of the Australian Constitution.

But what happens if the asset in question is not a $5 million generator in China but is worth tens of billions of dollars, is here in Australia, right now, and is owned by hundreds of thousands of mum and dad investors.

…  …  …

The $43 billion scheme was launched with no business plan to speak of and no costings beyond the back of an envelope.

Stephen Conroy’s announcement of ‘historic reforms to telecommunications regulation’ is actually a monumental admission of incompetence, failure and both policy and regulatory weakness. In other, plainer words, it’s a total crock …

I do not think it can be put any stronger than that. Just reflect on the way this so-called National Broadband Network plan was put together. In those days there was a series on the ABC called The Hollowmen. I am sure senators will remember it. Sadly, the series is not running right now. There is a particular episode that I remember well. There were a couple of ‘hollowmen’—a couple of advisors—standing in front of a whiteboard and they were trying to come up with a plan. The question was: does it have the wow factor?

When you stand back, does it have political bang? Is it going to be properly received? I can just imagine Senator Conroy and the Prime Minister sitting in a plane with the proverbial whiteboard somewhere there in the Prime Minister’s suite in his VIP aircraft. They put $5 billion on the whiteboard. ‘Does it have the ‘wow’ factor? Nah, not good enough. Ten billion dollars? Nah. Twenty billion dollars—are we getting closer? Forty billion dollars? Oh yeah—wow! Forty billion dollars is good, but it looks too much like a figure grabbed out of the air; let’s make it $43 billion so it looks like there is some science behind it.’ Straight out of the ABC script—how to put a package together. It is not serious.

Whenever commentators or indeed senators or stakeholders across Australia have questions of this government about the lack of seriousness in what they have put forward, the response is: it will all be in the implementation study. It will all be revealed; never you worry. We know that the government received the implementation study last month. Now that all the answers are going to be revealed, does the government share them with us? No. They are being kept secret. I
ask the question that I have asked in this chamber before: what has the government got to hide? If all of the answers are there, if the implementation study is going to show us how this can be realistically delivered, if the implementation study is able to show us how this $43 billion expenditure of taxpayers’ money is a sensible spending of taxpayers’ money, why would the minister not walk into this chamber today and say, ‘Here it is. You have asked us about x, y, and z: here is the answer. You have been concerned about this, that and whatever; here are the answers’? Why would the minister not do it if he had nothing to hide?

The reality is that they have not been serious right from the start. As far as the break-up of Telstra is concerned, the government have never taken it to the Australian people. The structural separation of Telstra is a pretty significant change, with 1.4 million shareholders, 30,000 employees as well as all the families associated with that directly impacted. This is going to have some serious implications for a lot of working families, dare I say, across Australia. Yet did the Rudd government take the Australian people into their confidence before the last election about what they were planning to do and say, ‘We are planning to take billions of dollars off the value of your asset when we get into government’? No, they absolutely did not.

Here we have a circumstance where the government did not put this proposition to the Australia people, so they do not have a mandate and they cannot claim a mandate. They have put a plan together on the back of an envelope without any seriousness whatsoever, and they are keeping the implementation study secret, yet they are saying to us, ‘Take us on trust. Trust us; we are from the government; we are here to help.’ I say to the Senate that we cannot take this government on trust. This government has done nothing over the last 2½ years that would lead us to believe that we can take it on trust when it comes to major expenditure of taxpayers’ money. Just look no further than the absolute debacle that was the $2½ billion Home Insulation Program. If they cannot give $2½ billion away in free home insulation without creating all sorts of issues that have been well documented, then how can we trust them with this? We are spending $43 billion just like that, sight unseen.

Last week we heard Minister Conroy, along with a conga line of failed Labor ministers, whinge and complain about so-called Senate obstruction. It was quite incredible theatre that was being played out last week and it is, no doubt, part of the government’s pre-election strategy. Everything that is happening right now has to be judged against the background of a government totally focused on its re-election and not focused on the national interest. Here we have a government whingeing, moaning and sulking about so-called Senate obstruction. The Senate is here to protect the Australian people from bad government, from bad legislation like this and, of course, from incompetent ministers who want to strip billions of dollars, without any proper explanation and without any proper process, off the value of an asset many people across Australia own.

I say to the minister: if you want to go out there again and complain about the activities of the Senate, just think about it. As legislators we have a responsibility to support good legislation but to vote against bad legislation which is not in the national interest. That is what this process is all about. Sometimes what happens in this chamber will actually force the government back to the drawing board and the government will see the light, negotiate improvements and come up with a better way forward. We have seen some examples of that over the last 2½ years. Then there is some legislation which is so bad or where the government is not prepared at all,
for ideological or other reasons, to entertain any change whatsoever. If we are in a circumstance where the government presses ahead, no matter what the view of the Senate is, then of course we are going to vote against it, and so we should. We are elected to do a job. We are elected to scrutinise legislation that the government puts forward, whether the government likes it or not.

I well accept that governments of all persuasions do not like it when they do not get their way in the Senate. But there are two different ways of dealing with that. Either you sit in the corner and sulk and throw your hands up in the air because you cannot do anything, or you actually engage and accept the important role of the Senate, you accept that there is a responsibility in the Senate to scrutinise government legislation, you accept that we have all been properly elected to do a job and you engage with the Senate in a discussion on how legislation can be improved or whether there is any prospect at all of the legislation ever getting up. Quite frankly, why is the government wasting so much time with legislation which falls into the category of ‘will never get the support of this Senate’?

We have had weeks and weeks spent on the flawed emissions trading scheme legislation and we have had weeks and weeks of debate on Labor’s broken promise on the private health insurance rebate. We have now spent quite some time on this legislation. They can argue until they are blue in the face, but the government know that the position is so intractable that there is absolutely no prospect that we will ever be supporting it. What are they doing? Other than whingeing, sulking and trying to set themselves up for a campaign in the lead-up to the next election where they are going to use the Senate as an excuse for why they have not delivered on all of their election promises, what is the government actually doing about it?

I read something today that quite astonished me. I do not expect this Prime Minister to meet with us but I would have expected him to have the occasional meeting with crossbench senators. I was astonished to read a transcript today that said that Senator Bob Brown has not had a face-to-face meeting with the Prime Minister in six months. I was astonished to read that the Prime Minister has not had a face-to-face meeting with Senator Xenophon in 12 months. This government is all talk and no action. They are out there whingeing, complaining, sulking, pointing the finger, blaming everybody else and blaming a Senate that is doing its job. What are they actually doing about it? Nothing. It is like the bus that I have spoken about before. They are sitting in the bus which is now the ‘let’s break up Telstra’ bus and they are driving it towards the wall. Rather than apply the brakes or turn the bus around they just accelerate. They are intent on driving that bus into the wall, again and again, no matter what happens to the 1.4 million Telstra shareholders who are on the bus with them.

This is not a way to run a government. This not a way to properly manage public policy and public administration. The people across Australia should be appalled that their government is operating this way. The people across Australia should be grateful that we have a Senate that, again and again, is holding this government to account, scrutinising bad government legislation, forcing improvements to those bills that can be improved and voting down bad government legislation which clearly cannot be improved and which is not in the national interest.

The government should give us one simple reason why we should not see a copy of that implementation study. Given the fact that there has been no business plan, given the fact that what the government is proposing to do here has not been part of a pre-
election debate and given the fact that there has been no appropriate scrutiny of both the proposal on the table and the flow-on implications of it, why would the government not put forward and table today a copy of the implementation study? That could be a circuit breaker. The Rudd government could start a new era late in its first and, hopefully, final term. It could follow through on the commitment it made before the last election of increased transparency and accountability. It could come into this chamber and say, ‘Okay, we’ve seen the light, we understand what you’re saying, we understand that we are spending $43 billion of taxpayers’ money without a proper business plan, without giving you a look at any of the documentation that would demonstrate the flow-on consequences and the way we are proposing to manage the risks associated with what comes out of this bill, but we understand that you cannot possibly make a decision without having access to that.’ That would be a sensible and responsible course of action from a government that is prepared to properly engage with the Senate. But looking at the performance of this government over the last week, sending out five ministers complaining about an obstructionist Senate, having the Prime Minister out there shouting, ‘Get out of my way!’ is not the way a constructive government engages with its parliament. And whether the Rudd Labor government likes it or not, the Senate is an integral part of the legislative process in Australia. That is the way it was intended by our forefathers in the Constitution, it is a job we were elected to do, it is the job the Australian people expect us to do and we will continue to do it.

Senator BERNARDI (South Australia) (1.24 pm)—Rising to speak on the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009, I would like to pick up on Senator Cormann’s comments about trust, communications and the operation of this government. I want Senator Cormann and the good Australian men and women in the gallery to have a look at how this Prime Minister conducts himself when dealing with state premiers. He wants to talk about open, transparent and cooperative federalism but this Prime Minister is so conceited and egotistical that he refuses to engage with the Premier of the State of New South Wales. The body language, the vision, capture it all. This government and Prime Minister are absolutely drunk on power and hubris and no more is that reflected than in this bill.

The Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009 compromises and attacks any number of things which we hold very dear in this country. First and foremost, it attacks property rights. People in Australia have a reasonable expectation. We have a stable and democratic system and we have a common law which protects people so that when they invest in this country, when they purchase shares in public companies, risks will be disclosed appropriately and Australians can rely on a consistent and regular approach to economic policy. Of course, there are going to be variations in this and I have to accept that but investors and consumers can generally make those assessments for themselves. In the case of Telstra, regulatory risks were discussed in the three prospectuses put forward by the coalition government. However, nowhere in the risks which were disclosed was there anything about the structural separation of Telstra.

The Australian people made a reasonable assumption that the Labor Party hated the privatisation of Telstra because they voted against it again and again. It cost the Australian public billions and billions of dollars through the Labor Party’s intransigence in voting against a bill and policies that the government of the time clearly had a man-
date to implement. Australia would possibly have no debt today if the Labor Party had allowed the full sale of Telstra much earlier.

Why do I talk about the history of this? Because I still remember that, after the third tranche was sold, the Labor Party, having been steadfastly against it the entire time they were in opposition, walked in here and said, ‘It is now our policy; we agree with the privatisation of Telstra.’ How can we believe them when they are starting to attack the very company which they now agree should have been sold off? A $60 billion apology is what the Labor Party owe the Australian people. This is about principle. I know it is old-fashioned to have some principles in this place but those on the coalition side continue to hold principles. We do not believe that it is appropriate for government to ride roughshod over private industry unnecessarily. We believe that the interests of the 1.4 million Telstra shareholders are of importance. We believe that the 30,000 Telstra employees deserve some certainty in their future.

Senator Marshall interjecting—

Senator BERNARDI—Senator Marshall is guffawing over the other side. That is his intelligent contribution to this debate. We know that Senator Marshall represents the extreme hard Left of the Labor Party—and he is starting to laugh because we are sticking up for 30,000 employees at Telstra and for the 1.4 million Telstra shareholders!

What we should be laughing at are the claims made by Senator Conroy when he was opposition spokesman for telecommunications. He was out there saying that the coalition’s plan for wireless internet would not work. He made outlandish claims such as: it was going to open garage doors, it was going to turn microwave ovens on, and it was going to make chickens produce hard boiled eggs. He made all sorts of ridiculous claims because he did not support a wireless network. Yet, now, what is he doing? He is threatening one of our largest companies, with 1.4 million shareholders and 30,000 employees, by withholding wireless spectrum, which he previously said was hopeless and would not do anything.

The concerns that arise from this bill go to the very heart of how our government should interact with the economy. I know that there are many on that side of the chamber who have differences with me on that point—it is surprising, but there are. It is logical that markets should function as efficiently as they possibly can, but that has been lost on this government. The government has taken step after step and measure after measure in order to interfere in the efficient operation of our economy, and the results are there for all to see. There have been hasty schemes, there have been bungled schemes and there have been hapless schemes. All of those words could be applied to this government. It is hasty, it is bungling and it is hapless. The insulation program is an ongoing debate. Millions upon millions of dollars have been wasted and people’s lives have been lost as a result of this hasty, bungled and hapless government program.

We have seen the same thing occurring at the schools level with the Building the Education Revolution program. Again, millions upon millions of dollars have been wasted through hasty, bungled and hapless schemes. What about the $900 bonus that went out to people? Dead people got it and people living overseas got it. What has happened to all those billions of dollars which have now gone to places that we know not where? There is now no actual impact and benefit to the economy from that bonus. There has been no long-lasting investment. It was simply a hasty, bungled and hapless scheme, as were Fuelwatch and GroceryWatch and all of the other schemes.
But perhaps the biggest and most hasty scheme that we have seen is the proposal before us today: a $43 billion taxpayer spend that was conceived on the back of an envelope—because there was no plan. There was no in-detail or in-depth study of it. The government has come to the conclusion that the scheme will not work unless it can bully, cajole or bribe Australia’s biggest telecommunications company to participate in it. It does not have to stack up on its merits. It just has to be part of the vision thing that this government wants to pursue and highlight. The government is prepared to do anything to make that happen, even if it is unnecessary or unworkable.

We should not be surprised that words like ‘blackmail’, ‘extortion’, ‘thuggery’ and ‘bullying’—describe it as you will—have been applied to the bill before us. We should not be surprised at the conduct of the Labor government because we have seen this sort of bullying, blackmailing, extortion and thuggery before. We have seen it repeatedly from Labor governments at state and federal level. It comes down to this: this government is just a reflection of other Labor governments, where bluster, the threat of intimidation and coercion mean more than actual substance. If the government were happy to rely on the substance, they would have had a business plan, not just a plan to employ mates at $450,000 a year. Mike Kaiser is now the king of communications at NBN Co. The minister’s mate has a $450,000 a year job, without it being advertised or put under any competitive pressures. It is $450,000 to communicate on behalf of a company that has no business plan and has had no significant employees or operations. It was just an idea. It was an idea that was probably cooked up on that ill-fated plane flight when the Prime Minister attacked a poor stewardess over a substandard sandwich, or was it when he was in Afghanistan attacking his aides for not having a hairdryer available. Whatever it was, it was probably around that time that they cooked it up.

I come back to the principle. Telstra shareholders—the mums and dads of Australia who relied upon government to look after their interests and who relied upon this government when it said to them that they would get a better deal—have been deceived. The government has failed. This legislation is an attack on Telstra shareholders. There is no question about that. If Telstra do not agree to do what the government wants, their commercial viability is at risk. If Telstra agree to it, they have to be part of this government’s plan, which is unviable without Telstra’s participation. The plan actually compromises Telstra’s existing business case.

It is very tough for any business operation, particularly one as big as Telstra, to manage its commercial direction when that is based on the whim of government. And the whim of government was not just about cooking up the $43 billion plan; it was also about the government pursuing its original internet broadband plan. This original plan went through a tendering system that cost millions upon millions of dollars—I think it was around $25 million—and it was spectacularly unsuccessful. At the time it went out to formal tender, I remember Senator Conroy standing up in here, defending the fact that Telstra had put in a one-page submission—and I will stand corrected on that—which was not officially a tender document, and berating us because we were concerned about whether it was a tender or not.

If a $4 billion dollar spend is not going to work very well because this government cannot make it work, what makes this government think that a $43 billion spend is actually going to work better? If $43 billion is their estimate, based on what we have seen of their school hall blowouts, their insulation
bungling, GroceryWatch, Fuelwatch and all these other schemes that have probably had a bit more thought put into them than what we have got before us, that $43 billion is likely to turn into $50 billion or $60 billion or maybe even more. The Australian people will be paying for this for decades and decades to come because it will remain on the government’s balance sheet unless they can blackmail and coerce Telstra and other organisations into it to off-load their scheme.

Excusing all the bungling of this government, if they had stuck to their knitting and said, ‘We want to build a broadband network and it is going to be a wholesale provider,’ they could perhaps manage to justify it at some level. But what we have seen is more tinkering around the edges, more thuggery and bullying where they have threatened to go into the retail space. This government appear more intent on recreating their own Telstra and winding back the clock. I know they have wound back the clock on industrial relations. I know they have wound back the clock to Gough Whitlam’s exorbitant spending operations and debt levels. I know they have wound back the clock on telecommunications. I know they have wound back the clock to Gough Whitlam’s exorbitant spending operations and debt levels.

It is disappointing that with something as serious as this and with so much money at risk we have not got a minister who is actually prepared to stand up and say to Mr Rudd and the others in the kitchen cabinet, ‘There are lots of flies on this; there are too many flies to fix.’ Rather than realising they are in a big debt hole, they just keep digging, trying to tweak it and change things. These are the characteristics of a flawed government. They are the characteristics of a government that are really managing things for the immediacy of today. They are not that concerned with the future; they are more concerned with getting another election win under their belt. There are a number in the Labor Party, as we read on the weekend, particularly in Senator Arbib’s New South Wales Right, that are intent on replacing Kevin Rudd with Ms Gillard. This fusion between the Right and the Left in the New South Wales Labor Party is really quite astounding, but it comes back to principle and it is clear there are very few people of principle in decision-making positions within the Labor Party.

The coalition does want to see adequate broadband, particularly for regional and rural Australia. I remember when we were in government we implemented a program for the Yorke Peninsula, which was assisted by a great South Australian company called Internode. We were providing wireless broadband, the same sort of broadband that Senator Conroy discredited and laughed at, which he now coincidentally wants to implement.

Broadband for Australians is an important thing, but it is a question of at what cost and to what benefit? In other parts of the world there are private companies that are actually expanding their broadband networks. We are seeing a massive investment by Google in some states and cities in the United States for a very, very fast broadband service. Telstra could provide the same here if it wanted to and was allowed to get on with the business that it is in, but it is being compromised by this government. If this government were serious about it, they would let the commercial operations produce the commercial networks that they want to see and the government would focus on providing cost-efficient fast broadband access for those areas that the commercial networks would not be pursuing. This could have been done at a reasonably
efficient cost and with a long-term plan in mind that would have accommodated the increasing advances in wireless spectrum, the same sorts of spectrum and technologies that were laughed at by this dinosaur of a minister for communications. He laughed at them, yet they would now provide a viable, efficient and cost-effective alternative. Instead of doing that, the government goes for the whole pie. They are trying to claim it all. They are trying to put pressure on a company that 1.4 million Australians have a shareholding in. They are putting pressure on and threatening the very jobs of 30,000 Australians, and their families will suffer under this bill.

It will not surprise you to learn, Mr Acting Deputy President Marshall, that the coalition is opposed to this bill. It is opposed to it because it compromises what I believe to be the role of government. It compromises the integrity of our system. It compromises the interests of Telstra shareholders and Telstra employees. It compromises the future debt burden and the ability to repay a rapidly escalating government debt by the Australian people. We are prepared to compromise and, if the government were prepared to compromise on providing broadband services to the Australian people, we could come up with a very effective solution. The problem is that this government is intransigent. It is not interested. It trots out the five amigos and says that the Senate is obstructionist. No, this Senate is representative of the will of the Australian people. It represents the interests of everyday Australians that this government is more interested in riding roughshod over. The coalition wants to look after Australia’s future communication needs, but we also want to balance it against Australia’s future debt obligations. That is why we are opposed to this bill.

Senator BOYCE (Queensland) (1.44 pm)—Telstra and its forebears has always held a rather special place within my family’s history. My father, more than 60 years ago, took his first job as an engineering draftsman with what was then the Postmaster-General’s Department. Its copper networks and the extraordinary changes to them over the last 60 years have occupied a special spot within my family’s history and background. So it is with a lot of concern and disgust that we note the changes, the broken promises, in this bill.

Labor’s policy before the 2007 federal election stated:
Labor will ensure that Telstra’s wholesale and retail functions are clearly distinct within the company.
So we have another example of Labor’s deceit going to the election and their high-handed treatment of promises they make—they change them whenever they are in the mood.

The Minister for the Environment, Heritage and the Arts, Minister Garrett, was alleged to have told journalists before the election: ‘Once we get in, we’ll just change it all.’ He furiously denied saying this. Well, sorry, but the alleged words of Minister Garrett are ringing more and more true. It is pretty obvious that, if this government do not like what they have promised, they just break the promise. This legislation, the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009, is yet another example of them doing that. One hopes, given the depth of feeling of the 1.4 million Telstra shareholders out there, that this is the straw that breaks the camel’s back and the people of Australia finally realise that the word of the Rudd Labor government cannot be trusted.

The government not only changes its policies to suit its spin and media manipulation but also changes its ideas. Who can forget that the Prime Minister was an ‘economic
conservative’ before the election? He is now a socialist who obviously believes in big government. This government’s willingness to intervene in markets and to destroy competition for its own purposes would be breathtaking if it were not disgusting. We had a bank guarantee that favoured savings accounts over investment accounts and resulted in the freezing of investment redemptions for many, many self-funded Australian retirees. People flocked to move their money to savings accounts and incidentally improved the situation of the big four banks—allegedly the banks that the Labor government wanted to ensure faced more competition. Instead, under Labor’s policies they faced less. We had the means testing of private health insurance rebates—which this Senate dealt with last week, I am pleased to say. The promise before the election was, ‘There’ll be no means testing of private health insurance rebates.’ What did the legislation in this house last week do? Exactly that. We had said no to it once already, but they insisted on bringing it back.

We are now faced with the forced school projects, the so-called Julia Gillard memorial halls, with tenders going to non-local companies, often ill-equipped to complete the job requested. I make the point that this is the job requested by the department and the minister, not the job requested by the schools. It would be far too difficult to allow schools to decide what they need! Part of this big-government approach is to tell schools what they will have, irrespective of whether or not they need it.

Australian taxpayers have been given a very doubtful present by this government. They have been given record levels of public debt, which they will be paying back for generations to come. But what can we expect from a government that is contemptuous of markets and apparently ignorant of unintended consequences? It is certainly not prepared to carry out the rigorous and often time-consuming scrutiny needed to ensure there are no unintended consequences and, as a result, this government lacks economic credibility. This is becoming more and more clear all the time to the 1.4 million Telstra shareholders, who are faced with the outcome of this attempt by the government to split the structural and operational sides of Telstra.

The Rudd Labor government has always been confused about the correct role of Telstra. Under former Prime Minister Keating, in the early nineties, they wanted to sell Telstra. The former Prime Minister even went so far as to hold meetings with BHP. Yet another Labor leader, Kim Beazley, also considered the prospect of selling Telstra to BHP. But, when the Howard government began the privatisation of Telstra in a regulated and sustainable way, to create an efficient, competitive telecommunications market, the Labor Party opposed it every step of the way. Then, suddenly, in 2007, the Labor Party finally overturned its opposition to privatising Telstra. But, like their promise to keep Telstra’s wholesale and retail functions separate but within Telstra, the government has again deceived the electorate, by telling them that the Labor Party would support a Telstra free from government manipulation.

This bill in many ways effectively renationalises fixed-line telecommunications in Australia as a means of propping up the government’s very poorly planned—I hesitate even to call it a plan—and very poorly conceived National Broadband Network. The government are effectively double-dipping. Telstra shareholders have paid to own part of a company that is able to operate without government interference. Now, the government have decided that they need Telstra to prop up their National Broadband Network, which could be privatised in the future. How will we ever know what the plans of the gov-
government are, given that they do not stick to their word, and they are becoming known for not sticking to their word. So Telstra will have been sold once, then partly taken over by the Rudd government, then potentially sold again.

Once it gets to government, the Labor Party is willing to benefit from the changes that the Howard government made to telecommunications efficiency in this country, but it will also force structural changes to Telstra in order to implement its own poorly conceived agenda. As we have already seen from the workings of the share market, the double-dipping will be disastrous and has been disastrous for the 1.4 million Telstra shareholders in this country. Telstra has lost 30 per cent of its value since the Rudd Labor government came to office. On the day that the structural break-up was announced, Telstra shares immediately fell by 14c, just on 4.3 per cent. So this is a government that really cares about how the market functions!

The most concerning thing is that the government probably had no idea that was going to be the effect of the decision, because it was so poorly thought through and the consequences, as usual, were not considered. The chairman of another large Australian company, Don Argus at BHP, has said that the structural separation is ‘punitive’ towards shareholders. Mr Argus has been quoted in the media as saying:

I’m a shareholder, and I would have to say to you that if someone takes assets out of my balance sheet and doesn’t reward me for it with a premium, I’ve got to think hard about what we are trying to achieve.

That is the way the market works. That is the way business in Australia works. That is how the share market functions. That is what keeps the economy strong. These are points that apparently are completely unknown to this government when they decided they would put heir sticky fingers into whichever pie happens to suit them at the time. Boards of private companies like Telstra have a range of fiduciary duties preventing them from making decisions that are not in the shareholders’ interests. Unfortunately we cannot say the same for this government. If there were fiduciary duty owed to the taxpayers of Australia, this government would already be in jail; not just before a court but in jail. If Senator Conroy or the Prime Minister actually sat on the board of Telstra, they would be liable for destroying the value of Telstra’s assets. But, because they are the government and apparently completely immune from the functioning of the market, they can act to destroy Telstra’s wealth without caring about the shareholders and without caring about the workings of the market which they affect to care about.

The break-up of Telstra has created uncertainty for 1.4 million investors in Telstra. That is not to consider the nine million customers that Telstra has or its 30,000 employees. They too face complete uncertainty. Shareholders invested in Telstra in good faith because the vendor Liberal government was very clear on their plans for Telstra. Labor had said that Telstra should be free from government manipulation. Shareholders invested in each Telstra offer because they believed they were purchasing shares in a company with ownership of structural telecommunications assets and ownership of wholesale and retail telecommunications businesses. In fact, I am sure many other senators have received, as I have, numerous emails in the past week from very angry shareholders and investors in Telstra. I would like to quote from one of them in the Adelaide Advertiser of 11 March. Shareholder Ian Nicholson is described as being blunt when he says: ‘What the government is doing is a bloody disgrace.’ This view would be supported totally by the coalition. Another shareholder, Mr Alan Brunner, from my home state of
Queensland, from Brisbane, says: ‘The devil himself could not come up with a more sinister and dastardly plot.’ He went further to say: ‘Rudd and Conroy’—meaning Prime Minister Rudd and Minister Conroy—‘should be thoroughly disgusted with themselves.’ This is a view with which I can only wholeheartedly concur. Shareholders, as I said, invested in Telstra in good faith. They did not expect to see a forced government separation. It was not on the agenda of the Howard government and it was not even on the agenda of this Labor government before the election. It is only now, when they found themselves in a hole, that they have decided that the best way out of this is to, ‘Whoops, let’s change everything, let’s commandeer half of Telstra to suit our own agenda.’

The Senate inquiry into this legislation received many submissions from shareholder groups who were dismayed at the government’s actions. The Australian Shareholders Association told the committee:

If the forced structural separation of Telstra goes ahead as proposed by the Government, Telstra shareholders are likely to see significant destruction in the value of their investment.

And guess what? That is exactly what they have seen. What is being offered to them instead is a bit of a chat between the government and Telstra, but what is on the table? Nothing. (Time expired)

The President—Order! It being 2 pm, the debate is interrupted.

MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (2.00 pm)—Mr President, I advise that Senator Sherry will be absent from question time today and tomorrow as he is unwell. As I advised party leaders in writing earlier today, Senator Stephen Conroy will answer questions on Senator Sherry’s responsibilities as Assistant Treasurer and as the Minister representing the Treasurer. Senator Joe Ludwig will represent Senator Sherry on financial services, superannuation and corporate law, competition policy and consumer affairs. Senator Kim Carr will represent Senator Sherry on agriculture, fisheries and forestry.

QUESTIONS WITHOUT NOTICE

Asylum Seekers

Senator HUMPHRIES (2.01 pm)—My question is to the Minister for Immigration and Citizenship, Senator Evans. I draw the minister’s attention to figures from the UNHCR which indicate that new asylum applications in Australia rose by 30 per cent in 2009—that does not include, of course, the 24 boats and, at last count, 1,200 arrivals this year—whereas applications in the UK decreased by six per cent in 2009. Can the minister explain to the Senate why the global push factors he has spoken about before push asylum seekers towards Australia but do not appear to be pushing them towards Britain?

Senator CHRIS EVANS—I thank Senator Humphries for the question. Unfortunately, Senator Humphries again wishes to selectively use figures, as has the opposition spokesman, Mr Morrison, which misrepresent the situation in terms of asylum claims. It is also true to say that we have had a reduction in asylum claims from Serbians this year—but I do not put any great store in it. Clearly, people of various nationalities move within their regions seeking asylum. It is the case that since 2006 asylum applications by Afghans in industrialised countries worldwide have increased by 185 per cent. Asylum claims since 2006 by Sri Lankans have increased by 65 per cent.

What happens is that we get our share. The vast majority still go to Europe, but other countries get their share. We have traditionally been a country of destination for Afghans seeking asylum. As the previous
government learnt in 1999 to 2001, when there was a large outflow of Afghans, Australia was one of the destination countries they headed for. That flow ceased when the Taliban fell and Australia, along with other countries, was able to return in excess of, I think, three million—certainly a large number of Afghans—to their country because of the fall of the Taliban and better security conditions there.

As Ms Erika Feller, the UNHCR Assistant High Commissioner for Protection, made clear during her recent visit to Australia, claims that Australian policy changes have led to a rise in arrivals are ‘unhelpful’ and at odds with global trends. She says about the real cause of arrivals:
The instability in places such as Afghanistan and Sri Lanka does impact greatly on the numbers of people moving to and through this region, including Australia.

(Time expired)

Senator HUMPHRIES—Mr President, I ask a supplementary question. Will the minister concede that the Rudd government’s failed border protection policy is proving to be an irresistible magnet to people smugglers, the very people that the Prime Minister himself referred to on 17 April last year as ‘representing the absolute scum of the earth’?

Senator CHRIS EVANS—It is true that this government takes a very strong view about people smugglers and trying to stamp out their trade. But it is, as I say, the case that worldwide there are people smugglers trying to take advantage of the plight of many persons seeking safety or seeking to flee their country of origin. We were very pleased the other day during the President of Indonesia’s visit to this country that he announced their commitment this year to introduce legislation to criminalise people-smuggling in Indonesia. Quite frankly, that would be a very important development in terms of trying to stamp out people-smuggling in our region. As we have learnt in recent years, it is only by close cooperation in the region that one can combat these syndicates. We think a commitment by Indonesia to stamp out and criminalise people-smuggling in their country will go a long way towards assisting us in the battle against people-smuggling. (Time expired)

Senator HUMPHRIES—Mr President, I ask a further supplementary question. Given the 92 boats and almost 4,100 arrivals since Rudd Labor weakened Australia’s border protection policies, can the minister explain what the Prime Minister meant when he said on 17 April last year, ‘This government maintains its hardline, tough, targeted approach to maintaining border protection for Australia’? Or can we surmise that this is, yet again, a blatant example of all talk and no action?

Senator CHRIS EVANS—We do maintain a strong commitment to border protection. Boats are being intercepted and people are being taken to Christmas Island and mandatorily detained. I noticed that the other day the opposition tried to make a claim that they were fearful that boats may arrive on the mainland. I remind them of how many boats arrived on the mainland under the Howard government. This is an issue we have had to deal with for 30 years. It is an issue that confronts us that we have to take seriously. But strong border protection measures remain in place. We have more patrols than there were under the Howard government. We have dedicated more resources than were dedicated under the Howard government. And we have made enormous extra financial commitments to the fight against people-smuggling. But it is a challenge; it is difficult; it is hard. We are working very strongly with our neighbouring countries to try to address this global prob-
lem and we will keep working at it, but we will maintain strong border security, as we always have.

Hospitals

Senator MARSHALL (2.07 pm)—My question is to the Minister representing the Minister for Health and Ageing, Senator Ludwig. Can the minister outline for the Senate how the government’s health reform plan builds on the two years of reform already undertaken by the Rudd government since being elected? What obstacles are being presented to the government’s health reform legislative agenda?

Senator LUDWIG—I thank Senator Marshall for his question and note his continuing interest in crucial reforms to ensure a healthy, prosperous and productive future for our nation. The Rudd government’s plan for the Commonwealth—to take on the dominant funding role for the entire public health system—is designed to end the blame game and put the health system on a sustainable financial footing for the future. For the first time the Commonwealth will take the majority funding responsibility for all public hospital services. Our contribution will almost double, from around 35 per cent to 60 per cent.

For decades we have seen the blame game between the states and territories grow over the funding arrangements for the health system. This was something the current opposition leader turned into an art form when he was the health minister. Our plan builds on the two years of reform already undertaken by this government since being elected. We took immediate action upon coming to office to begin the long-term reform of our health system after more than 11 years of neglect by the opposition leader and his government.

Unfortunately, our plan has met with obstructionism at every turn by the Liberal Party. Even in opposition they continue to risk Australia’s future. The issue of dental care is a case in point. Last week we heard reports of some of the rorting of the chronic disease dental scheme. Since the scheme began in November 2007, we know of a doctor who referred approximately 13,000 services and a dentist who received the most Medicare benefits under the scheme. Approximately $4 million in benefits was claimed. This government has attempted to close this flawed scheme twice, but those opposite—the Liberal Party—have continued to block the attempt. (Time expired)

Senator MARSHALL—Mr President, I ask a supplementary question. Can the minister explain to the Senate how the government’s health reform plan will drive efficiency and eliminate waste in the health system? Why is this necessary?

Senator LUDWIG—I thank the senator for his supplementary question. Those opposite should perhaps get on with the game of helping to build our health system. The National Health And Hospital Network will change the way the Commonwealth funds hospitals. They will be funded nationally and run locally. This change builds on the historic investments already made by the government in public hospitals and in providing training for more doctors and nurses. The Commonwealth will fund local hospitals directly for each service that they provide through local hospital networks. The price of each service will be determined by an independent umpire who will draw on expert advice and will strike an appropriate balance between access, clinical safety and efficiency. Because we understand that the cost of delivering health varies significantly around the country, regional and rural prices will not be set with city assumptions. The health reform commission estimates that the introduction of activity-based funding will lead to savings of— (Time expired)
Senator MARSHALL—Mr President, I ask a further supplementary question. Can the minister advise the Senate on how the government’s health reform plan will improve local autonomy and decision making? How will this arrangement improve outcomes for patients?

Senator LUDWIG—I thank the senator for his supplementary question about our health reform plan. Those opposite clearly do not want to talk about the health reform plan. The key here is that this government recognises that local hospitals are best placed to make decisions to meet local community health needs. That is why the government will hand control of hospitals to local hospital networks run by health and financial professionals rather than remote central bureaucracies.

One of the main messages we have heard from local doctors, nurses and allied health staff during the 103 consultations that have taken place around this country is the sense of alienation that they feel from the key decisions that affect their work. That is why the Rudd government will establish local hospital networks and pay them directly for each public hospital service that they provide. The network will be responsible for the day-to-day operations—(Time expired)

Honourable senators interjecting—

The PRESIDENT—Order! The time for debating this is post question time.

Senator Chris Evans—I thank Senator Back for the question. I remind him that in January 2000 the then minister, Mr Ruddock, confirmed that there had been 2,245 people on 29 boats arrive in less than 12 weeks, so I put some historical context into this for Senator Back.

Senator Brandis interjecting—

Senator Chris Evans—Senator Brandis, I am happy to debate that with you any time. It was ‘virtually nil’ but not quite.

Opposition senators interjecting—

The PRESIDENT—Order! Ignore the interjections. The time for debating this is post question time.

Senator Chris Evans—Senator Back has again been asked to ask a question that is misleading. The senator would be aware that, under this government as well as under the previous government, there has been a nominal amount allocated for unauthorised arrivals funding and that full funding for those arrivals, whatever they were, has been recovered by the department during the financial year through additional estimates et cetera. There has traditionally been a very nominal number, and that was the case under the previous government. It has been done on the basis that projection in these things is difficult, and therefore the funding has followed the number of people who are detained. That was the basis for the figure of 200 included in the previous budget. It had been a figure like that for some years. Funding has then been sought by the department to meet the costs of dealing with unauthorised arrivals. It is the same methodology that applied under the Howard government and it is a methodology that has stood the test of time. Clearly the number of arrivals is determined and announced during the year and they are funded as I have described.

Senator Back—Mr President, I ask a supplementary question. On the basis of his
answer, can the minister tell the Senate how much additional taxpayers’ money will be required in order to cover for the government’s failure on border protection in the coming year?

Senator CHRIS EVANS—If the senator has an interest in this area, I refer him to the 2009-10 additional estimates statements for DIAC, which were released in November 2009 and which updated the figures for asylum seeker management costs. They were made public and they were debated at Senate estimates.

Senator Abetz—To what? What’s the amount?

Senator CHRIS EVANS—Senator Abetz interjects. There was total funding of $223 million, comprising $106 million in administrative expenses and $107 million in departmental costs. When the budget is brought down in May, the government will estimate the costs for the management of unauthorised arrivals, as per normal process. But, as I said to the senator in answer to his primary question, those costs are determined once we have knowledge of the number of arrivals—(Time expired)

The PRESIDENT—Order! Senator Brandis, you know that constant interjection is completely disorderly. I understand that people like to debate these issues. The time to debate issues is at the end of question time.

Senator BACK—Mr President, I ask a further supplementary question. With the rate of almost a boat a day, will the minister now concede that the costs of the Rudd Labor government’s approach to border protection will amount to some $1 billion over the next four years? When will there be a stop to this Whitlamesque style of spending?

Senator CHRIS EVANS—Can I first say that the $1 billion figure, dodgied up by the shadow minister for border protection, the shadow minister for immigration, is complete nonsense. It is creative accounting at its worst and does the opposition a great disservice. It is the sort of maths we see from Tony Abbott when he has a thought bubble about parental leave. It does not replace the need for hard work and attention to detail in opposition. I do not accept the figure at all. The figure is nonsense and has no credibility if anyone has a look at it. If you are looking for a point of referral on boat arrivals and record numbers, you do not look to Whitlam; you look to Howard. The greatest activity in the area of arrivals was under the Howard government. We are dealing with a similarly difficult proposition in terms of a surge in arrivals, but it is not Whitlamesque; it was during the Howard career that we had record numbers. (Time expired)

Employment

Senator HURLEY (2.18 pm)—My question is to the minister representing the Treasurer in the Senate today, Senator Conroy. Can the minister inform the Senate on the latest unemployment figures announced last Thursday? In particular, can the minister provide some comparison of how the levels of Australian employment and job creation have fared compared with those of other developed economies during the global financial crisis?

Senator CONROY—I thank Senator Hurley for her ongoing interest in this area. Last Thursday’s employment figures demonstrate the resilience of Australian employers and employees throughout the global recession. Unemployment in Australia, at 5.3 per cent, is lower than that of any of the major advanced economies except Japan, with the Australian economy creating around 180,000 jobs in the past year. That is a remarkable
achievement given what has occurred elsewhere in the world. Since the start of the global recession, 6.8 million jobs have been lost in the US, which now has an unemployment rate of 9.7 per cent. Three million jobs have been lost across the Euro economies, which now have an average unemployment rate of 9.9 per cent, and half a million jobs have been lost in the UK, with an unemployment rate of 7.8 per cent. We know that this performance would not have been as strong if it had not been for the quick and decisive action of this government in investing in our economy and supporting Australian jobs. The cornerstone of this has been the $42 billion Nation Building and Jobs Plan, over half of which has now been delivered. Without that quick and decisive action, hundreds of thousands of Australians would have been unemployed. As Governor Stevens said last week on the first of the month, the stimulus measures, both fiscal and monetary, have worked a treat. (Time expired)

Senator HURLEY—Mr President, I ask a supplementary question. Can the minister explain some alternative policy approaches to managing unemployment during the global financial crisis?

Senator CONROY—The action taken by the government is in stark contrast to the attitude of those opposite. They are focused on saying no to absolutely everything—no to economic stimulus to support the jobs of working Australians, no to the Fair Work Act, because they would rather go back to Work Choices, and no to greater telecommunications competition and consumer protection. The list continues. These latest unemployment figures demonstrate just how wrong the Liberal Party were to vote against the stimulus that has kept Australia out of recession and has saved the jobs—

Senator Cormann interjecting—

The PRESIDENT—Order, Senator Cormann, that is disorderly!

Senator CONROY—if those opposite had their way, Australia would have been in a recession. (Time expired)

Senator HURLEY—Mr President, I ask a further supplementary question. Can the minister outline to the Senate the government’s approach to managing unemployment as the economy emerges from the global financial crisis? In particular, can the minister explain what would occur to the level of employment in Australia if stimulus spending was withdrawn more quickly than currently planned?

Senator CONROY—The government’s stimulus measures are being wound down. The cash stimulus payments are now largely out of the system. The first homeowners boost has already ended, as has the tax break for business. However, both the IMF and the OECD have warned—

Senator Cormann—On a point of order, Mr President, I refer you to the standing order which requires senators not to read their speeches in the Senate and the fact that this minister cannot even deliver his political abuse without reading from a copy of it.

The PRESIDENT—I can assure you that is not a point of order, Senator Cormann, in respect of question time.

Senator Chris Evans—On a separate point of order, Mr President, I know you are trying to bring the opposition to order but I think today has been particularly unruly. It seems to me that the minister deserves—

Opposition senators interjecting—

Senator Chris Evans—Mr President, I was trying to make the point that the opposition’s unruly behaviour is making question time—

The PRESIDENT—Senator Evans, resume your seat. Senator Joyce and Senator
Sterle, I am waiting to hear the point of order in silence.

Senator Chris Evans—My point is that the opposition seems to have embarked on a tactic today of totally disrupting question time. It is, of course, the time for them to hold the government to account and it is obviously their decision, if that is their tactic. I would urge you to insist that the ministers be allowed to answer their questions with some modicum of silence in the chamber.

The PRESIDENT—There is no point of order. Ministers are entitled and questioners are entitled to be heard in silence. As I repeatedly say, the time for debating these issues—if there needs to be robust debate—is at the end of question time, not during question time itself.

Senator CONROY—However, both the IMF and the OECD have warned against too rapid a withdrawal of fiscal stimulus, completely repudiating the calls from those opposite. To quote the IMF on 2 March:

The still fragile nature of the global recovery suggests that the withdrawal of the policy stimulus should proceed gradually.

If those opposite are still not getting the message, the OECD also said in February of this year:

The withdrawal of fiscal stimulus will have to be carefully planned.

(Time expired)

Home Insulation Program

Senator BIRMINGHAM (2.27 pm)—My question is to the Minister for Climate Change, Energy Efficiency and Water, Senator Wong. Has the minister or the Minister Assisting the Minister, Mr Combet, met with representatives of the Insurance Council of Australia or the insurance industry to discuss the home insurance crisis facing the 1.1 million Australian homeowners who participated in Rudd Labor’s disastrous Home Insulation Program?

Senator WONG—I thank Senator Birmingham for the question. Minister Combet has in fact released a media release about this issue immediately prior to question time. The senator may not have had the opportunity—

Senator Abetz—Released a media release—they are just words—

The PRESIDENT—Order! Senator Wong, ignore the interjection and address your comments to the chair.

Senator WONG—I thought it might be useful, given I have been asked what the minister has done, to refer to what the minister has done. He has indicated in his statement that there has been some media reporting about home insurance for people who have had their house insulated. The minister has indicated that he is advised that the Insurance Council of Australia is not aware of any cases where an insurer has refused insurance due to the installation of insulation under the Home Insulation Program. In relation to one case, which has been the subject of media reporting today—15 March—suggesting that NRMA refused to insure houses that had insulation installed under the program, the minister has referred to the fact that an NRMA spokesperson has confirmed it was not the policy of the company to ask questions about the installation policy as part of any risk assessment process.

Senator Abetz interjecting—

Senator WONG—that is probably a question, Senator Abetz, that should be addressed to the NRMA. In regards to their own insurance policies, the minister has indicated that households should consider their personal individual circumstances and make informed decisions regarding their personal situation. Obviously, the specific circumstances in relation to insurance will depend
on the nature of the householder’s insurance policy, on the circumstances of installation—that is, who did it, whether they did it correctly and according to appropriate standards—and if they provided a warranty. The minister has also indicated that it appears that the case that was reported in the media today was in relation to a household which requested and received a phase 3 safety inspection. (*Time expired*)

**Senator BIRMINGHAM**—Mr President, I thank the minister for that information and I ask a supplementary question. From the discussions that Minister Combet has clearly had with the insurance industry, can the minister give an assurance that no homeowner who participated in the Home Insulation Program will be left without appropriate insurance coverage in the event that they suffer from an insulation related house fire?

**Senator WONG**—As I have said, the minister has indicated that his advice is that the Insurance Council of Australia is not aware of any cases where an insurer has refused insurance due to the installation of insulation under the Home—

**Senator Brandis**—Why would they necessarily be aware? That’s not an answer!

**The PRESIDENT**—Order!

**Senator WONG**—Thank you, Mr President. I will just repeat what I was saying: as I previously indicated, the minister has advised that the Insurance Council of Australia is not aware of any cases where an insurer has refused insurance due to the installation of insulation under the Home Insulation Program. I think that the advice given by the Insurance Council is clear. I am not sure that I can add to it in terms of what the status is under relevant insurance policies, which appears to be the direction of the question.

**Senator BIRMINGHAM**—Mr President, I ask a further supplementary question. The minister indicated in the original answer, and again in that one, that with individual insurance policies there may be the matter of question as to whether homeowners would be covered in the event they have a home insulation fire. What comfort is there to homeowners who are not part of the ‘lucky’ 15 per cent who will get random audits that their home will still be covered in the event that they suffer from such a fire?

**Senator WONG**—With respect, Mr President, I am not sure how much of a supplementary that is. That is a question about the audit process, not a question about the availability of insurance to insured homes and the relevance of the Home Insulation Program. I have made clear what the minister’s advice is in relation to the availability of home insurance. I have also indicated in this place previously, with reference to Minister Combet—

**Senator Brandis**—Are you an insurance sceptic, Penny?

**Senator WONG**—George used to be a moderate, but that was a while ago. He worked out which way his career would be better off, so very principled over there on the front bench.

**The PRESIDENT**—Order! Senator Wong, return to the question.

**Senator WONG**—I previously indicated in this place the minister has outlined his insurance—

_Honourable senators interjecting_

**Senator Conroy**—He’s always been pompous though!

**Senator WONG**—Yes, that is true. Pompous does not know any factional basis. As I was saying, in relation to the audit process and inspection process, I have previously outlined in this place the way in which Minister Combet is approaching that issue in relation to both foil and non-foil properties. (*Time expired*)
Muckaty Station

Senator LUDLAM (2.33 pm)—Mr President, my question is to Senator Carr, as the Minister representing the Minister for Resources and Energy. Minister, last week the Minister for Resources and Energy failed to comply with part of an order for the production of documents. At the time he said, ‘I am advised that neither the Minister for Resources and Energy nor his office is or ever has been in possession of an anthropological report by consultants to the Northern Land Council, Kim Barber, Robert Graham and Dr Brendan Corrigan, provided to the then minister, Julie Bishop, in 2007, so that document was not tabled.’ Senior resources department officials have given evidence on a number of occasions that this report provides the entire basis for the department proceeding with negotiations in payment of a particular group. Can the minister explain how this document has gone missing in the otherwise seamless transition between Minister Bishop’s handling of the issue and Minister Ferguson’s?

Senator CARR—I am advised, and I had intended to provide documents after question time on this very matter, that on Friday, 12 March, subsequent to the tabling of Minister Ferguson’s response to Senator Ludlam’s return to order, Mr Ferguson was advised that his department in fact had held a copy of the anthropological report prepared by consultants to the Northern Land Council. As indicated in the return to order itself, the report was provided to the previous government. The minister has been advised and the Northern Territory council has confirmed to the minister’s office that the report was provided to and received by the previous government on the basis that, because it contained information regarding sacred sites and matters of cultural sensitivity to Aboriginal people, the full report would remain confidential, with the Northern Land Council supplying the then government with a precis of the report, which could be made public. And consistent with the basis with which the report was provided to and received by the former government, it is my intention to table the precis of the report provided by the Northern Land Council to the previous government.

Senator LUDLAM—Mr President, that is a somewhat unexpected answer. I ask a supplementary question. Can the minister please explain why this information was not provided to the Senate at the time, and the basis for the minister’s incorrect answer as to the return to order last week?

Senator CARR—I can only indicate to the chamber, on the basis of the advice I have been given, that subsequent to the proposition being advanced by the Minister for Resources and Energy there was advice to the minister on the nature of the report and the terms under which that report had been provided to the previous government, and that is the basis on which I will be seeking to table this report. I am quite happy to seek leave to table it now if the chamber wishes.

Leave granted.

Senator LUDLAM—Perhaps it was behind the couch all along?

Senator Joyce—With the Henry tax review!

Senator Cameron—With Barnaby’s calculator!

The PRESIDENT—Order! Senator, start your question.

Senator LUDLAM—I cannot hear myself ask the question.

The PRESIDENT—I can.

Senator LUDLAM—I have a further supplementary question. Minister, given that the government has literally cut and pasted from the former Howard government’s legislation, given the procedural unfairness in the
Muckaty nomination has been preserved, which, as the minister well knows, allows for no legal appeals, and given that the bill Labor has tabled gives enormous discretion to the minister to assess whether or not the Muckaty site will go ahead, can you inform the Senate of how the government intends to proceed? Is there any process whereby the minister will assess the suitability of the Muckaty site? Are there timelines or deadlines? Will anybody be consulted? Or is the process entirely at the discretion of Minister Ferguson?

Senator CARR—I have indicated previously in answers to questions from Senator Ludlam that in the new bill there are new legislative processes in place to allow for a purpose-built facility to be developed in this country. Unlike the previous laws, the new legislation will not impose a radioactive waste management facility on any community. The new legislation is based on land being volunteered for consideration as a potential site. The three sites that were selected by the Howard government were—

Senator Ludlam—Mr President, a point of order on relevance—and perhaps I was not clear enough in asking the question: I am seeking some advice from the minister as to the process whereby the Muckaty site will be assessed by the minister. There is nothing in the legislation outlining any processes, timelines or any form of accountability whatsoever.

The PRESIDENT—There is no point of order. The minister was addressing the question. The minister has 23 seconds left.

Senator CARR—The bill ensures that the selected site will be subject to all the relevant Commonwealth environmental, heritage and approval processes. In particular, the selection will be subject to exhaustive environmental and nuclear regulatory assessment.

Home Insulation Program

Senator TROETH (2.38 pm)—My question is to the Minister for Climate Change, Energy Efficiency and Water, Senator Wong. How will the unknown costs for the home insulation clean-up of unknown duration be met? Is the Prime Minister right when he says that it will come from ‘funding left in the original program’ or is the Treasurer right when he says that paying for it may require ‘adjustments’ to other programs ‘elsewhere in the budget’?

Senator WONG—The Prime Minister has made clear that the funding for this program will be met within the funding provided for the program already. However, as the Treasurer has also made clear, this is a process that will be considered through the budget process. The government is obviously of the view that this will be a significant program. Minister Combet has outlined very clearly that there are some substantial rectification requirements as a result of the problems of the program. The government has been quite upfront about those. Minister Combet laid out to the parliament—

Honourable senators interjecting—

The PRESIDENT—Order! The minister is seeking to answer this question.

Senator WONG—I have this little audio of Barnaby at the end—net, public, private, all sorts of things.

Opposition senators interjecting—

The PRESIDENT—Order! Senator Wong, ignore the interjections.

Senator WONG—I am seeking to do as you say, Mr President; I am seeking to ignore it. As I said, Minister Combet has made a full ministerial statement on these issues. Obviously, the costings of the various rectification matters, including the inspection and audit regime, will be a matter on which the government will provide further detail in the
future. We recognise this is a significant issue and we are making progress in dealing with it. But, at this point, the costs of that audit and inspection program have not yet been finalised.

Senator TROETH—Mr President, I ask a supplementary question. Minister, if, as appears from your answer, the funding for the clean-up is going to come from within existing allocations, what impact will this have on the new program, due to start by 1 June? How many fewer rebates will be paid and how many fewer homes will receive insulation because of the cost of the clean-up?

Senator WONG—I think that is somewhat of a long bow, with respect, to be suggesting that we could at this point in time give any indication about the costs, given that we have outlined that those costs are to be determined. I think also the senator is making an assumption about the nature and design of the rebate. That is an issue the broad parameters of which were announced by Minister Garrett at the time the government indicated it was closing the HIP. Obviously Minister Combet is working on the design of the REBS—the Renewable Energy Bonus Scheme—and further details as to the parameters of that will be provided in the future. My recollection—and I will have to check my notes on that—is the start date was 1 June. Obviously, though, those matters are still to be considered in the design.

Senator TROETH—Mr President, I ask a further supplementary question. Given that the answer seems to be ‘all of the above’, is it true that the Rudd government has no more idea of how it is going to pay for the clean-up of this disastrous program than it does of how much it will cost, when it will start, when it will finish or what impact it will have on the new program? Is it possible to get a clear-cut answer to any of these questions?

Senator WONG—I remind the Senate that the government has made clear that the government will be meeting the cost of the foil inspection program. The amount required to meet the government’s commitment on safety inspection and remediation work for the non-foil inspection will be met from within the existing budget for the Home Insulation Program. Obviously the government is still in the process of negotiating with potential contractors on the inspection regime. There are further details in relation to the cost which will need to be resolved. The government has also indicated it will fully meet the costs of the foil inspection program. My comments earlier about the funds in the existing budget from the HIP pertain to that program as well.

Climate Change

Senator MOORE (2.44 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr.

Opposition senators interjecting—

Senator MOORE—I think Senator Carr heard that I was asking the question of him. Can the minister advise the Senate on the State of the climate report released today by the CSIRO and the Bureau of Meteorology. What does this report tell us about Australia’s climate, and what changes have our—

Senator Bernardi—There is another credible source.

Senator Ian Macdonald—It takes two to debate.

The PRESIDENT—Order! Senator Bernardi and Senator Macdonald, the time for debating the question is after question time is completed.

Senator MOORE—Minister, I will go to the third part of the question. I take it you heard the first two, before the interruption?

The PRESIDENT—Just continue the question.
Senator MOORE—What changes have our climate scientists measured in temperature, rainfall and sea levels?

Senator CARR—I thank Senator Moore for that very important question. The CSIRO and the Bureau of Meteorology are two of the world’s leading climate science agencies. The Liberal Party is not. The State of the climate report reminds us once again that climate change is real, and given the excitement that just the mere asking of this question has generated on the other side of the chamber it is clear that the Liberal Party maintains that climate change is not real. This is a report—

Senator Joyce—Why didn’t they ask Penny?

The PRESIDENT—Senator Joyce, interjecting is disorderly during question time. You need to control yourself.

Senator CARR—This is not a pessimistic forecast of how things might be at some distant point in the future. It is an evidence based description of how things are now. Since 1960 the mean temperature in Australia has increased by 0.7 degrees Celsius. In some areas, the increase has been as high as two degrees Celsius. This is not a lot of year-to-year variability but the trend is obvious and as everyone in this country—except a few Liberal senators at a recent Senate estimates committee—seems to accept, rainfall patterns across the country are also undergoing dramatic change. Rainfall in the south-west and south-east of Australia, including the major population centres, has decreased over the last 50 years. At the same time, we are seeing a substantial increase in rainfall across many parts of northern and Central Australia. The picture overall is of increasing volatility, with more dry days and more extreme rainfall events. (Time expired)

Senator MOORE—Mr President, I ask a supplementary question. Can the minister inform the Senate of how much of the climate change that Australia is now experiencing is caused by human activity and how plausible are other explanations—

Opposition senators interjecting—

Senator MOORE—What role have greenhouse gas emissions played in the changes our scientists are already observing?

Senator CARR—It is extremely unlikely that the warming that Australia has experienced can be explained by natural causes alone. The evidence is plain. Last year, the concentration of carbon dioxide in the atmosphere reached 386 parts per million. This is much higher than the natural range that has prevailed for at least 800,000 years. We are now more than 90 per cent certain that greenhouse gas emissions have caused most of the global warming since the middle of the 20th century. This is a very high level of certainty. How the Leader of the Opposition might wish that he could rely upon a 90 per cent certainty that Senator Joyce would get through the week without putting his foot in it!

Opposition senators interjecting—

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

Senator MOORE—Mr President, I ask a further supplementary question. Can the minister advise the Senate how the government is responding to the clear scientific evidence that climate change is already occurring? What are the essential elements of the government’s strategy to tackle this climate change? What role does Innovation—your ministry, Minister—play in this strategy and how urgently is action required?

Opposition senators interjecting—

Senator Joyce—we’re talking bath mats—
The PRESIDENT—Order! The interjections are soaking up question time unnecessarily, Senator Joyce.

Senator CARR—The government’s strategy is to reduce Australia’s emissions and to prepare the community and the economy for the climate change impacts which we cannot avoid. We are also in the business of trying to shape a global solution.

Honourable senators interjecting—

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

Senator CARR—The Carbon Pollution Reduction Scheme is central to that strategy. We are investing in the research and innovation that will enable us simultaneously to protect the environment and improve living standards. Senator McGauran informs us that CSIRO’s climate research is ‘utterly trivial’. He should tell us how it is that Australian communities are living every day with our increasingly volatile and extreme weather conditions. He should tell us whether or not he accepts that the science is verified. He should tell us whether or not he supports the science.

Internet Content

Senator BOYCE (2.52 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I refer to the decision by Reporters Without Borders to put Australia number one on a list of countries ‘under surveillance’ in its Internet Enemies report because ‘the government wants to set up a filtering system never before seen in a democracy’. Is the minister concerned that his mandatory internet censorship plan has put Australia alongside countries like Russia, the United Arab Emirates, Bahrain, Belarus, Thailand and Turkey on the ‘under surveillance’ list in the eyes of the international community?

Senator CONROY—I thank Senator Boyce for that question. Unfortunately, Reporters Without Borders have been seriously misled, much like many people in this chamber, about what the government is actually proposing. It is wrong in the facts about what the government is proposing and it is wrong in terms of its comparison with other countries. Let me be very clear so that this chamber understands exactly what this government is proposing. On 15 December, we announced new measures to enhance the existing cybersecurity policy. What we have indicated we will block is content that has been refused classification—material that is not currently available in a newsagent, in a book store, on a DVD, at the movies or on your television. That is the only material that is proposed to be blocked.

What Reporters Without Borders are continually being told is that that material that is proposed to be blocked is unwanted content or inappropriate content. That is not the policy that we are taking forward and that we have announced. What we have announced is perfectly clear. Anyone in this chamber or anyone who talks to Reporters Without Borders who tries to suggest that anything other than material included in the RC classification is subject to the filter is misleading all Australians. Let me be very clear: the material under the RC classification is material like child pornography, pro-rape websites and pro-bestiality websites—material of that nature. You cannot buy it on DVD and you cannot buy it a book store. (Time expired)

Senator BOYCE—Mr President, I ask a supplementary question. We seem to have a Johnny-onestep situation here, where the Senate and Reporters Without Borders do not know what is going on. No-one in the community except the minister does. Isn’t Reporters Without Borders right when it states, ‘Even though a true national debate on the subject is needed, Senator Conroy has made
such a discussion very problematic by branding his critics as child pornography advocates’?

Senator CONROY—Once again, the material that has been supplied to Reporters Without Borders comes from Electronic Frontiers Australia, who have been challenged publicly on a number of occasions to produce a quote where I have ever said that. After six months, they have been unwilling to provide one quote. And I challenge you to produce a quote where I have suggested that because someone has a disagreement on this issue that they are a paedophile or a supporter of paedophiles. I challenge each and every one of you to come up with such a quote, because it does not exist. Electronic Frontiers Australia have run one of the most disgraceful misinformation campaigns and have misled Australians.

But if you want further evidence of why this is not getting debated in the mainstream, let me take you to the Hungry Beast ABC show, a show that advocates against our policy. It commissioned a survey of 1,000 Australians by a reputable company. What did it find? Eighty per cent of Australians support the government’s policy. (Time expired)

Senator BOYCE—Mr President, I ask a further supplementary question. In the circumstances, I doubt the minister can assist, given that everyone except him appears to be misled. But is the minister aware that Reporters Without Borders describe his proposal as ‘a draconian filtering system’? Is this the reason that many of his Labor colleagues, including Senator Kate Lundy, remain deeply opposed to it?

Senator CONROY—Let me clarify yet again: refused classification is material that each and every one in this chamber opposes being available in books, on TV, in cinemas and on DVD. But apparently this new distribution platform, otherwise known as the internet, should be something sacred. It should not have to play by the rules of Australia. I have met with representatives of international companies who say, ‘We think your refused classification system is wrong.’ It is very kind of those companies to come to Australia and tell us that we are not in charge of our classification system. We have put out a paper and invited anyone who is concerned to suggest ways that we can ensure that the material on the list stays confined to that in the refused classification category. If you have a genuine concern about this issue, libertarians, you should be participating in this process. (Time expired)

Apprenticeships

Senator CAMERON (2.59 pm)—My question is to the Minister for Employment Participation, Senator Arbib. Can the minister inform the Senate on progress under the government’s Apprentice Kickstart program? In particular, did the government meet its target of signing up 21,000 apprentices over summer this year? Given that the National Centre for Vocational Research recently released a report showing a drop in apprentice commencements during the global recession, how has Apprentice Kickstart helped address this trend?

Senator ARBIB—I thank Senator Cameron for the question and the opportunity to report on the progress of Apprentice Kickstart, which has been an extremely important program for the skills base and development of this country and also for young people who, unfortunately, have been in search of a job during the global recession.

Senator Bernardi interjecting—

The PRESIDENT—Senator Arbib, resume your seat. Senator Bernardi, it is disorderly to interject. Senator Arbib, continue.

Senator ARBIB—Thank you, Mr President. We know that during the global recession apprenticeship commencements have
been hit extremely hard. On average, commencements have dropped by around 27 per cent. In the construction trades they dropped by more than 30 per cent. The same thing happened in the 1990s. In 1990, around 35,000 people started an apprenticeship in a traditional trade; when the recession hit it dropped to 23,000, a fall of 35 per cent. It then took 13 years, over half of them under the Howard government, to get back to pre-recession levels—13 years. This helped, obviously, create a skills crisis that held Australia back. We as a government have been determined not to let this happen again. We have used the Jobs Fund, and Apprentice Kickstart has worked. Not only have we hit the 21,000 apprentice target that we set but we have surged past this over the summer. We are going to go beyond our original commitment to triple the bonus for 21,000 apprentices by paying it for every teenage apprentice who was signed up over summer.

I thank Australian businesses for the support they have given the program. I thank the Chamber of Commerce and Industry. I thank the Australian Industry Group. I thank the HIA and the Master Builders Association for all the work they have done to ensure that these apprentices have been signed up and that young Australians will have a future in the trades. (Time expired)

Senator CAMERON—Mr President, I ask a supplementary question. Can the minister advise the Senate of how industry has responded to the success of Apprentice Kickstart? What further information can the minister provide about any specific regions that have responded to Apprentice Kickstart? Is the minister aware of any members of parliament who have taken an active interest in the scheme?

Senator ARBIB—I was talking about the work that ACCI and the AiG had done to support Apprentice Kickstart and getting out there amongst their members and making sure they took it up. Group Training Australia has also been pivotal in the measures they have taken. In their networks they sent messages such as, ‘Apprentice Kickstart has helped alleviate the worst impacts of the downturn.’ In the Illawarra there has been a community campaign to sign up apprentices. They had suffered greatly with a drop of about 22 per cent in apprenticeship commencements. They set a target of 500 apprentices to sign up. Led by Jennie George, Sharon Bird, the local Chamber of Commerce and the *Illawarra Mercury*, they have beaten 500. I am sure that Senator Fierravanti-Wells will be happy to know that in the Illawarra we have signed up 506 apprentices—young people in jobs, with a career in the trades.

I thank Australian businesses for the support they have given the program. I thank the Chamber of Commerce and Industry. I thank the Australian Industry Group. I thank the HIA and the Master Builders Association for all the work they have done to ensure that these apprentices have been signed up and that young Australians will have a future in the trades. (Time expired)

Senator CAMERON—Mr President, I have a further supplementary question. Is the minister aware of any other perspectives about the importance of Apprentice Kickstart and apprentices generally? Has the measure been actively promoted elsewhere?

Senator ARBIB—I have thanked businesses and, of course, I have thanked the training fraternity. I take on board Senator Cormann’s comments. He never said a word about Apprentice Kickstart—not on record. I congratulate the member for Murray on her fantastic exposure of Apprentice Kickstart throughout her community. She has blanketed the media in her community to sell Apprentice Kickstart. I also congratulate the member for Gilmore, Joanna Gash, who has done an outstanding job in informing her electorate and helping young people in Nowra, on the South Coast, where unemployment has been extremely high. She has done a brilliant job. I quote the member for
Gilmore: ‘It is critical that we help them get a start for both short- and long-term employment levels.’ We know that there is more work to do on apprentices, and that is why the Deputy Prime Minister and Minister for Education has rolled out a massive program— (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Hobart Private Hospital

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (3.05 pm)—Mr President, I seek leave to incorporate an answer to a question asked of me by Senator Barnett on Tuesday, 9 March, when I was representing the Minister for Health and Ageing. I have the answer for him. It was a question related to the National Health Care Agreement.

Leave granted.

The answer reads as follows—

SENATE

QUESTION WITHOUT NOTICE

DATE ASKED: Tuesday 09 March 2010

SENATOR BARNETT asked the Minister representing the Minister for Health and Ageing, during Senate Question Time on Tuesday 09 March 2010: Has the Rudd government committed funding to redeveloping the Hobart Private Hospital site? If so, how much?

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

Under the National Healthcare Agreement, the Commonwealth is providing $64 billion to the states and territories over five years to improve health and hospital systems. This includes $1.38 billion for Tasmania, which is an extra $458 million for Tasmania compared to the former agreement.

Under the national health reform plan announced by the Prime Minister on 3 March 2010, the Commonwealth will fund 60 per cent of the efficient price of every public hospital service delivered in Australia, as well as 60 per cent of the capital, and 60 per cent of the research and training costs conducted in public hospitals.

States will continue to be responsible for meeting the remaining costs of public hospital services, including meeting any costs over and above the efficient price, as well as the remainder of research, training, and capital costs.

The Rudd Government is committed to working through the details of this plan with the states and territories.

Tasmanian Regional Forest Agreement

Building the Education Revolution Program

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (3.05 pm)—I have further information in response to questions asked by Senator Milne and Senator Fielding on 11 March. I seek leave to have both answers incorporated in Hansard.

Leave granted.

The answers read as follows—

Further information in response to Senator Fielding’s question during Senate question time on 11th March 2010 to the Minister representing the Minister for Education, Senator Kim Carr.

Senator FIELDING:

My question is directed to Senator Carr, the Minister representing the Minister for Education. Given the government’s so-called Building the Education Revolution is supposed to be in full swing, can the minister explain why the government has been so incompetent in delivering this program and why Sandringham East Primary School is still waiting for construction to begin on its six classrooms, despite all plans having been drawn up and all approvals having been granted by the government in June last year? Given that construction will now take place during the school year, instead of during school holidays, does the government actually give a stuff about
how this is going to disrupt this school and its classes?

Sandringham East Primary School is receiving $2.5 million under Primary Schools for the 21st Century for a new library and $150,000 under National School Pride for refurbishments.

Tender arrangements for the works at Cheltenham Primary School are managed by the Victorian Department of Education and Early Childhood Development (DEECD).

DEECD has advised that due to the robust market place in the construction industry in Victoria, the Department is continuing to work on securing the best value for money for this project.

DEECD is working closely with the school community to address their concerns.

Senator FIELDING—Mr President, I ask a further supplementary question. Given that Cheltenham Primary School is also waiting for the government to get its act together, can the minister confirm that it is not just a coincidence that these massive delays in construction at Sandringham East Primary School and Cheltenham Primary School have occurred to schools in a safe Liberal seat?

Cheltenham Primary School is receiving $2.5 million under Primary Schools for the 21st Century for a new library and $150,000 under National School Pride for refurbishments.

Tender arrangements for the works at Cheltenham Primary School are managed by the Victorian Department of Education and Early Childhood Development (DEECD).

DEECD has advised that due to the robust market place in the construction industry in Victoria, the Department is continuing to work on securing the best value for money for this project.

DEECD is working closely with the school community to address their concerns.

Further information in response to Senator Milne’s question during Senate question time on 11th March 2010 to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Nick Sherry.

Milne; Has the Rudd government had any talks with, or given any undertakings to, Tasmanian Premier David Bartlett or any member of the Labor government in Tasmania about immediately renegotiating the Tasmanian Regional Forest Agreement to provide for logging of old-growth forests in Tasmania until at least 2037-20 years beyond the end of the current agreement due to end in 2017?

On 19 January 2010 The Minister for Agriculture, Fisheries and Forestry—The Hon. Tony Burke MP wrote to The Hon. David Llewellyn stating:

“I look forward to working with you to implement the actions outlined in the response and to our continued cooperation in overseeing the Tasmanian RFA. This will include working on various options for the processes and arrangements for the future of the RFA beyond its end date in 2017.”

The “response” referred to is the Joint Government Response to the second five year review of the Tasmanian Regional Forest Agreement.

Longer term, the government is committed to RFAs as the primary mechanism for sustainable forestry management and will engage in talks with each of relevant states on renewing RFAs, as they approach their 20 year life period.

Milne: I would like to now ask the minister whether the Rudd government supports the ongoing logging of old-growth forests in Tasmania until 2037, and are they open to renegotiating the regional forest agreement to deliver on that promise?

In the Ministerial Statement, Preparing our forest industries for the future, of 24 June 2009 by The Minister for Agriculture, Fisheries and Forestry—The Hon. Tony Burke MP stated:

“Mr Speaker, the Rudd government remains fully committed to RFAs as the primary mechanism to sustain jobs and support industry, to ensure high conservation values, and for the protection of biodiversity and threatened species”.

As stated, the government will engage in talks with each of relevant states on renewing RFAs, as they approach their 20 year life period.

In the response to the review of the Environment Protection and Biodiversity Conservation Act, by
Dr Allan Hawke; Minister Garrett said in his media release, 21 December 2009, that:

“Additionally, the Government notes the concerns raised by Dr Hawke in recommendation 38 in the review regarding the current mechanisms in the Act for forest management under Regional Forest Agreements (121724.3), and is committed to working with state governments to improve the review, audit and monitoring arrangements for RFAs, including their timely completion, clearer assessment of performance against environmental and sustainable forestry outcomes, and a greater focus on compliance of RFAs in the intervening years”.

“The Government intends to use upcoming RFA renewal processes to improve the achievement of these outcomes in future RFAs “.

Milne: Can the minister tell the Senate whether Premier Bartlett has misled the Tasmanian people by saying that he would immediately renegotiate the Tasmanian Regional Forest Agreement to provide for logging of old-growth forests in Tasmania for another 20 years if there had been no talks with the Commonwealth—or have there been talks with the Commonwealth?

The Minister is not in a position to comment on this.

Sherry: Nevertheless, I cannot recall him mentioning forestry on that occasion. I will check—I will have a look at other public statements he has made. I am aware, obviously, that there is a Tasmanian state election on. I will come back to you.

The Tasmanian Premier, David Bartlett, did not discuss forestry in his Labor Campaign Launch speech of 8 March 2010


In a media release on 26 February 2010 Premier Bartlett is quoted:

“Labor will immediately negotiate with the Australian Government to renew the RFA and to provide industry with ongoing long term security through the provision of rolling agreement renewals following each five year review of the RFA. A further twenty-year evergreen RFA will provide industry with the security necessary for ongoing investment generating wealth for the Tasmanian economy into the future”

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Home Insulation Program

Senator BIRMINGHAM (South Australia) (3.06 pm)—I move:

That the Senate take note of the answers given by the Minister for Climate Change, Energy Efficiency and Water (Senator Wong) to questions without notice asked by Senators Birmingham and Troeth today relating to the home insulation program.

The shameful debacle that is the Rudd Labor government’s Home Insulation Program continues to be a long and sorry saga. Questions have been continuously asked over the last few weeks both here and in the other place of the Prime Minister, Minister Garrett, Minister Arbib, Minister Combet and Minister Wong. None of them have been able to give the Australian people any confidence that the government has the slightest idea of either what it was doing when it was implementing the Home Insulation Program or what it will do now to clean up the mess that was the Home Insulation Program. They have no idea.

There are a few sad facts that we do know about this program. We know that, tragically, four lives have been lost. We know that more than 100 homes fitted with insulation under this program have suffered house fires. We know that 1.1 million homes have been fitted with insulation and that thousands and thousands of them are at risk. We know that the government has already spent $1.5 billion on this program—that is $1.5 billion of taxpayers’ money on a program to create this disaster, this mess, this debacle. We know that there are now thousands of workers who are unemployed—workers who were involved in insulation manufacturing and insulation installation. These workers are unemployed,
out of a job and languishing because the government could not get this program right in the first place and had to call an abrupt halt to it. That has pushed workers out of a job and hundreds of businesses out of work. Hundreds of employers are being pushed out of the industry. Installers, manufacturers and importers of insulation are all feeling the pain of this mismanagement.

We know plenty about the results of the government’s mismanagement. We know plenty about the disaster that is the government’s mismanagement of the Home Insulation Program, but we know very little about how the government is going to fix it up. We have explored the issues around how they got into this mess. We know there were lots of warnings. We know there was a lot of evidence. We know the government failed to heed those warnings. It failed to heed that evidence, it failed to act appropriately and it failed to put in place the right standards and safeguards to avert disaster. As Senator Abetz said: they all failed from the Prime Minister right through to Minister Arbib. The kitchen cabinet group failed. And now we have Ministers Combet and Wong left to desperately try to clean up this mess, but we know that they have no idea how they are going to do it.

Last week, Minister Combet delivered a 23-page ministerial statement that is heavy on platitudes but light on detail. What we do not know from this ministerial statement far outweighs what we do know. The government claims it has a clean-up plan, a fix-up plan, in place. But we do not know when that plan will start or when it will finish. We do not know when the first lot of foil insulation installed in a home will be removed. We do not know when the last home with foil insulation will have its foil removed. We do not know where the foil will go after it has been removed. We do not know whether it will go to landfill, whether it will be recycled or what the government will do with it. We do not know when the first inspection of the remaining 1.05 million homes fitted with other types of insulation will take place or when the last inspection of the 1.05 million homes with other types of insulation will take place. We do not know how much this will cost overall. We do not know where the money will come from. And wherever the money comes from, we do not know what impact that will have on the planned new home insulation program. We do not know how many fewer rebates will be offered as a result of that. We do not know how many fewer households will end up with insulation as a result of that.

We do not know whether the homes that have their foil insulation removed will have another type of insulation installed. While we know that some in the insurance industry have given an assurance that nobody has been denied insurance, we do not have a commitment from the government that all home owners will definitely be protected should, indeed, they face a house fire. We do not know this. And how do we know that we do not know it? Because we have heard it from Minister Wong and Minister Combet themselves. We have asked them countless times in this place about each of these issues. We have asked them very direct, very specific questions and on each and every occasion the quickest answer the minister gave was, ‘Don’t know.’ That is not good enough. This chamber and Australia deserve better.

Senator FEENEY (Victoria) (3.11 pm)—I rise to take note of the answers given in response to questions from Senator Troeth and Senator Back. Senator Birmingham has just detailed for us a number of questions to which he does not know the answers, but let me perhaps mention some to which he does know the answer. When we look at the stimulus package and its effect more generally on the Australian economy, we do know
that it achieved a number of very important outcomes. We know that Australia did not have a recession. We know that there were not two quarters of negative growth in this country. We know that the economy has continued to have strong employment and a strong employment outlook. We know that there are low interest rates and that the interest rate outlook continues to be strong. We know that Australia’s four top banks are now amongst the top 10 in the world in terms of their security and standing. We know that Australia continues to have a very strong economic future. We know that that future was underpinned by the stimulus package, and we know that that stimulus package saved the Australian economy during a period of extraordinary uncertainty. Those are things we do know.

Senator Birmingham has talked about the Home Insulation Program. This government has acknowledged and accepted responsibility for the failings of that program. But context is everything. In an environment where the government was required to get as much of the stimulus package into the economy and into the community as possible and for it to be working immediately, we understood that to be extremely necessary. It is in that context that we find the Home Insulation Program has hit these unfortunate problems. Those are problems that Senator Birmingham has detailed for us. But let us remember that, when he looks at the roll call of the failings of this program and, most tragically, the lives lost and of course the homes that have been destroyed too, there is one thing we must all remember, and that is that those dreadful events, those dreadful happenings, were not enabled by government guidelines or government laws but rather by people flouting those laws and guidelines. They were flouted by individual companies and by individual shonks.

The integrity of this scheme was destroyed by a small number of operators who, to everyone’s regret, have successfully destroyed the integrity of this program. They have undermined community confidence in it and also the capacity of it to go forward. That is why Minister Garrett has, on several occasions, sought changes and improvements to and further strengthening of the guidelines that governed this program and that is why, despite those improvements, he finally recommended to the government that the scheme be discontinued. Minister Garrett made that recommendation because he appreciated the fact that the scheme’s integrity had been undermined beyond repair and that it needed to be discontinued. Of course, it will re-emerge with new guidelines in due course.

But when we consider those events—obviously events that were not welcomed or appreciated by anybody in this chamber, least of all the government—let us remember what the opposition are doing. The opposition are complaining about a danger to jobs they never wanted saved in the first place. The opposition are complaining about an investment they never wanted made in the first place. They are shedding crocodile tears for an industry and for a suite of employees who they sought never to exist in the first place.

When we look at what is to happen to the workers in this industry we can see that the government has already announced a $41 million adjustment package. That is a $41 million contribution to assisting workers who have been made redundant and perhaps lost their jobs during this time. But again I make the point: they are workers who those opposite sought to have never employed in the first place. Businesses and jobs have grown extraordinarily over the past 12 months under the stimulus package and the Home Insulation Program. Those opposite now wail...
about the inventory costs of these businesses and the fact that these businesses have invested so dramatically in the Home Insulation Program. We on this side understand that there are a lot of strong, legitimate and longstanding businesses in this space, businesses those opposite did not care about until some weeks ago. But we on this side have understood for a long time that those businesses have real and legitimate problems and we will do everything practicable to assist them. Those 23 pages of the ministerial statement that Senator Birmingham referred to includes important comments from this government, important commitments from this government—(Time expired)

Senator BERNARDI (South Australia) (3.16 pm)—Senator Feeney refers to 23 pages of bumf put out by the government and then says they contain important comments. The important comments, Senator Feeney, are about action; they are not about words—empty, hollow rhetoric that you and your government pursue down every path you can. Actions speak louder than words. Speaking of actions, we see Senator Feeney leaving the chamber—just like this government have walked out on their responsibility to identify and fix the problems that have come through their cobbled together, poorly planned, ill-considered and badly managed Home Insulation Program.

We have seen $1.5 billion of taxpayers’ money spent on a flawed scheme that has resulted in about 1,500 potential death traps. There have been 105 house fires attributed to this poorly managed scheme. And who is to blame? No-one is to blame! Senator Feeney claims that the government has accepted responsibility. I would ask: who has paid the price for this? Minister Garrett is still a minister—and a first-rate minister, according to this Prime Minister. He has less work to do; he still gets the same amount of pay. He has not paid the price. Who has paid the price? The four poor installers, the young fellas who were given a chance and have had their lives cut short due to bad training and bad administration by this government.

When you act in haste, you repent at leisure. Unfortunately, the Australian people do not have the opportunity to repent at leisure, because this is billions of their taxpayer dollars that are being wasted and squandered by this government in an effort to try and ingratiate themselves with people. Well, they have failed. We know they have failed—we have accepted and acknowledged that. Now what we are asking for is simply the timeline and the accountability for fixing the problems that they have created—but we cannot get that. The minister responsible, Mr Combet, and his senior minister, Minister Wong, are refusing to answer simple and sensible questions that the coalition and the Australian people are seeking a response to. We want to know some answers. Out of the houses that have dodgy or faulty or potentially fatal insulation, how many are going to be checked? How soon will that process begin? How soon will it finish? How will it be managed? How will the reinstallation of insulation products be managed? What will be the disposal mechanism? These are all very sensible and very pertinent questions, and the responses are allegedly contained in a statement of 23 pages of ‘comment’, as Senator Feeney refers to it. That is not good enough. The Australian people want firm action. Labor have proven again and again that they are all talk and no action. But on that rare occurrence that the Labor Party do take action, we know that it is mismanaged: they get it wrong and the potential waste of taxpayers’ money and the consequences are sometimes catastrophic.

There is a pattern of failure here, and it is a pattern of failure that is too great too ignore. We cannot just accept the platitudes, no matter how well meaning they sound. I know
the ministers over that side of the chamber and the Rudd government fake sincerity very well, but we cannot put up with it anymore. The Australian people are tired of this. We need to protect the lives of Australian workers. We need to protect the houses, and their contents, of Australian families which are at risk through this government’s maladministration.

Is it too much to ask for a government to actually provide us with some answers? Is it too much for a government to provide the Australian people with the accountability measures that would reinforce integrity so that, when they take advantage of a government program, they know they are not going to be placing their very lives, or their livelihoods, in jeopardy? Is that too much to ask from any government? Apparently it is, when you are dealing with the Rudd government. They have a shameful pattern of failure, because they are more interested in using four- or five-syllable words than in getting it right on the ground. They should be appalled. They need to apologise to the Australian people. (Time expired)

Senator McLUCAS (Queensland) (3.21 pm)—Our government does not shy away from the difficulties that were experienced through the Home Insulation Program. We have accepted responsibility for the problems within the program and the response of the Minister Assisting the Minister for Climate Change and Energy Efficiency, Mr Combet, has been terrific in being able to answer questions that our communities are looking for answers to. I note that Senator Bernardi is leaving the chamber, given that he made the same comment about—

Senator Bernardi—I’m still here; don’t mislead the Senate like that.

Senator McLUCAS—And I note Senator Bernardi is leaving the chamber.

Senator Bernardi—I know where I am; do you know where you are?

Senator McLUCAS—And now he is sitting down—given he made the comment about my colleague. There were problems with the program and in my state of Queensland the foil installation has been significantly problematic. Mr Combet has received advice from the Electrical Safety Office in Queensland recommending that horizontally laid foil installation be removed or, alternatively, that safety switches be installed in household electrical circuits.

I have foil in the ceiling of my home. It is installed against the corrugated iron roof. In my view, and certainly it is the advice from the Electrical Safety Office, that is the appropriate place for it to be installed if it is in a ceiling. We now have advice from that office that horizontally laid foil should not be used. That information was not previously available to the Minister for Environment Protection, Heritage and the Arts, Mr Garrett, and Minister Combet is now responding to that. Mr Combet has advised that the Australian government will fully fund the removal of foil from or the installation of safety switches in houses that have had foil installation installed under the program.

Senator Bernardi was asserting that our ministers are being less than cooperative in answering questions. Some of the questions being asked are unanswerable. They are foolish questions and simply, at this point in time, cannot be responded to. Minister Combet, Minister Wong and Minister Garrett, when he had responsibility for this work, were being totally cooperative with questions that were being asked in this place and elsewhere. Mr Combet has said, ‘An announcement concerning the details of these further measures will be made as soon as possible.’ That is a reasonable response to what is—
Senator Abetz—So the answers weren’t there in the 23-page document? You can’t have it both ways.

Senator McLUCAS—Would you listen to me instead of just jumping in?

The DEPUTY PRESIDENT—Order! Senator McLucas has the call.

Senator McLUCAS—Thank you very much, Mr Deputy President. The detail of the further measures will be announced as soon as possible. That is absolutely appropriate in the circumstances. I have had discussions with North Queensland installers over the last couple of weeks. They are very concerned about the future of the program. They are seeking, understandably, the reinstatement of the program as soon as possible. That is what the government is doing. They are concerned at the capital investment they have made—a gentleman told me this morning that he has $70,000 worth of batts in his shed; that is concerning—and we have to work quickly and effectively to get this program back on the road as soon as possible. They are concerned about their employees, as is the government. But, most importantly, they are concerned that the confidence in the insulation industry has been affected. We share that concern. Let us not forget that over a million homes in Australia have had insulation installed absolutely appropriately. I met a constituent on the weekend who told me her bill has reduced by $100 since she has had her insulation installed. What we have to do is tell the positive story. Many of these installers, whilst recognising the concern in the community, are calling on all of us as politicians to do this properly, to do it sensibly, not to make hay or make political mileage out of the concerns that have been raised or experienced. (Time expired)

Senator FISHER (South Australia) (3.27 pm)—I rise to take note of answers given in question time today by the Minister for Climate Change, Energy Efficiency and Water, Senator Wong, in respect of the Home Insulation Program. It is clear that we know more about that which we do not know in respect of the government’s Home Insulation Program than that which we do know. What is clear is that the government has not learnt the lessons of the past, nor is it learning lessons from the fast-unravelling present. It has not learnt any lessons for proceeding in the future with the new program, which we hear is going to be rolled out from 1 July this year.

If there were any compelling lessons from the mess that is the present, they came very early on in warnings in the independent risk assessment by Minter Ellison, which centred around the haste with which the government and the department were rolling out the Home Insulation Program. They are the lessons—not to unroll the program with the haste in which the government did and to make sure that those tasked to deliver the program are equipped and resourced to do so.

Exactly the same mistakes are writ large, looming large, to be repeated from July 2010. The Home Insulation Program was announced by Rudd Labor in February last year and implemented in July last year. In February this year, the then Minister for the Environment, Heritage and the Arts, Mr Garrett, and Prime Minister Rudd announced a new program to be unrolled and implemented in July this year. The Home Insulation Program was in gestation for some five months last year from its announcement last February to its implementation last July. That is exactly the same time frame for the new program—announced in February this year to be rolled out five months later, in July this year. That is five months in the making again, so what has changed? The time frame and the haste are the same. The warnings are being ignored—‘Oh, but we’ve got a new
department to deliver the program.’ We have a new department whose CEO—Lord love him—said on the day he was effectively told he would be tasked with delivering it, ‘But, but, but we’re more policy wonks than we are program wonks.’ Dr Parkinson told his own department that, when he was told about it, he thought, ‘Oh, my God, I know little about program delivery, yet we are being tasked with doing this.’ So we do know that the government has learned nothing from the past and nothing from the fast-unravelling present and yet is hell-bent on proceeding, plagued with the same problems, into the future.

This is an interesting contrast with Rudd Labor’s proposed time frame for paid maternity leave. When asked why the government has not proceeded with its scheme, Minister Macklin told ABC NewsRadio:

There’s been a lot of detailed issues that needed to be worked through that’s been done in a very systematic way and a thoughtful way … The Labor Government wants to do this properly. We … want to make sure we get this right.

Look at the contrast between paid parental leave and the government’s Home Insulation Program. The paid parental leave scheme was announced by Rudd Labor in May last year and we are still waiting for it some nine months later. It has been some nine months in gestation, and we are talking about human gestation—mums and dads. Maybe the government is waiting for something more like the elephant’s gestation period, which is 22 months, for its paid parental leave policy to be implemented. We know not, but why is Rudd Labor saying to Australian families that the need for detailed, systematic and thoughtful implementation—the need to do it properly and make sure it is done right—is more important in respect of paid parental leave than it is in respect of insulating the homes of Australian mums and dads? There was plenty of detail, to use Minister Macklin’s words, to which the government did not attend in respect of home insulation, including the difference in laying processes and practices between alfoil, polyester and cellulose. What is the purpose of insulating? Is the purpose to keep the cold out or to keep the cool in? (Time expired)

Question agreed to.

Muckaty Station

Senator LUDLAM (Western Australia) (3.32 pm)—I move:

That the Senate take note of the answer given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to a question without notice asked by Senator Ludlam today relating to radioactive waste sites.

The minister’s response was something of a surprise. Last Thursday night we were told that some of the documents that the Senate had requested would be tabled—and I will speak briefly about what was tabled—but that the minister had no idea about the anthropological study, he had never possessed it and neither had his department. It is extraordinary that, during that time, for a number of days the department and the minister absolutely must have known that they had that material. This is not some obscure document; this is the foundation upon which the entire case of the Muckaty nomination rests. It is an anthropological study conducted on behalf of the Northern Land Council that identifies a number of people as the only ones who are able to comment in regard to the Muckaty lands, where the Commonwealth still proposes to dump radioactive waste. We are not able to review those ideas or any of the material that is contained there because it has never been made

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public. The NLC and the Commonwealth government’s approach since then has effectively disenfranchised everybody else up there, who are unable to challenge evidence that simply will not be provided either to them or to the broader public. It is extraordinary that the minister would send Minister Carr in here this afternoon to say, ‘Actually, yes, we had it all along; it’s just that it won’t ever be going into the public domain because we’ve been asked that it not be.’ This is the key foundation document on which the Commonwealth’s case rests. I will be writing to the minister to suggest that perhaps he review his position and provide that material to the Senate.

The material that was tabled is just as intriguing. The material that has made its way into the public domain is the Parsons Brinckerhoff study that was conducted for the Howard government and the peer reviews that were conducted subsequently. These were handed by the department to Minister Martin Ferguson more than a year ago and this is all they have had time to serve up. The peer review is very interesting. It points out that studies into the waste dump sites contained insufficient data. The technical investigations were limited and did not take into account seismology issues. That is interesting, isn’t it, because we know that the Muckaty site is an active seismic area. It is one of the very few active seismic areas in Australia. Geoscience Australia has told us that there have been 239 earthquakes in the area over the past 10 years and 1,298 earthquakes since 1988; 24 of those were at a magnitude of greater than five.

The peer review of the scientific studies also points out that regional flooding events are only very lightly touched on. That is very disappointing because one of the sites was regularly flooded in and there has been material in the public domain for months, if not years, that at least one of the sites was prone to flooding and completely unacceptable—but, of course, the Parsons Brinckerhoff study says that all four of the waste dump sites are appropriate. We visited the Muckaty site the week before last and could not get in because that site was flooded out as well. So I question the confidence with which Minister Martin Ferguson has said, ‘We’re free to go ahead at Muckaty.’

The justification for remote waste dumps is the key area that I want to touch on in response to Minister Carr’s handing over of this material, which, I might add, is really nothing that was not in the public domain already. It is a one-page summary of what the NLC says it has done and the public is still none the wiser as to the due diligence that was conducted by this Commonwealth government.

On the last occasion a Senate committee investigated this issue, which was by the Standing Committee on Environment, Communications and the Arts at the end of 2008, we asked the Australian Nuclear Science and Technology Organisation why there was an insistence on looking at remote sites far from Australia’s centres of nuclear expertise. Mr Mackintosh, senior adviser, government liaison for ANSTO, said:

I believe it is for political reasons, Senator.
Mr Bradley Smith, from the Federation of Australian Scientific and Technological Societies, said:

It would appear to be that politically the pragmatics seem to be that that is the only viable site at the moment that I am aware of for a Commonwealth facility.
I wish the government would go up there and face the people in Tennant Creek who assembled in a hall the week before last and tell them it has nothing to do with science; it has nothing to do with engineering; it has nothing to do with geology; it is politically pragmatic. That is the view of the industry
and of ANSTO. This is nothing more than exposing the apparent political vulnerability of a particular community. I put the government on notice now that these people are not vulnerable at all. They are gearing up for a fight. They are going to challenge this proposal and I believe they are going to be successful.

Question agreed to.

NOTICES

Presentation

Senators Barnett and Fisher to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) major flaws in the design of the Federal Government’s renewable energy target legislation have led to a dramatic drop in the price of renewable energy certificates and stalled investment in the renewable energy sector,
(ii) the Federal Government has now acknowledged these concerns and foreshadows legislation to remedy these flaws and advised that the bill will be introduced mid-2010 with a start date of 1 January 2011,
(iii) delays have already caused a loss of jobs including, at the Musselroe Wind Farm development in north-east Tasmania and have threatened the proposed expansion of the Hallett Wind Farm in South Australia, and
(iv) any further delay will cause a further loss of jobs; and
(b) calls on the Government to:
(i) work cooperatively with industry, the community and the opposition parties to ensure the bill is properly designed and introduced without delay,
(ii) without delay, release any modelling or other analysis on which this proposal is based, and
(iii) provide assurances that the legislation will not result in unreasonable additional costs in power prices to end users.

Senator Hanson-Young to move on the next day of sitting:
That the Senate—
(a) notes some of the systematic gender disparities in India, where women suffer disproportionately from illiteracy, poverty and low social status;
(b) recognises that only 10 per cent of seats in India’s 795 strong parliament, are held by women, lagging well behind its regional neighbours such as Bangladesh, where the proportion is 15 per cent and Pakistan, where it is 30 per cent; and
(c) congratulates the Indian Parliament’s upper house, on passing the first stage of the historic legislation seeking to impose a 33 per cent quota for women in the nation’s federal and state assemblies.

Senator Barnett to move on the next day of sitting:
That the Senate—
(a) notes some of the systematic gender disparities in India, where women suffer disproportionately from illiteracy, poverty and low social status;
(b) recognises that only 10 per cent of seats in India’s 795 strong parliament, are held by women, lagging well behind its regional neighbours such as Bangladesh, where the proportion is 15 per cent and Pakistan, where it is 30 per cent; and
(c) congratulates the Indian Parliament’s upper house, on passing the first stage of the historic legislation seeking to impose a 33 per cent quota for women in the nation’s federal and state assemblies.

Senator Fisher to move on the next day of sitting:
That the time for the presentation of reports of the Environment, Communications and the Arts References Committee be extended as follows:
(a) on Australia Post’s treatment of injured and ill workers—to 12 May 2010; and
(b) Energy Efficient Homes Package—to 6 May 2010.

Senator Moore to move on the next day of sitting:
That the time for the presentation of reports of the Community Affairs Legislation Committee be extended as follows:
(a) provisions of the Health Practitioner Regulation (Consequential Amendments) Bill 2010—to 11 May 2010; and
(b) Poker Machine (Reduced Losses—Interim Measures) Bill 2009 and a related bill—to 30 June 2010.

Senator Fisher to move on the next day of sitting:

That the Environment, Communications and the Arts References Committee be authorised to hold an in camera hearing during the sitting of the Senate on Wednesday, 17 March 2010.

Senator Bob Brown to move on 13 May 2010:

(1) That the Senate—
(a) notes that:
(i) global population is expected to grow from 6.8 billion people now to 9.2 billion in 2050,
(ii) Australia’s population size and capacity to sustain population growth at the current rate is an issue of national significance that requires a national population policy and strategic plan as a matter of urgency,
(iii) as a wealthy nation, Australia is disproportionately able to influence and slow global population growth, and
(iv) there is growing public debate about the question of population size; and
(b) calls on the Prime Minister (Mr Rudd) to establish an independent national inquiry into Australia’s population to 2050, which is to report by 1 July 2011.

(2) That, in establishing the inquiry:
(a) the chair and panel of the inquiry be appointed with cross party support to ensure independence;
(b) sufficient funds are allocated to ensure that the inquiry holds public hearings in all capital cities and major regional centres across Australia; and
(c) the terms of reference for the inquiry include:
(i) the impact on Australia of the growing global population and how best Australia may affect it,
(ii) the development of a plan for a population that can be best supported in Australia within and then beyond the next 40 years, taking into account technology options, infrastructure, patterns of resource use and quality of life considerations,
(iii) the environmental, social and economic sustainability of Australia’s population in the short-, medium- and long-term,
(iv) the value of a whole-of-government approach to population incorporating consideration of immigration and family policies,
(v) making recommendations of national policy options in relation to population including, taking into account regional and local perspectives, and
(vi) any related matters.

Senator Bob Brown to move on 17 March 2010:

That the Senate—
(a) notes the courage of Pete Bethune, the captain of the Sea Shepherd boat the Ady Gil, which was sunk in the Southern Ocean while trying to protect whales from illegal poaching; and
(b) calls on the Australian Government to use all diplomatic channels to provide support for Captain Bethune following his arrest in Japan on trespass charges.

Senator Wong to move on the next day of sitting:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the Department of Parliamentary Services to improve exterior lighting within the Parliament House precinct.

LEAVE OF ABSENCE

Senator O’BRIEN (Tasmania) (3.38 pm)—by leave—I move:

That leave of absence be granted to the following senators:
(a) Senator Crossin for today, on account of parliamentary business;
(b) Senator Lundy for today, for personal reasons;
(c) Senators Sherry and Wortley for 15 March and 16 March 2010, for personal reasons; and
(d) Senator Stephens on 16 March 2010, on account of parliamentary business.

Question agreed to.

Senator PARRY (Tasmania) (3.39 pm)—by leave—
I move:
That leave of absence be granted to Senator Scullion for the period 15 March on account of personal reasons.

Question agreed to.

COMMITTEES
Legal and Constitutional Affairs Legislation Committee
Extension of Time

Senator O’BRIEN (Tasmania) (3.39 pm)—by leave—At the request of the Chair of the Senate Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Crimes Legislation Amendment (Sexual Offences Against Children) Bill 2010 be extended to 18 March 2010.

Question agreed to.

NOTICES
Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Xenophon for today, proposing a reference to the Community Affairs References Committee, postponed till 12 May 2010.

Business of the Senate notice of motion no. 2 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing a reference to the Foreign Affairs, Defence and Trade References Committee, postponed till 24 August 2010.

General business notice of motion no. 694 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, proposing the introduction of the Protection of Personal Information Bill 2010, postponed till 16 March 2010.

General business notice of motion no. 738 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, proposing the introduction of the Responsible Takeaway Alcohol Hours Bill 2010, postponed till 16 March 2010.

MAP OF AUSTRALIAN FOREST COVER

Senator MILNE (Tasmania) (3.40 pm)—I move:
That the Senate:

(a) recalls that:

(i) the return to order motion that Senator Milne moved on 16 September 2009 seeking a map of Australian forest cover (using the Kyoto definition of forest) for each year since 1990, at the highest available resolution, in any widely used GIS format, to be tabled by 26 October 2009, was supported,

(ii) the Government tabled a response which said ‘The Government is pursuing this matter however we are currently unable to satisfy the timeline for the production of these documents owing to the inter-departmental consultations that the order has required’, and

(iii) 9 weeks later, on 18 November 2009, the Senate again supported the return to order motion and that the Government tabled on 19 November 2009 a response which stated that ‘The Government intends to provide the material it intends to provide the material requested. We have previously advised the Senate that we have been unable to satisfy the timeline for the production of these documents owing to the inter-
departmental consultations that the order has required. These consultations have not yet concluded’;

(b) notes that:

(i) 6 months has now passed since the first motion was supported, and

(ii) the scrutiny of the forest cover maps is essential for confidence in the National Greenhouse Gas Inventory; and

(c) calls on the Government to comply with the demand of the Senate and table the maps by 10 am on 18 March 2010.

Question agreed to.

FOOD IMPORTATION (BOVINE MEAT STANDARDS) BILL 2010

Second Reading

Debate resumed from 11 March, on motion by Senators Colbeck and Joyce:

That this bill be now read a second time.

The PRESIDENT—Pursuant to the order of the Senate agreed to on Thursday, 11 March 2010, I shall now put the question on the motion moved by Senator Parry that the question be now put on the second reading of the Food Importation (Bovine Meat Standards) Bill 2010.

Question put.

The Senate divided. [3.46 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes............. 37
Noes............. 26
Majority........ 11

AYES

Abetz, E. ..... Adams, J.
Back, C.J. ..... Barnett, G.
Bernardi, C. ..... Birmingham, S.
Boswell, R.L.D. ..... Boyce, S.
Brandis, G.H. ..... Brown, B.J.
Bushby, D.C. ..... Cash, M.C.
Colbeck, R. ..... Fielding, S.
Fitfield, M.P. ..... Fisher, M.J.
Hanson-Young, S.C. ..... Heffernan, W.
Humphries, G. ..... Johnston, D.
Joyce, B. ..... Ludlam, S.
Macdonald, I. ..... Mason, B.J.
McGauran, J.J. ..... Milne, C.
Minchin, N.H. ..... Nash, F.
Parry, S. * ..... Payne, M.A.
Ronaldson, M. ..... Ryan, S.M.
Siewert, R. ..... Troeth, J.M.
Trood, R.B. ..... Williams, J.R.
Xenophon, N. NOES

Arbib, M.V. ..... Bilyk, C.L.
Bishop, T.M. ..... Brown, C.L.
Cameron, D.N. ..... Carr, K.J.
Collins, J. ..... Conroy, S.M.
Farrell, D.E. ..... Faulkner, J.P.
Feeney, D. ..... Forshaw, M.G.
Furner, M.L. ..... Hogg, J.J.
Hurley, A. ..... Hutchins, S.P.
Ludwig, J.W. ..... Marshall, G.
McEwen, A. ..... McLucas, J.E.
Moore, C. ..... O’Brien, K.W.K. *
Polley, H. ..... Pratt, L.C.
Stephens, U. ..... Sterle, G.

* denotes teller

Question agreed to.

The PRESIDENT—The question now is that the Food Importation (Bovine Meat Standards) Bill 2010 be now read a second time.

Question put.

The Senate divided. [3.51 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes............. 37
Noes............. 26
Majority........ 11

AYES

Abetz, E. ..... Adams, J.
Back, C.J. ..... Barnett, G.
Bernardi, C. ..... Birmingham, S.
Boswell, R.L.D. ..... Boyce, S.
Brandis, G.H. ..... Brown, B.J.
Bushby, D.C. ..... Cash, M.C.
Colbeck, R. ..... Fielding, S.
Fitfield, M.P. ..... Fisher, M.J.
Hanson-Young, S.C. ..... Heffernan, W.
Humphries, G. ..... Johnston, D.
Joyce, B. ..... Ludlam, S.
Macdonald, I. ..... Mason, B.J.
McGauran, J.J. ..... Milne, C.
Minchin, N.H. ..... Nash, F.
Parry, S. * ..... Payne, M.A.
Ronaldson, M. ..... Ryan, S.M.
Siewert, R. ..... Troeth, J.M.
Trood, R.B. ..... Williams, J.R.
Xenophon, N. NOES

Arbib, M.V. ..... Bilyk, C.L.
Bishop, T.M. ..... Brown, C.L.
Cameron, D.N. ..... Carr, K.J.
Collins, J. ..... Conroy, S.M.
Farrell, D.E. ..... Faulkner, J.P.
Feeney, D. ..... Forshaw, M.G.
Furner, M.L. ..... Hogg, J.J.
Hurley, A. ..... Hutchins, S.P.
Ludwig, J.W. ..... Marshall, G.
McEwen, A. ..... McLucas, J.E.
Moore, C. ..... O’Brien, K.W.K. *
Polley, H. ..... Pratt, L.C.
Stephens, U. ..... Sterle, G.

* denotes teller

Question agreed to.

The PRESIDENT—The question now is that the Food Importation (Bovine Meat Standards) Bill 2010 be now read a second time.
Question agreed to.

Bill read a second time.

Third Reading

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (3.53 pm)—I move:

That this bill be now read a third time

In acknowledging the issues surrounding bovine spongiform encephalopathy, the concerns held by Australian consumers in regard to their health security and the concerns held by a large section of the cattle industry in the threat to the security of the Australian beef herd, it is very important that we enact a bill that enshrines the backflip of the Minister for Agriculture, Fisheries and Forestry, Mr Burke, the other day. The minister clearly pointed out, and has been held to account, that his initial position on BSE was wrong. The minister now acknowledges that we need to have an analysis process rather than an assessment. The minister acknowledges that the food labelling standards are insufficient. But the minister does not acknowledge that we need to have a traceability scheme. The question—and the Food Importation (Bovine Meat Standards) Bill 2010 deals with it—is to put in legislative form the minister’s decision and backflip. In putting in legislative form the minister’s backflip, we also bring into place quite naturally the matter of traceability. How can you have a proper risk analysis without traceability? Why would we have put our nation’s herd and the Australian consumer at threat by not initially dealing with this in the proper format? This bill takes the same form of labelling standard for the beef industry standard that is acknowledged in the pork industry.

There was a large outcry at the importation of beef from countries with BSE. This outcry was heard not only in regional Australia but also in metropolitan Australia. It came from consumers in Australia—the working mothers and housewives, the guys who go to the butcher shops—who wanted to know that they were eating a clean green Australian product, no questions asked. They did not want to have over their heads the effect of a product that could have come from a country that had bovine spongiform encephalopathy.
Everybody rightly holds the concerns of what mad cow disease can do when it comes into human form as Creutzfeldt-Jakob Disease. Some people say it is only a minor concern, but it is not that minor when you are not able, for instance, to donate blood in Australia if you have lived in England. If you have lived in England for a period of time—I think it is for five years—you cannot donate blood in Australia. That is the sort of concern that is held across the board about the influence of this condition.

Australia has many attributes but one of our greatest attributes is our clean green image—the image of our food not only being abundant but also being some of the safest and cleanest in the world. It was the Labor government that decided to put this under threat. It was the Labor government that went forward and one night decided that we would have the importation of beef from countries with BSE. It was peculiar in the extreme. Even a week before Minister Burke’s backflip, he was announcing once more to the world that this was the proper decision and the right decision. A week later he told us it was the wrong decision and he was going to recant everything he had previously said and go down the path that is spelt out in this bill.

There was a lot of hard footwork done by quite a number of people within the coalition. I would like to acknowledge the hard work done by my colleagues Senator Nash, Senator Williams and Senator Heffernan most especially, the hard work done by Senator Chris Back—it was great to have a vet in the house—who clearly spelt out the issues pertaining to this, and obviously Senator Colbeck. This is an issue that really galvanised people. The Australian people asked us to go forward and try to resolve this issue. Once more, we will have success on this because from the position of opposition we will have the capacity to change the direction of the government and bring it back to a sense of sanity.

I say to the Australian Labor government: stop making these decisions which leave the Australian public behind. The decision to import beef from countries with mad cow disease was a bureaucratic decision straight from the minister’s office. It would have been inflicted on Australian consumers who formerly had got an Australian-grown clean green product that they had no questions about whatsoever. We would have had a situation where, if you had a meat pie, you would not have known whether it was Australian beef or beef from a country with BSE.

The Labor government has to stop making these decisions overnight that go contrary to the wishes of the Australian people. This is a clear indication of it. It is another example of how the Australian Labor government cannot be diligent in the process they follow. How was the Australian public going to have any confidence in a decision about food safety and about the diligence of the Australian Labor government to make sure that we did not have any cases of BSE-inflicted Creutzfeldt-Jakob disease coming into our nation when this was the same crowd that brought us the ceiling insulation debacle? Take the amount of diligence that was shown in the ceiling insulation debacle, which has killed four people, burnt down 106 houses and electrified over 1,000 roofs. If this was the management critique that was then going to be applied to the importation of beef from countries with mad cow disease, then the Australian people had every right to be concerned. And we had every responsibility, as a coalition, to draft a bill to protect the Australian people from this risk.

So it was the coalition that went forward and drafted this bill, and this bill states we must have an analysis process. It is not an assessment process; it is an analysis process.
It is a diligent analysis process conducted to clearly dispel and to ventilate any risks that would obviously be present with the importation of beef from countries with BSE. It is the coalition that has said that we must have traceability. Australia has invested so much into the National Livestock Identification Scheme, and so we have every right to say if this is the prerequisite we put on our own beef producers then surely we should not expose our own beef producers to competition from other countries that do not intend to have this traceability. We go out of our way to protect Australian consumers from risks and to trace the product from birth—from the paddock to the plate. We do that in Australia. If we demand that sort of protection for Australian consumers in the western suburbs of Sydney, in the western suburbs of Brisbane and in our regional towns and country areas—so if we demand that sort of protection for Australian consumers in our own nation—then why would we not demand the same sort of protection for Australian consumers when the beef comes from somewhere else? It would stand to reason that we would not have one rule for beef that comes in and yet another rule for our own beef. That would make sense, but apparently, in the first instance, it did not make sense to the minister.

It would also make sense that we would tell the consumer quite clearly where their beef was coming from. That would seem to be a natural concern. We do it with pork. Why wouldn’t we do it with beef? It was self-evident. It seemed to be self-evident to us and it seemed to self-evident to the Australian consumer, but it was not self-evident to the minister in the first instance. It was also quite obvious that we needed forms—so we had traceability, we needed an analysis process and we needed labelling. It was not, in the first instance, evident to the minister, and he forthrightly went forward and stated his case not only in the first instance, but in multiple instances after that, that he was set in his ways, that this was the way that we were going and that he would boldly go where no other agricultural minister had been before, and that he would force on the Australian people the prospect of the consumption of beef from countries with mad cow disease without the proper traceability, an analysis process or anything else entailed in that.

He said that until about 8 March and then all of a sudden there was an epiphany, an epiphany for Minister Burke: he has now changed his mind! And what he has changed his mind to is virtually everything that we have in this bill. So wouldn’t it make sense since he has made that journey—since he has made that long march and since, stone by stone, he has crossed the river to find himself in the position of the coalition camp—that he would complete the journey by endorsing what is written in paper, which is manifestly what he is saying himself? It is nothing but a fit of pique and his own substantial ego that preclude him from making that final statement to finish his journey on his position to the coalition’s position by endorsing what, quite evidently, is in this bill. And now we are going to hear the ridiculous arguments from the Labor Party of how it was not really a backflip, it was something else—it was political gymnastics; it was Rudolf Nureyev, as orchestrated by Minister Burke—and they are not going to endorse what is written in the bill, which is emphatically and almost completely what he stated the other day. So we will go through this scenario. Those watching will understand this. We have put down on paper what the minister has said in an audible form the other day. We are now asking for the minister to confirm in an actual form what is stated in our bill. But the minister will find a reason not to go the full nine yards on this, and the only reason he
will not is because he does not want to offend his ego. This is about Minister Burke’s ego, it has nothing to do with the proper process that is quite self-evident, which he even now acknowledges is the path we should be going back down.

The Australian consumer and the Australian cattle grower can be quite comfortable in the knowledge that the reason we are going to protect them from the consumption of beef from countries with mad cow disease is that we took up the fight and we put in legislation, this bill, to stop all this. The Labor Party, with the arrogance they have developed and their belief of omnipotent knowledge whereby they go forward with complete conceit, forced these decisions on the Australian people, and what more primary form of decision can you force on the Australian public than to say: ‘We will now import into your country’—into this clean, green country—‘beef from countries with mad cow disease, and we will not have a proper analysis process, and we will not have a traceability process and we will not have a labelling process. We will just bring this beef in.’

But the force of the Australian people has once more forced a turnaround on this, just like it did with the ETS. It is an incredible thing, democracy. It is an incredible thing, given the power of the public when they say, ‘No, it doesn’t matter what you say, Minister Burke; you will change.’ And Mr Burke has changed, but he has only changed in the audible form. What he now has to do is to show his sincerity in this epiphany, to show his repentance over this issue, to show that he is genuine in his desire to keep beef from countries with mad cow disease out of Australia when it does not have the proper analysis, traceability or labelling process behind it, to show that he is genuine, is to have the Labor Party join as a supporter of this bill. If they do not, it is another one of the Labor Party’s two-bob each-way bets. It is like the moral issue of our time, the ETS, the thing that everything had to stop for. It became the lesser moral position of our time or a second-hand position and today we have that absolutely farcical approach of Minister Carr doing the speaking for Minister Wong. Why? Because Minister Wong has been completely and utterly sidelined.

It is good to put this to the Senate. I ask all those involved to make sure that we give the Australian people the protection that they demand, which will be enshrined in this bill rather than just talked about, as the Labor Party likes to do. It is all talk and no action. This is exactly what the Labor Party is about, all talk and no action. Here is a bill for action. Let us see which wins today. Do we have a bill for action or do we have to rely on Labor Party words?

Senator O’BRIEN (Tasmania) (4.08 pm)—We have just witnessed the coalition gag debate on the Food Importation (Bovine Meat Standards) Bill 2010 and then Senator Joyce comes in and speaks for 15 minutes—what I would describe as 14½ minutes of drivel and about 30 seconds of common sense. He was a bit het up. He described the disease as ‘bungee spovine’ or something or other at the start, then he rambled over a number of issues as to a bill that the coalition just gagged debate on and then he had the gall to talk about the minister having ego. If ever there was a performance about ego, it was that drivel just delivered by Senator Joyce. It was probably because he is not allowed to speak about anything else; he is not allowed to speak about his portfolio. We will be voting against this bill because the bill is about as logical and about as well written as Senator Joyce’s last speech. We will not be voting for it.
Senator BACK (Western Australia) (4.09 pm)—I rise to speak on the Food Importation (Bovine Meat Standards) Bill 2010. I learn all the time and I am most interested in the contribution by Senator O’Brien in the last couple of moments with regard to what he referred to as the gag. He might care to go back and read the Hansard and the 20 minutes of the contribution by Senator Sterle the other day on this particular issue in which, by his admission, he said nothing and had nothing to say. In contrast to that, Senator O’Brien actually did, and I hope to draw the attention of the Senate to some of those comments.

The motion which I support reads ‘a bill for an act to ensure equivalence to Australian production standards in the importation of bovine meat and meat products, and for related purposes’. It is important for the Australian community, for beef processors and producers that this bill be understood and passed. There are three essential elements to the bill and they relate to these three areas: firstly, herd identification and a trace-back system; secondly, import risk analysis; and, thirdly, food labelling.

The first essential is that bovine meat and meat products not be imported into Australia until the minister—not bureaucrats—is satisfied that the originating country has in place a program equivalent to Australia’s superior national livestock herd identification system. Why do I emphasise equivalence? Because, in his contribution the other day, Senator O’Brien expressed great concern that we were demanding exactly the same national herd identification system that Australia has. At no time have we demanded this and the bill speaks about it.

I have established with representatives of the Australian cattle industry, in the four hearings that we have had into this issue, that they concur with me that it is essential that we do have that level of equivalence. There is ample evidence, in the Hansard of the public meetings, that support is given by the Cattle Council and others associated with the cattle industry for this. Why is trace-back important? Because it is essential that we can trace back, in the event of any untoward event or activity associated with meat for human consumption, from the retail shelves through the processor to the abattoir, and from the abattoir to the farms that may have provided animals on that particular occasion. Through the excellence of the scheme we have, Australia leads the world in this. Regrettably, many of the countries that have indicated an interest in importing beef and beef products from Australia have indicated to this date that they are not interested in that process.

The second essential element in this bill that I speak of is that we demand and require a full import risk analysis to be undertaken before bovine meat or meat products can be imported into Australia from countries which have had BSE diagnosed in their herds. I am delighted that, as a result of the public hearings we have had, the evidence before us and the community interest that has been engendered as a result, the Minister for Agriculture, Fisheries and Forestry has seen fit to endorse this view and to enact it. This is critically important in what I hope will become support by everybody in this chamber for the bill.

Thirdly, the bill calls for action on food labelling. It calls for action by the minister, within 28 days from its commencement, that a labelling standard relating to the country of origin of the beef or beef products coming into Australia be determined. Again—second leg of the trifecta and I should be at the gallops—I am delighted to record that the minister, with the committee and our findings into the fact that food labelling of this type is appropriate, is prepared to move in that di-
rection. It is tremendous that that committee—supported, I hope, on this particular occasion behind the scenes by Senators O’Brien and Sterle—had some influence on the minister in that regard. The most critical aspect of this process is that it must be the subject of parliamentary scrutiny and ministerial accountability before decisions are made to change policies of such critical importance. We have not in the past had the circumstance that beef or a product coming into this country has had the prospect or the possibility, however remote, that it might end up causing a fatal disease of humans, in variant CJD, or indeed a disease of cattle, as in BSE. Remote, yes, but there is no precedent for this.

Australia is, and will remain, a full participant in free-trade activities between countries. We lead the world in this regard, especially as it relates to agricultural commodities. There is no reason for any other country to attempt to mount a case that Australia in some way is in default in this way, and anybody who claims that is being mischievous.

The World Trade Organisation dictates that a country shall not impose any restrictions or hurdles on a would-be importing country or its producers that it does not impose on itself. In this case, Australia enjoys the highest possible health rating for beef and its products and we have a trace-back system, which I have recorded as being world’s best practice. Therefore, there is no capacity for any other country to bring the allegation against Australia that we are demanding of others what we do not already demand of ourselves. It completely complies with World Trade Organisation edicts.

It is not adequate, from the viewpoint of the Australian community, that such a critical policy change be delegated to bureaucrats in the absence of ministerial responsibility and accountability, and these are points that increasingly became apparent as we had our public meetings in December last year and February this year. The committee investigating the BSE issue was faced with the prospect that this entire action could be taken as a result of policy change and implemented by departmental officers with no ministerial direction.

I have the utmost respect for my veterinary colleagues and others for their competence and integrity when it comes to this particular activity. However, they should not have the burden placed on them of implementing policies without ministerial direction, parliamentary scrutiny or ministerial accountability. This bill provides exactly for that process and it is the reason why it should be supported by everybody in this chamber. This is what the parliament is about—taking responsibility for major decisions that affect the Australian community.

To illustrate my point, I draw the chamber’s attention to information—only received on Thursday of last week—that in late February Canada had diagnosed its 18th case of bovine spongiform encephalopathy. But the Canadians delayed this announcement to both the international animal health organisation, the OIE, and their American colleagues for some two weeks into this year. You might ask, ‘What is the significance of that?’ The case was confirmed on 25 February. It only came to public attention last week and there are those amongst US producer and consumer groups that say it only came to attention as a result of their pressure. It is important because some 4,000 older bulls and cows per week are transported from Canada into the United States, animals of an age that would potentially be able to contract BSE—of an age as this particular Angus cow was diagnosed on 25 February. Both Canada and the United States have had BSE diagnosed and would be interested in importing product into this country. So the case is relevant, the
case is important and it does deserve the attention we are giving it. Further, it is important to understand that once cattle from Canada come into the United States they are allowed to mingle with the US herd. There are no restrictions on them entering the US food chain and, furthermore, they enter the non-ruminant US animal-feeding system. All of those issues are important to us.

A full import risk analysis provides that high level of surety that the Australian community, consumers, producers and processors have every right to expect. It is a process in which the relevant competent Australian officials can consider all aspects pertaining to the risk associated with importing beef from those countries; but, more to the point, it allows our officers, as part of the IRA process, to visit the countries that may nominate to import beef into Australia. They can investigate all the standards of herd identification, trace-back from property of origin to abattoir and trace-back through abattoir to processors and processors onto the retail shelves. It allows them to examine all the processes of those activities and to assure us that Australia enjoys world’s best practice. If we do not, it enables us to modify our management so that we do.

Mistakes have been made in the past by our Quarantine officials. They have learned from their mistakes. We all hope they do not repeat them. But a full risk import analysis allows them to review their own standards and to advise government on possible budgetary or other allocations that may be necessary either in countries which would import to Australia or at our shores at the port of importation so that they can give effect to the safety that Australian consumers require.

I refer again to the food labelling laws in this country—and if this bill does nothing else it draws attention to the fact that there is a radical and urgent need for overhaul of our food labelling laws. Consumers in this country have the right to know the origin of each component of foodstuffs they are contemplating purchasing. It is an insult to have a product imported into this country, packaged or repackaged in Australia and presented on the shelves as Australian made or as an Australian product. It is an insult and should be stopped. If the food labelling edict contained within the bill we are proposing has any effect at all, it should be to stop it. For example, in the United States, if a consumer is eating hamburger meat which has been produced in Australia, that consumer knows that that beef is of Australian origin. Fortunately for us and for the reputation of our industry, it is actually a selling point. We deserve the same and so do our consumers.

I commend this bill to the Senate. I hope that it will enjoy bipartisan support, both in this place and the other. The minister has seen fit to effectively endorse two components of the platform upon which we have drafted this bill, leaving only what I would refer to as the ‘gate to plate’ trace back element of the bill to be determined. As the bill states, the action is to ensure equivalence to Australian production standards in the importation of bovine meat and meat products. A critically important element of the Australian offer is our capacity to trace back from the retail shelves through the processor and the abattoir to the farm of origin. Others as yet have not achieved this. Until such time as they do, they should not be contemplating selling into this market. It requires ministerial accountability, not bureaucratic implementation. I commend the bill to the chamber.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (4.22 pm)—This is an embarrassment for the opposition. We are now debating this they gagged the debate on this bill, the Food Importation (Bovine Meat Stan-
The opposition claims that the Food Importation (Bovine Meat Standards) Bill 2010 is of vital importance. Indeed. There are important issues at stake here. As the first speaker of the bill, Senator Williams, said, it goes to the heart of Australia’s clean, green image, which allows people not only in Australia but overseas to buy Australian food with total confidence. They were fine words, quite frankly. But that raises this question: if these issues are so important, why close down the debate during general business on Thursday? Why cut it short before it was adequately considered and then attempt to use the third reading to debate it?

It is ironic that the opposition has sought to gag the debate on a food standards bill. In so doing, they are treating the Senate like a sausage machine. They seem not to have been able to get out of the habit that they developed between 2004 and 2007. The opposition has in recent times liked to champion the role of the Senate as a house of review. Indeed it is. As such, it is one of the key checks and balances that is an essential part of any strong democratic system. But when the opposition does nothing but obstruct government bills; waste time; abuse the committee system by, for example, sending bills off for umpteenth dozen inquiries, then you have to ask yourself this question: are they taking the Senate seriously or are they simply reverting back to their old standards of treating the Senate like a sausage machine?

They used the gag motion. It has been used six times since 1998. Senator Parry can claim to have used it a number of times equal to a third of that. The closure of debate is used very infrequently. Fundamentally, it is anathema to the way that this Senate works. The Senate is one of the places where debate is not closed down; the debates are not gagged. However, we have now seen an unusual course taken by the opposition to close down debate in the Senate. Those on the other side in this chamber claim that they are not acting in an obstructionist manner. They clearly are. The Senate is supposed to be able to debate and review legislation. The opposition have used the gag motion to close down debate.

By moving to rush this bill through, the opposition is revealing that it is not only obstructionist but arrogantly obstructionist. On this bill, the first speaker, Senator Williams, gave us about five minutes of his time and addressed none of the specifics of the legislation. This is a hasty piece of legislation which the opposition is keen to simply rubberstamp through this chamber. But this legislation needs more consideration. The Senate Selection of Bills Committee has not decided that the bill should not be referred to a committee. In addition, the Senate Rural and Regional Affairs and Transport References Committee report on beef imports, including BSE matters, has been deferred. We have yet to see the final report and the comments of the senators, including of course opposition senators who participated in that inquiry. It is foolhardy to not have the final report on the record before there is an attempt to pre-empt its findings by bringing this bill before the chamber. One of the matters that those opposite have always stood for in this chamber is ensuring that information is available from Senate committee reports on particular legis-
They already wrecked that rule. Now they have wrecked it again.

The government have had limited time to look at the bill and limited time to explore the consequences of the legislation. It is not good legislative practice to use general business and now a third reading debate to air this particular piece of legislation. It can be squarely framed as simply a political stunt by those opposite. In relation to the urgency of this matter, why is it as urgent as more important legislation that the government has before it, such as the private health insurance legislation or the Carbon Pollution Reduction Scheme legislation? The Australian people deserve more scrutiny of legislation and more accountability than this rushed process on this hastily and poorly drafted legislation that this opposition are now trying to ram through the Senate.

Senator Williams made the statement that this bill was very important. Quite frankly, I absolutely agree. This issue is of great importance, particularly to people in the bush but also to all Australians. But we have not seen in this chamber in the last two years—but particularly since the new Leader of the Opposition, Mr Abbott, has taken over the reins—substantive and proper argument about what is good for Australia and Australians. All we have seen has been pure obstructionist political point scoring by the opposition. Needless of the waste of time and money that they are causing, the opposition is holding up legislation.

I am not going to use up my time in this debate in full. But I needed to make the points that I have just made so that it is clear why we are having a third reading debate in relation to a private member’s bill. Whether they are stacking the list of speakers, whether they are using endless repetition on the same points or whether they are referring bills to committee for the umpteenth dozen time, it seems that the opposition have made plain that their only position is to be obstructionist for obstructionism’s sake; to say, ‘No.’

I have a little parable for them then. All mums and dads recognise that some oppositional behaviour from toddlers is a normal part of growing up and learning to think and do things in your own way. The federal opposition, however, seem stuck at a permanent stage of toddlerhood, lacking their own vision for the country’s future. They are trying to fill the void with noes and a raft of silly games worthy of a two-year-old. This is not what the Senate is for.

Opposition senators interjecting—

Senator LUDWIG—They are complain-
and I hope Senator Ludwig takes note of this:

Senator Parry asks what this has got to do with it. I’ll help you out, mate. Clearly this is filibustering from you lot. That is what we have seen here. You just oppose for the sake of opposing.

We complied with the filibustering allegation, and we put the motion that the question be put. Putting the motion curbs the debate. Senator Ludwig should know that that had nothing to do with government business time. We were taking our own time. We gagged our own debate. We did not gag the government’s debate. So Senator Ludwig is wrong on two points. He had a filibustering senator on his side who wasted 20 minutes with quotes like ‘boofhead’ and ‘thickhead’ and talking about the CPRS bills. He went on to every bar the bill that was currently before the chamber. You may want to read Senator Sterle’s speech in the Hansard. It was a great contribution, but not for that particular debate, unfortunately. So Senator Sterle let the cat out of the bag on Thursday during our own time and we curbed our own debate. Senator Ludwig is wrong on two counts.

This is simply covering up. I am going to quote Senator Colbeck, who interjected in Senator Ludwig’s contribution a short while ago. He said, in response to his comments, ‘You haven’t got used to governing yet.’ And that is the problem. You accuse us of doing anything we want in this chamber, but we do not have the numbers. We need to have senators from the crossbench to do anything. The senators from the crossbench, who represent other states and other constituencies, support us. You cannot get used to the fact that you do not have the numbers. We have the numbers if we have the consent and the support of other senators. This is simply a debate that has the support of everyone in the parliment except for the government, because they got it wrong. They are too embarrassed to admit they could not legislate themselves, so we took up our own time to legislate for them, and we are going to fix the problem. That is what it boils down to: you are embarrassed by that. There is a new mantra from the Prime Minister, because the Prime Minister has failed on so many fronts: ‘We can’t fix this anymore.’ The Prime Minister has even failed to negotiate with the minors and the crossbenchers. So what is the old adage? ‘Let’s just blame the opposition. We’ve failed, so let’s just blame the opposition.’ That is the easy line. Without taking up any more of the chamber’s time, unlike the government, who have wasted a lot of time on this debate, we are certainly going to support the bill’s third reading.

Question put:
That this bill be now read a third time.

The Senate divided. [4.38 pm]
(The President—Senator the Hon. JJ Hogg)

Ayes………… 36
Noes………… 25
Majority……… 11

AYES
Back, C.J. 
Bernardi, C. 
Boswell, R.L.D. 
Brown, B.J. 
Cash, M.C. 
Coonan, H.L. 
Fielding, S. 
Fisher, M.J. 
Heffernan, W. 
Johnston, D. 
Ludlam, S. 
Mason, B.J. 
Milne, C. 
Nash, F. 
Payne, M.A. 
Ryan, S.M. 
Troeth, J.M. 
Williams, J.R. *

NOES
Arbib, M.V. 
Bilyk, C.L. 
Barnett, G. 
Birmingham, S. 
Boyce, S. 
Bushby, D.C. 
Colbeck, R. 
Cormann, M.H.P. 
Fifield, M.P. 
Hanson-Young, S.C. 
Humphries, G. 
Joyce, B. 
Macdonald, I. 
McGauran, J.J.J. 
Minchin, N.H. 
Parry, S. 
Ronaldson, M. 
Siewert, R. 
Trood, R.B. 
Xenophon, N. 

CHAMBER
Monday, 15 March 2010

SENATE 1785

Bishop, T.M.  Brown, C.L.
Cameron, D.N.  Carr, K.J.
Conroy, S.M.  Farrell, D.E.
Feneley, D.  Forshaw, M.G.
Furner, M.L.  Hogg, J.J.
Hurley, A.  Hutchins, S.P.
Ludwig, J.W.  Marshall, G.
McEwen, A.  O’Brien, K.W.K.
Moore, C.  O’Brien, K.W.K.
Polley, H.  Pratt, L.C.
Stephens, U.  Sterle, G.
Wong, P

PAIRS

Abetz, E.  Evans, C.V.
Adams, J.  Collins, J.
Brandis, G.H.  Crossin, P.M.
Ferguson, A.B.  Lundy, K.A.
Fierravanti-Wells, C.  Faulkner, J.P.
Kroger, H.  Sherry, N.J.
Scullion, N.G.  Worley, D.

* denotes teller

Question agreed to.

Bill read a third time.

LEAVE OF ABSENCE

Withdrawal

Senator PARRY (Tasmania) (4.41 pm)—Senator Scullion has attended the chamber today and does not require leave. There was confusion. He was required to give evidence in a court case for the Crown and he was no longer required. He has returned to Canberra, which is very good. The prosecutor’s office did notify the Clerk’s office and Senator Scullion’s office but unfortunately not our office. Everyone assumed that we knew. I do apologise for the inconvenience to the chamber but Senator Scullion no longer requires leave. Mr President, I therefore withdraw the motion moved today in relation to a leave of absence for Senator Scullion.

MATTERS OF PUBLIC IMPORTANCE

Border Protection

The ACTING DEPUTY PRESIDENT (Senator Ryan)—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 Rudd Labor Government’s border protection policy which is responsible for:

(a) weak and porous borders;
(b) chaos at the Christmas Island detention facility;
(c) unsafe attempts to arrive in Australia by sea because of a weakened stance of border security;
(d) encouraging people smuggling.

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 ACTING 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 clock accordingly.

Senator HUMPHRIES (Australian Capital Territory) (4.43 pm)—I am sure it was not necessary to actually gauge the level of support in the Senate, Mr Acting Deputy President, because this is an issue which concerns not just those on this side of the Senate chamber but indeed many Australians. In fact, I will go so far as to say that the government knows, the whole of the Senate knows and the Australian people know that Australia’s border protection policy at this time is in a state of free-fall.

Since the point about 18 months ago when the Australian government announced that it was dumping the previous government’s border protection policies and putting its own more relaxed policies in place, some 4,100 arrivals by boat have come to our shores and the policies that were previously in place have been discarded. The effect is
that the Australian people can discern that a policy change has made something go badly wrong with Australia’s border protection policies and they want to know why. Clearly Australia’s borders in the last 18 months have become an open door, encouraging asylum seekers to undertake dangerous journeys in often unseaworthy vessels, in numbers unprecedented for at least a decade.

The government, the Senate and the Australian people also know that this chaotic situation, this deterioration in the security of Australia’s borders, this free-fall of a policy, is the direct product of a decision announced by the Rudd government to relax the previous firm policies of the Howard government. What is perhaps more disturbing is that we have seen, in the light of this evidence of a collapse of policy, a government paralysed by indecision, a government unable to determine how it will cope with this obviously failed policy, which constantly looks to effect external factors in Australia’s border protection but fails to consider or be prepared to undertake the adjustment to the internal settings to make Australia’s borders more secure. And that is a matter for which the government stands condemned.

As of yesterday, we have had 24 boats arrive illegally in our waters during the course of 2010. Almost 2,100 people have arrived by boat in just the first 10 weeks of 2010. That is an indication of a policy which has utterly and completely failed to deter people from undertaking such a hazardous journey. Under Labor, people-smugglers in our region are doing a roaring trade. We have gone from a situation where there were about three illegal boat arrivals per year, during the last six or seven years of the Howard government, to a situation where there are two or three boat arrivals per week—in fact, they have been almost a daily occurrence in recent days. It seems as though the government is trying to make the Guinness Book of Records for the most boat arrivals in a single year. Clearly, what we are seeing is an unprecedented ramping up of the numbers—and the government appears to be utterly and completely powerless to prevent that from happening.

This situation has of course been seen in Australia’s past. Back in 2001 the Howard government was facing a similar situation; it faced a surge of boat arrivals. Many thousands of people were crossing the seas in boats. The Howard government was faced with a very considerable challenge. What it did was to make changes to the Australian border protection and immigration systems so that the signals that were sent to those people who chose to undertake those journeys—and, more importantly, to those people who facilitated those journeys: the people-smugglers—were changed. As a result there was a dramatic reduction, in the years following that change of policy in 2001, in the number of boat arrivals on Australia’s shores and in Australia’s waters.

Something happened after that change of policy in 2001; in 2008 there was again a change in outlook. Again, from about August 2008 we saw a surge of boat arrivals. The question is: what caused that surge to occur? We know there has been turmoil in places such as Iraq, Afghanistan and Sri Lanka, all of which have produced asylum seekers. But each of those conflicts goes back much further than August 2008; they started many years before and were producing refugees many years before. We know that in 2001 there were, according to the UNHCR, some 12.1 million refugees around the world. In 2008 that number had fallen to under 10½ million refugees. So what is it that caused, in about August 2008, Australia to once again be targeted so heavily by those seeking asylum? This is not just a trend or a blip in the statistics; it is a surge—it is as though a faucet has been turned on which previously had been merely dripping.
Since that something—that change—in 2008, 92 boats have arrived in Australia’s waters. The obvious culprit for that change was of course the change of policy announced by Minister Evans on behalf of the government in August 2008, a change which signalled a more relaxed border protection policy. The fact is that boats have been arriving at this country’s borders at much greater rates than comparable countries around the world. The UNHCR reports that in 2009 Australia experienced a surge of 30 per cent in the number of applications made for asylum in this country. That might appear to indicate a world in which great instability was present, and perhaps it does reflect some instability in the world. But other countries in similar circumstances have not experienced that kind of change. For example, in the United Kingdom—and we heard the minister today tell the Senate that Europe is still receiving the majority of applications for asylum—we have seen not an increase but a reduction in the number of people seeking asylum, by something of the order of six per cent. Clearly, this is not simply what is going on around the world. It is not simply global push factors which are influencing the arrivals on our shores; it is something about Australia’s policy settings which is leading to that occurring. And it appears that the government is unable or unwilling to act on those settings.

We know that Australians are concerned about the security of their borders. That is very clear. And we know that from what the Prime Minister himself had to say on his last day as the Leader of the Opposition, the day before the 2007 election. As opposition leader he said: ‘I will turn back the boats.’ That was his response to the question of border security: ‘I will turn back the boats.’ And yet, as the Senate was told just last week, since his government has come to office no boat has been turned back—not one. He attempts to blame other factors for the fact that the government is faced with this surge of boat arrivals; but, unconvincingly, he fails to identify any of the factors that he himself has control over—namely, the sense of Australia having an open door with respect to such arrivals, a sense reinforced by the enormous increase in the size of the Christmas Island detention facility to accommodate those large numbers of people crossing the sea in unseaworthy vessels. So we have a very dangerous situation—a sense that Australia’s security has been diminished, that our borders are porous, that our policy is in free-fall, that we are unable to exercise any kind of influence on the policies of the people-smugglers who drive this trade. We see a government paralysed by indecision in the face of all of this. The Australian people expect better than that.

Mr Rudd, only a couple of weeks ago, said that the government needed to be apologetic about some of the things it had done. He said:

…we didn’t anticipate how hard it was going to be to deliver things, particularly given the burdens imposed on us by the global financial crisis last year. But that’s no excuse.

He went on to say:
The public expect you to honour the things that you have said.
The public were expecting that the Rudd government would hold a strong line with respect to unauthorised arrivals and the government has failed to deliver on that promise.

Christmas Island, which was once labelled a white elephant by the Labor Party when in opposition, has now become the linchpin of the government’s response to this crisis. It has become a much larger centre and is constantly being increased in size by the government, with an accompanying blow-out of $132 million, because of the extra arrivals in our waters. At the beginning of this financial
year the government estimated that 200 arrivals would occur each year. The 1,200 that have already arrived this financial year indicate how badly the government has miscalculated the size of the problem it is facing. We have to act to deal with that situation and the government has failed to do that.

People recognise failure when they see it. They know that the government has dropped the ball on this issue. People-smuggling is an industry: it has entrepreneurs, customers, a product and profits. The changes that the government announced in August 2008 revved that industry to life. They gave it purpose and, in particular, they gave its entrepreneurs a product to sell. The government claim that the fact there has been a surge since then is a coincidence. They claim it just so happens that international factors have generated extra people coming to our shores. The Australian people know that it is no coincidence. They know full well that the unprecedented number of arrivals on our shores is the result of a government which has lost its bottle; is unable to control its own policies; has left Australia’s borders vulnerable and has, incidentally, put at risk the lives of many people who get on boats to cross the sea in perilous circumstances—in some cases never to arrive at their destination. We need to make sure that the government acknowledges its failure and does something about it. Australians expect no less in a crisis of this dimension.

Senator BILYK (Tasmania) (4.55 pm)—Once again from those on the other side of the chamber we have a fear and smear campaign regarding illegal boat arrivals. The Rudd government is committed to protecting Australian borders and to the safety of the Australian people. I wonder what the opposition would be doing regarding boat arrivals if they were in government at the moment. Would they be towing them back? Would they be turning them away and leaving them to flounder?

Senator Humphries—You were going to do that!

Senator BILYK—Would they not be taking up their responsibilities under international law? By the sounds of it that is exactly what they would be doing. Australia has responsibilities in these areas and Australia takes those responsibilities seriously. The fact is: we have maintained the border protection policies of the Howard government.

Senator Cash—Very long stretch.

Senator BILYK—That is, a system of excision, mandatory detention and offshore processing.

Senator Humphries—Pacific solution!

Senator BILYK—Mr Acting Deputy President, I sat very quietly and listened to the alleged information coming out of the opposition’s mouths. I would appreciate it if you would call to order their interjections while I have my 10-minutes worth of speech. The Rudd government acts in accordance with our international legal obligations and it takes those obligations seriously, as opposed to those on the other side of the chamber, who do not have an immigration policy. They do not have a policy, they have a five-point dot plan and one of those dot points is to reintroduce TPVs. There is nothing too brilliant about those on the other side of the chamber except that they stand up and continue to run these fear and smear campaigns. They are trying to make the people of Australia anxious—earlier in the year Philip Ruddock talked about terrorists coming in on boats. The opposition have to get behind their new leader because they have had so many leaders since the change of government they have to make this one feel as though they are behind him and are not going to roll him as quickly as they rolled all the others.
I did listen to Senator Humphries because I find that he is usually quite a rational person and I can usually have a fairly rational conversation with him. But it was as though he thought the opposition had a magic wand and that everything they did was covered with beautiful fairy dust, or something, from this magic wand but that everything we did was tainted. I know that the person who wants to be the next leader on the other side has been seen in a tutu and a crown. Twice I had to watch that on a plane coming up from Hobart last night. That was fairly entertaining! But it was not as entertaining as Senator Humphries thinking that there is a magic wand somewhere that only the opposition hold and that everything we do is wrong. I think Senator Humphries might be missing out on a bit of media excitement too. He probably wants to run out and do a bit of media a bit later in the day.

People do not go in these boats just for a holiday; they come here because they are seeking refuge. A large proportion of those people are actually found to be refugees. Off you go, Senator Humphries, the media is probably waiting. Do not let the facts get in the way of a good story out there, will you? Situations around the world mean that large numbers of displaced persons are looking for settlement and can be targeted by and, unfortunately, fall prey to people smugglers. We do not condone that and we do not support people-smuggling. In fact, only last week the Indonesian President, while he was here, had discussions regarding actions they will take in regard to people smugglers.

According to the United Nations High Commissioner for Refugees 2008 Global trends report, there were 42 million forcibly displaced persons worldwide at the end of 2008, including 15.2 million refugees. Those on the other side can sit there and smirk about this, but I feel they have no sense of moral judgment about how to treat these people. People-smuggling is not just an issue for Australia; it is a global and a regional problem. The commitment of our neighbours through bilateral cooperation and the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime are critical in addressing this most serious issue.

The Australian government has an orderly and planned migration program and places a high priority on protecting Australian borders from irregular maritime arrivals by maintaining an effective and visible tactical response program of aerial, land and sea based patrols. The Australian government’s Border Protection Command uses a combination of customs and border protection and defence assets to deliver a coordinated national response to security threats in Australia’s maritime domain. The Australian government remains vigilant and committed to protecting Australian borders. Under the Rudd government, Australia has one of the toughest and most sophisticated border security regimes in the world. The Rudd government has maintained the border protection policies of the Howard government—a system of excision, mandatory detention and offshore processing on Christmas Island of all irregular maritime arrivals. I do not know how many times we have to say it, but the other side seem to put cotton wool in their ears when it comes to hearing that message. The government also allocated $654 million in the 2009 budget to substantially increase aerial and maritime surveillance and detection operations and boost resources to stop people-smuggling.

What is the difference between the Howard government’s policy and the Rudd government’s policy? The difference is that Labor believes in treating asylum seekers humanely and is committed to meeting Australia’s international obligations under the United Nations refugee conventions. I will say it again for those on the other side—and I will say it very slowly so that they can let it
sink in: the Rudd government takes border protection seriously. They are far too busy running around with their fear and smear campaign, trying to make people feel anxious about it. If they were genuinely concerned, they would at least come up with an immigration policy rather than their fanciful five-dot-point effort. How long has it taken the opposition to come up with these five dot points?

As I said, in the 2009 budget $654 million was dedicated to a whole-of-government strategy to combat people-smuggling. The opposition just do not want to accept this. Whenever they can come in and harp about it, that is what they will do. They knew that the numbers of illegal boat arrivals would increase, because they were actually the ones who built the Christmas Island facility. It was built under their government. Either they built it just to give jobs to their mates and give them something to do or they built it because they thought there was going to be a use for it. One presumes that they did build it because they knew there would be a use for it—and now they are complaining because it is being used. Maybe they would have preferred that facility to stay empty for a bit longer, get rusty and not have any use or do any good, in memory of that wonderful Prime Minister, John Howard. I am surprised it was not named after him.

Labor is committed to stopping people-smuggling and to ensuring that people who enter Australia do so by the correct channels. But, in situations where people do not, we need to make sure that they are cared for in a humane way so that they are not put at any more risk. Quite frankly, to tell them to turn around and go home again just puts them at greater risk than ever. I suggest the other side take a deep breath—thank you, Senator Bernardi, I am pleased you are listening because usually you do not. Take a deep breath, settle down about it and realise that this is part of the bigger world and not just part of the little, not-in-my-backyard mentality that they are so keen on portraying.

Senator TROOD (Queensland) (5.05 pm)—Governments have obligations. There are no obligations more important to governments than to maintain the sanctity of borders. Nothing is more important to any government than ensuring its border integrity. Far from being trivial on this matter, we in the opposition regard the maintenance of Australia’s border sanctity as one of the most important issues that a government has to confront. It is the first responsibility of every government and it is this responsibility that this government, the Rudd government, has completely failed to give attention to.

Our territorial sovereignty is under constant challenge from people smugglers and asylum seekers. The numbers are incontrovertible. Senator Bilyk seems to be in denial about the challenge we face. In 2008, from August there were seven boats. In 2009, the number went up to 61. Already in 2010 the figure is 24. Just looking at 2009, in that year the 61 boats that arrived were carrying 2,792 people. This year, so far 24 boats have arrived carrying 1,191 people—a total since August 2008, as Senator Humphries said, of 92 boats carrying 4,162 people.

There is a debate about the reasons for this. There are many different perspectives held by those in this debate, and they offer different explanations as to why this is the case. I am one of those who believe that this is a complex matter, that there is a range of reasons why the boats keep coming, but at the very least there is a plausible argument that ALP policy is an important contributing factor. The argument for that position is not just plausible. There is in fact a direct correlation between the changes in the Rudd government’s policy on this issue and the increase in the number of boats arriving over
this two-year period. The numbers have increased while the Rudd government has liberalised its policies.

What are we to make of this? Rational people are entitled to draw rational conclusions about the nature of this connection between the easing of policy and the number of people who have come to Australia over that time. The government’s response is to be in absolute denial about this proposition. The government absolutely denies and cannot accept any relationship between the easing of its policy and the changes in the incidence of arrivals. If we were to accept the trend—which is unmistakable—and to project it from 2010, with 24 arrivals already this year, by the end of 2010 there would be in the vicinity of 96 boats and 4,764 people, according to my calculations. That is the trend. Of course, events might intervene—the numbers might not be that high or that low—but that is the trend which the government seems completely unable to acknowledge. It refuses to acknowledge the relationship between these two events.

It seems very clear to me that denial and refusal lead to bad policy. An inability to acknowledge the correlation between these factors leads consistently to bad policy. If I had a couple of hours—and I do not, sadly—I could outline the wide range of the shortcomings of these policies, but let me just pick up on a couple of matters. Senator Bilyk referred to the detention centre that the coalition built whilst we were in office. Why did we build it? We built it in preparation. We built not in the expectation that it would soon be filled but because we were concerned to ensure that Australia was put into a position where, should it be necessary, we would be able to deal with this challenge. The Labor government has failed completely to deal with the challenge of the increasing number of people who might come to our shores over the next six, nine or 12 months or even longer. When the minister is pressed about what will happen if the Christmas Island detention centre is full, he says, ‘I will send them off to Darwin perhaps.’ The reason that is a possibility, of course, is that we also recognise that we might need the facilities in Darwin for future policy contingencies.

The point is that the Rudd government, having been in denial about this problem, has done nothing. It has failed to turn its mind to the possibility that those projections that I mentioned are accurate, that there will be more asylum seekers, that the heinous people smugglers will ply their trade very successfully and that we will need more accommodation for these people. The Rudd government has to face up to the reality of the shortcomings of its policies. It has to face up to the reality of its policies not only with regard to detention centres but also with regard to Indonesia. Everybody who is concerned about this issue—everybody who pays serious attention to the people-smuggling problem—recognises that Indonesia is part of the solution. Yet from the very beginning the Rudd government seems to have been absolutely determined to humiliate Indonesia for its management of this issue. It did so over the Oceanic Viking, on which the Indonesians were forced into taking a position, and as we stand here today the Jaya Lestari remains in the port of Merak with 240 people on board. It has been there for four months and there is no solution in sight to the plight of those people on board.

In the mind of the Rudd government, it is a problem for the Indonesian government. During estimates, it was quite clear that the Rudd government had washed its hands of the whole problem, having in the first place asked the Indonesian government to tow this ship into Indonesian waters and do us a favour by protecting it from the dangers of the high seas. Indonesia did that favour for us, but we have left it with a problem that it is
unable to address unless we provide some kind of assistance, and we absolutely refuse to do so. In estimates, Mr Woolcott, who was then the people-smuggling ambassador, said: … it is a matter for Indonesia to find a way to get the passengers from the Merak boat to end this embargo.

It seems unwilling to take that course. *(Time expired)*

**Senator PRATT** (Western Australia) *(5.13 pm)—*The opposition have their assessment of the Rudd government’s border protection policy just plain wrong. Why have they got it so wrong? It is because they have chosen to be blinkered when it comes to the truth about the number of boat arrivals; it is because they choose to use scare tactics instead of the facts in this debate; and it is because they choose to ignore the fact that the Rudd Labor government is hard at work protecting our borders and strengthening Australia’s people-smuggling laws. So let’s look at the facts about the Rudd Labor government and border protection. Fact 1: the highest number of boat arrivals on record occurred when the Howard government was in office. That record was set in 2001. In that year, more than 5,000 people arrived in 43 boats. Fact 2: the second-highest number of people arriving in boats was in 1999, also under the Howard Liberal government. In that year, 3,721 people arrived by boat. Fact 3: the third-highest number of boat arrivals was in 2000, also under the Howard government, when 2939 people arrived. When we cut out the scare tactics, these are the real facts.

The United Nations refugee agency, the UNHCR, has reported that there were 42 million displaced persons worldwide at the end of 2008, including more than 15 million refugees. Naturally, these displaced people are looking for stable places to resettle. They are looking for somewhere stable to resettle because of the troubled state of their home countries, not because of our immigration policies. There are good reasons for reaching this conclusion. When boat arrivals were at their height in the Howard era, the main source countries were Afghanistan and Iraq; now the main source countries are Afghanistan and Sri Lanka. Why Iraq then and Sri Lanka now? This change in source countries points to changes in the domestic conditions in those source countries. This is what is driving changes to boat arrivals; it is not changes in our immigration policies.

You can see that our immigration policies are not driving arrivals from the fact that other developed nations, with a range of different immigration policies, are facing the same issues of refugees fleeing and seeking asylum within their borders. For example, there have been increases in the number of asylum claims in Austria, Belgium, Denmark, Finland, France, Germany, Norway and Poland. This is a global problem. To pretend otherwise is misguided and misleading, and that leads to misguided policies. Fortunately, the Rudd government understands this, and that means we are in a better position to address it, unlike the opposition. We know that, because of their vulnerability, displaced people are targeted by and fall prey to people smugglers. The Rudd government is very aware of the fact that the abhorrent practice of people-smuggling is both a global and a regional problem, and we are acting accordingly.

So, once again, look at the facts. Fact: the Rudd Labor government has increased border protection resources for our country. Fact: the Australian government has committed more than $654 million to implementing a comprehensive people-smuggling strategy. Fact: the Australian government is working with our regional neighbours to identify, deter, prevent, intercept and prosecute people smugglers. Here are examples of our comprehensive and well-targeted border protec-
tion policy implementation. First, the Australian Federal Police, the Department of Foreign Affairs and Trade, the Department of Immigration and Citizenship and the Australian Customs and Border Protection Service have increased their presence in our region by recently setting up and expanding liaison posts devoted to deterring irregular migration. Second, agencies are working closely with their counterparts in other countries, exchanging and gathering information and strengthening our regional capacity to mitigate irregular migration to Australia. Third, our regional approach was boosted last week when our government and the Indonesian government adopted an Implementation Framework for Cooperation to Combat People Smuggling and Trafficking in Persons. The framework, developed under the Lombok Treaty Plan of Action, reflects the cooperation between the two governments as co-chairs of the Bali Process, as well as the 2006 bilateral MOU on migration and border control management. This cooperation involves law enforcement and other agencies working together to prevent, disrupt and bring to justice people smugglers and people traffickers. Fourth, the Rudd government is doing even more to strengthen our border protection policies. You can see this from the fact that, just two weeks ago, the Attorney-General introduced a bill to amend our anti-people-smuggling legislation framework. This will allow the harmonisation of existing offences between acts, create new people-smuggling offences, improve investigative tools and extend penalties for those convicted of people-smuggling offences. This is in addition to the vigilant and visible aerial, land and sea based patrols that are already very effective. Our strengthened offshore approach is working.

Since September 2008 there have been 102 disruptions of people-smuggling ventures in Indonesia and the arrest of 54 people-smuggling organisers. I am proud of the fact that the Rudd government has ended the inhumane practices of the Howard government such as keeping children in detention and temporary protection visas. We have done this in favour of a whole-of-government strategy to combat people smuggling and address the problem of unauthorised arrivals. This means that finally we have a real plan and a commitment to strengthening our borders. This is instead of the Liberal government’s approach. Frankly, I do not think the Howard government cared about the number of asylum seekers arriving, providing it could vilify them and score political points. Labor’s approach is working. However, the simple fact is that, while there is conflict and instability in the world and people face violence, conflict and persecution in their own countries, we will continue to need to work hard as a nation to address this problem, no matter who is in power. The difference is that Rudd Labor is actually committed to the task, whereas the opposition is only committed to scoring cheap political points from a complex problem.

Senator CASH (Western Australia) (5.22 pm)—In question time today, the Minister for Immigration and Citizenship, Senator Evans, in response to a question that was asked by Senator Humphries, actually defended the arrival of what is now the 92nd boat since the Labor government commenced the winding back of the coalition’s strong border protection policies. The arrival of what is now the 92nd boat since August 2008 was held up as a policy success by the minister. That is an absolute joke. It is even more of a joke when you look at what the Deputy Prime Minister, Julia Gillard, said when she was the opposition’s spokesman for immigration under the Howard government’s watch. When a second boat arrived, she said, ‘Another boat, another policy failure.’ If 92 boats are considered by Rudd La-
To be a policy success, God help Australia when they finally admit to a policy failure.

The people of Australia have long been asking, ‘What is it going to take for this government to end its state of denial in relation to its failed border protection policies and admit that the special deals and the policy changes that it has made have weakened Australia’s strong border protection regime and have issued an open invitation to the people smugglers?’ Do you think it might be the arrival of the 60th boat? No, because the arrival of the 60th boat is now a dim distant memory. What about the arrival of the 70th boat? Did it take responsibility then? No. What about the arrival of the 80th boat? No responsibility was taken then. And what do we have now? The arrival of the 92nd boat. This is the Prime Minister’s response:

We believe that we have got the balance of policy right.

You have got to be kidding me. The only balance that the Prime Minister has got is that which is in favour of the people smugglers. Rudd Labor is the best friend that a people smuggler will ever have. This is a catastrophic policy failure, possibly like we have never seen in the history of border protection in this country. Mr Rudd’s pre-election promise to the people of Australia that he would keep our borders secure was nothing more and nothing less than a vote-buying statement. Now, with the complete, total and utter failure of Labor’s border protection policies, Mr Rudd is interested only in scoring cheap political points to deflect away from his policy failings. Despite the arrival of the 92nd boat, this government refuses to take responsibility.

With Rudd Labor, it is always someone else’s fault. It can never honestly look at a policy failure and say, ‘Yes, that was our fault; we shouldn’t have made that change.’ It is never, ever Kevin Rudd’s fault. When it comes to the failure of Labor’s border protection policies, it is consistently full of excuses. We saw it yet again in question time today. The government’s favourite excuse for the border protection failure is that it is always due to the push factors, but it is never, ever due to pull factors created by this government. We heard the minister in question time yet again give this as an excuse for the 30 per cent increase in unlawful boat arrivals to Australia in 2009. This is an excuse that has well and truly run its course.

The United Nations High Commissioner for Refugees last week reported that push factors have been easing in Afghanistan and Sri Lanka, providing increasing opportunities for those previously seeking asylum to return home. But can the minister stand here in this place and actually admit that? No, he cannot, because that then undermines the excuse that it is global push factors that are bringing unlawful people to this country. Then we had the comments from Dr Palitha Kohona, Sri Lanka’s Permanent Representative to the United Nations, who said on ABC’s Lateline in November 2009:

I think this talk about the push factor is an over-exaggeration. If there were, as I said, a push factor, why didn’t they go across to India which is so close by, 22 miles away from Sri Lanka? Instead they head all the way to Australia. There must be another reason than simple push factor here.

Yes, there is another reason. We know what that reason is: it is called the Rudd Labor pull factor. We have all known, because it is on the record, that for several months now the number of illegal immigrants from Sri Lanka has been declining. The government refuses to release this information because, if it does, once again its excuse in relation to ‘the push factors’ will be undermined.

Those on the other side continue to spruik the rhetoric that they have not taken steps to soften the coalition’s strong border protec-
tion policies. They have. They have abol-
ished the Pacific solution, they have abol-
ished temporary protection visas, they have
abolished the 45-day rule and they did a spe-
cial deal for those on the Oceanic Viking. If
that is not taking steps to soften Australia’s
border protection regime, then I do not know
what is. What has been the effect of those
Labor policy decisions? The effect is quite
clear. We have seen nothing more and noth-
ing less than the biggest surge in people-
smuggling since 2001-02 when the coaliti-
on’s tough strategy put people smugglers
out of business.

According to the monthly statistics of the
Department of Immigration and Citizenship,
there were 1,749 people detained on Christ-
mas Island as at 12 February 2010—well in
excess, as we know, of the capacity for
Christmas Island. And what is the Labor
government’s response to this? It issued a
press release last year when the Christmas
Island statistics had reached 1,287 and said
that Christmas Island had a reconfigured ca-
pacity of 1,400 which would be boosted to
1,600 by December. We have now exceeded
that figure. That is the Labor government’s
policy response to the border protection is-
ssue. ‘We will just increase the capacity of
Christmas Island’—great news for the people
smugglers but hardly the decision of a re-
ponsible government. The Leader of the
Opposition, Mr Abbott, is correct when he
says that people are entitled to think that the
Prime Minister has dudded them when he
assured them that Australia’s security would
be safeguarded by his government. That was
nothing more and nothing less than Rud-
despeak for, ‘I want your vote and I will say
anything to get it.’

Senator MOORE (Queensland) (5.30
pm)—As you know, Mr Acting Deputy
President, it is always important to find
things in these discussions on which we can
agree. It has been difficult, but I think we can
come to a cross-party agreement that there is
a genuine need to wipe out the scourge of
people-smuggling across our planet. That is
something we can agree on, and that is about
it really for the points of agreement. It is
really important that we understand that, and
certainly the Rudd government has consist-
tently said that. Before our election, during
the campaign for the last election, we talked
about the need to keep our country safe; we
talked about the need for effective border
security. But we also talked about the need to
take up most righteously our international
obligations and to ensure that we as a coun-
try get the balance right between compassion
and concern for those people in our part of
the globe who are seeking asylum, and the
need to have border security.

Consistently in the contributions we have
heard from across the chamber, it is very rare
that we have heard the term ‘asylum seeker’
used. It is an understanding across all na-
tions, and particularly in unity with the
United Nations refugee organisation, that we
understand that across our globe there is a
need for people who are facing war and ter-
ror in their own countries to seek asylum
elsewhere. Australia is part of the Asia-
Pacific region. There is no argument about
that across the chamber either, so I should be
pleased; there are two things we agree on.
But we made clear in our pre-election prom-
ise that we would work effectively within the
UN process; we would understand what our
obligations were as a country and that we
would ensure that we would make our bor-
ders secure; we would ensure that people
seeking asylum would receive their rights to
be treated with compassion and by the law;
and that most assuredly we would ensure
that, to the best of our ability, no further
boats would be lost on the oceans and that
we would maintain that scrutiny of our
neighbourhood in that process. That is the
basis of our whole policy.
It seems to me quite disappointing that once again, with an election looming, which certainly colours the passion around some of the debating issues we have heard, there is an attempt to demonise those people who most need consideration—that is, the people who are seeking asylum. We should be demonising those who are trying to make a profit and trying to make a gain out of those people, and that reflects in the policy that the Rudd government has taken forward not just within Australia but across the international debates around the scourge of people-smuggling as to the need for tough penalties for people who are found to have broken that law and also for effective policing across many nations not just in the local Pacific and Asian areas but across international communities. We look at trying to break the networks that have arisen to take those people who are most in need, to use them and to try to make money out of them through people-smuggling. That is one element of our policy: to ensure that the issues around people-smuggling are criminalised, that there is swift action taken, that anyone who is found to be breaching those laws is brought to justice, both within Australia and internationally, where the AFP can be involved. I do not think that anyone can argue that that is not the process.

The other side is to ensure that Australia’s borders are as safe as they can be, and certainly we have heard from some other speakers in this debate about the budget allocations that have been made to ensure that we have more scrutiny of the seas around Australia, so that we ensure that through our coastguard and through other elements, such as our Navy and using those people who are working on the international aspects of security, we are scrutinising the known routes that are taken by the people who tend to use boats as their means of transport. Consistently this debate seems to focus on people using boats, although we all know that looking at border security is much more than that and we have to ensure that all ways of coming to Australia receive effective scrutiny. And that has also been a process we have used in Australia through the Australian Federal Police and the various parts of airline security as well as working with the legal system through the Attorney-General’s Department. So we have those aspects covered as well.

But if you are looking at the people who are using the horrors of the boats to come across the seas, in this place we have heard particularly confronting evidence about the dangers that people are exposed to when they use that method. I remember former Senator Linda Kirk, when she was in this place, talking many times about her knowledge gained through her work in South Australia providing support to asylum seekers. There were the individual stories of people who had, through sheer desperation, been forced for various reasons to seek their chance for asylum by getting onto the boats and using that system—and certainly when we are approaching debate on that system we have to be sure that we differentiate between those people who are making profit, the people smugglers, and those people who are genuinely seeking asylum.

The process that the Australian government has in place is very clear, and we have received some criticism from people who think we are being way too tough in our maintenance of a very strong mandatory detention program. Of course it is different to that which was used by the previous government. The way it saw mandatory detention is considerably different to the way the Rudd government sees it. The Rudd government is particularly clear that it sees that everybody who comes into this country without the due process of seeking visas, so coming into this country that way, is subject to a
form of detention as they receive identity and health checks to ensure that they are understood to fit the laws of our country. We also work with the UNHCR particularly carefully to ensure that people are clearly defined on their needs to fit the definition of asylum seeker, and that will continue to be the basis of the policy.

We have heard the minister clarify, after being asked the same question on many occasions in this place and in a range of different ways, what our policy is. People who are coming to this country need to be subject to health and security checks to determine that they are real refugees, that they are genuine people fleeing terror and conflict and that they are seeking a new life in safety. What we found, through the process on Christmas Island, was that the vast majority of people who, through the horrors of people-smuggling, ended up on Christmas Island and found their way to this country under the previous government and under this government did meet the requirements of that policy. When their identities were clarified, when they had the benefit of health checks and when they were interviewed to find out what their reasons were for seeking asylum, the vast majority of people were determined to be true refugees under international law.

That little point seems to be somehow lost in the argument. When people are so quick to attack the policies of the government they forget that the people in the middle of this discussion are actually those who are requiring our support and compassion because they are genuine refugees. They have had to flee circumstances that I do not think anyone in this room can genuinely understand. For a whole range of reasons, they have been forced by their circumstances to flee.

I got quite confused for a while when I kept hearing about pushing and pulling. Nonetheless, ‘push factor’ seems to be a particularly sanitised term to describe areas that are caught up in horrific struggles and post-war situations, particularly in our region. The vast majority of people seeking asylum in this country in the last two years have come from Afghanistan, and no-one can argue about the warlike situation in Afghanistan. The fact that our own troops are there indicates that there is a warlike situation. The people who sought asylum and went through the processes of assessment told us clearly about their circumstances and talked about horrific discrimination, war and horror where their families were divided and where they felt unsafe. Under those circumstances, they were drawn to taking amazing risks. On that basis we should be able to consider the issues that they have told us about and to work through the process with respect.

Most importantly, we need to ensure that we have clear policies on security, and the government has spread out through its budget processes the increased security measures it is taking. There is the expanded process for Christmas Island so that there is accommodation for more people. The minister has already presented a plan for the future of the facility at Christmas Island should there be too many people on the island. There has been nothing hidden. It has been clear. It has been strong. What it has had is a degree of realism that was not shared in previous governments. It acknowledges the role of the people, ensures their rights are maintained throughout this whole debate and makes sure that people’s terror and people’s pain are not translated into easy political lines. Too often that is lost in the debate. We lose the circumstances of those people about whom we are speaking. That is not something that the Rudd government will do.

We will continue with our determination to accept our responsibilities as a government and to accept our responsibilities in the
international arena to ensure that people who are seeking asylum receive respect while their circumstances are clearly checked. For anyone trying to enter this country for other purposes and who are not genuine refugees, the process of deportation will continue. We had, in the last two years, a number of people returned to their places of birth or to other areas where they were able to be located.

Nonetheless, there is a plan, despite the strident accusations from those on the other side, and a commitment from this government to continue, without being diverted by having numbers thrown across the chamber and allegations made, to be part of the international community working effectively on a worldwide issue, which, sadly, is an international problem and one where we each have to play our role.

PARLIAMENTARY ZONE
Proposal for Works

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.42 pm)—In accordance with the provisions of the Parliament Act 1974, I present a proposal by the Department of Parliamentary Services for works within the Parliamentary Zone, to improve exterior lighting within the Parliament House precinct.

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (5.42 pm)—by leave—I give notice that, on Thursday, 18 March 2010, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the Department of Parliamentary Services to improve exterior lighting within the Parliament House precinct.

COMMITTEES
Foreign Affairs, Defence and Trade Legislation Committee
Additional Information

Senator McEWEN (South Australia) (5.43 pm)—At the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Bishop, I present additional information received by the committee on its inquiry into the Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2008 [No. 2].

HEALTHCARE IDENTIFIERS BILL 2010
HEALTHCARE IDENTIFIERS (CONSEQUENTIAL AMENDMENTS) BILL 2010
OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE LEGISLATION AMENDMENT (MISCELLANEOUS MEASURES) BILL 2010
OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (SAFETY LEVIES) AMENDMENT BILL 2010

Bills received from the House of Representatives.

First Reading

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (5.45 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion relating to the listing of the bills on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.
Second Reading

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (5.45 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

HEALTHCARE IDENTIFIERS BILL 2010

This Bill seeks to establish a single national healthcare identifier system for patients, healthcare providers and healthcare provider organisations.

This new identifier system will facilitate reliable healthcare-related communications, support the management of patient information in an electronic environment and provide the foundations necessary to support the development of a national e-health record system.

The development of a national e-health system will improve safety and quality and patient convenience by ensuring that the right people have access to the right information at the right time.

As noted recently by the third Intergenerational Report and the final report of the National Health and Hospitals Reform Commission, we need to prepare the health system to meet the needs of the coming decades.

An ageing population, technological change, a rise in the prevalence of chronic disease and increasing consumer expectations mean we cannot continue with a ‘business as usual’ approach.

The Government is currently undertaking the most important overhaul of our health system since the introduction of Medicare twenty five years ago. An important part of this work will be ensuring that as a nation, we are well positioned to take full advantage of the opportunities presented by information and communication technology. The Reform Commission was clear in identifying the importance of e-health in driving and enabling reform to healthcare delivery.

Among the 123 recommendations of the final report is a recommendation to introduce healthcare identifiers by July 2010 and individual electronic health records by 2012.

This Bill establishes the healthcare identifiers, without which, there cannot be an integrated, consistent, e-health system in Australia.

One of the major barriers currently limiting the progress of national e-health initiatives is the lack of a single process to accurately and consistently identify patients and healthcare providers.

For example, when a patient visits their GP for a check up, the identifying number on their health record is different to the number at the pharmacy where they have their prescription filled or the pathology laboratory where they have their blood tests done.

Healthcare providers face a similar problem with professional or registration bodies, Medicare Australia, and their employers all identifying them through a variety of different methods.

This fragmented approach to identification does not provide the accuracy or consistency needed to confidently share health information in an electronic environment. Nor does it adequately support the safe delivery of healthcare with providers regularly required to match patients and patient information to their records, increasing the risk of mismatching records and tests needing to be reordered.

Studies in hospital environments have indicated that between 9% and 17% of tests are unnecessary duplicates. Up to 18% of medical errors are attributed to inadequate availability of patient information, which indicate the scope of the potential efficiency and productivity benefits possible with accurate patient information. Healthcare Identifiers help progress our goal to utilise health resources in a smarter, more targeted and sustainable way.

In 2006, the Council of Australian Governments (COAG) agreed to a national approach to identification for patients and providers, as part of accelerating work on a national e-health records system. This decision was affirmed in November 2008 when COAG agreed to universally allocate healthcare identifiers to all healthcare recipients in Australia.

A national approach to establishing healthcare identifiers has been adopted to avoid duplicating
development costs and efforts and in recognition that identifiers are part of the core infrastructure needed to support secure electronic communication across the various elements of Australia’s healthcare system.

In consultation with the healthcare sector and the Australian community over the past three years, NEHTA in conjunction with Medicare Australia has designed and developed an identifiers system for patients, healthcare providers and healthcare provider organisations.

The Healthcare Identifiers Service has been designed to include appropriate safeguards to ensure that:

- minimal demographic information will be required to assign and obtain healthcare identifiers;
- no clinical information will be held by the service operator;
- only authorised healthcare providers will be able to access the Healthcare Identifiers Service and obtain healthcare identifiers for their existing patients; and
- the Medicare card and Department of Veterans’ Affairs treatment card are used as a token to obtain an individual’s healthcare identifier.

The Service has been designed to ensure that mechanisms currently available through Medicare Australia to protect the identities of vulnerable individuals (such as those in the witness protection program) will be catered for.

An IHI will not alter the way in which anonymous healthcare services are currently provided. Where it is lawful and practical, individuals can seek treatment and services on an anonymous basis. In these instances, an IHI would not be used by the healthcare service.

The design of the Service has been subject to three independent privacy impact assessments to ensure significant privacy impacts were identified and where necessary, addressed. This ensures the design of Service appropriately protects the privacy of those participating in it.

The design of the Healthcare Identifiers Service, combined with a national authentication system, an appropriate governance framework and the regulatory support this Bill seeks to establish, healthcare identifiers will deliver the access and identity requirements critical to ensuring confidence in the way a patient’s health information is handled in an electronic environment.

While attention is often given to the potential benefits of the eventual adoption of electronic health records, there are immediate benefits associated with the implementation of a national healthcare identifiers system. These benefits will improve the safety and quality of healthcare in Australia and include:

- Minimising the likelihood of information being sent to the wrong healthcare provider or being assigned to the wrong patient;
- Reducing the likelihood of adverse events and inefficiencies associated with mismatching of patient information;
- Establishing a Provider Directory Service to enable, for example, GPs to locate specialists in a timely manner and provide a greater confidence in electronic communications; and
- Improving productivity for healthcare providers and increasing patient convenience by helping to automate some of the more routine interactions between providers such as referrals, prescriptions and image processing.

For example, when eight year old Amy injures her arm roller-skating, her Mum takes her to the emergency room at the local hospital. Using their family Medicare card as a token, the hospital collects Amy’s healthcare identifier from the Healthcare Identifier Service and adopts it as an identifier in its own system.

Using Amy’s healthcare identifier the treating doctor orders an X-ray, the results of which are sent electronically from the radiology department to the doctor. This allows the doctor to quickly diagnose Amy’s fracture, treat her and prescribe any medication to assist with the management of her pain.

When Amy is discharged from hospital, the doctor sends an electronic discharge summary to her regular GP with information about her condition, treatment and the medication prescribed. From this information, Amy’s GP knows when follow-
up treatment is needed, reducing the likelihood of needing to go back to the hospital for further care. At each step in this scenario, Amy’s healthcare identifier is used to uniquely identify her in a variety of different healthcare settings and support the electronic communication of information relevant to her healthcare.

The scenario I have described can only become a reality if there is widespread use of healthcare identifiers system by both patients and healthcare providers. To achieve this, the system must be easy to use, provide benefits to clinical care and be one that people can trust.

The Bill seeks to establish appropriate limitations and protections for healthcare identifiers, including a robust complaints handling framework which will be managed by independent regulators. This will give patients and healthcare providers the necessary confidence in the safety of the system to encourage widespread participation.

The protections will be achieved by:

- Limiting the use of healthcare identifiers to:
  - health information management and communications activities undertaken as part of delivering health-care; and
  - other related purposes including health service management, research and emergency situations.
- Working to develop uniform health information regulation and privacy arrangements, for both the public and private healthcare sectors;
- Supporting appropriate authorisation and authentication processes for access to the healthcare identifiers system;
- Establishing strong inquiry and complaint handling arrangements with oversight conducted by the Federal Privacy Commissioner and penalties for misuse; and
- Providing for a review of the role of Medicare Australia as the service operator after a two year period.

While all individuals receiving healthcare in Australia will be issued with an identifier, the Bill does not impose a requirement that healthcare providers use healthcare identifiers when providing healthcare services, nor will identifiers be required for claiming healthcare benefits.

On 7 December 2009, COAG signed a National Partnership Agreement setting out its commitment to implementing the governance, legislative and administrative arrangements necessary to implement e-health, starting with the healthcare identifiers system.

This Agreement recognises the need for strong collaborative governance arrangements between jurisdictions, allocating responsibility for oversight of the Healthcare Identifiers Service, including the consideration of any proposed legislative changes and decisions regarding ongoing funding of the Service to a Ministerial Council made up of representatives from each jurisdiction.

Two rounds of public consultation on the legislative proposals to support the Healthcare Identifiers Service have been undertaken. While there is strong support for the implementation of healthcare identifiers as a foundation for the development of e-health, patient and healthcare provider confidence in the regulatory support outlined in the Bill is only one part of the story when it comes to ensuring widespread participation.

Getting a broad range of healthcare providers to actively participate in the system is going to be critical to achieving widespread use of healthcare identifiers in the healthcare system.

It is our aim to get as close to full participation in the healthcare identifier system as possible. Engaging with and educating healthcare providers is the best way of ensuring widespread uptake of the identifiers. While most of the benefits associated with improving safety and quality and increasing patient convenience and productivity are obvious, the Government will be strongly encouraging healthcare providers to participate in the system.

This is an exciting time for health reform and specifically, for e-health development. Every Australian has a stake in our health system and e-health provides us with great opportunities to improve the way in which healthcare is delivered.

The implementation of a healthcare identifiers system for patients and healthcare providers is an important step towards building an effective national e-health system.
HEALTHCARE IDENTIFIERS (CONSEQUENTIAL AMENDMENTS) BILL 2010

The Healthcare Identifiers (Consequential Amendments) Bill 2010 (‘the Bill’) seeks to make a number of minor consequential amendments to existing acts to support the introduction of the Healthcare Identifiers Bill 2010.

The Healthcare Identifiers Bill 2010 seeks to establish a single national healthcare identifier system for patients, healthcare providers and healthcare provider organisations.

This system will facilitate reliable healthcare-related communications, support the management of patient information in an electronic environment and provide the foundations necessary to support the development of a national e-health system.

The development of a national e-health system will improve safety and quality and patient convenience by ensuring that the right people have access to the right information at the right time.

The fragmented approach to identification that currently exists does not provide the accuracy or consistency needed to confidently share health information in an electronic environment.

The Healthcare Identifiers Bill 2010 seeks to overcome this issue by establishing a national healthcare identifiers system for patients, healthcare providers and healthcare organisations.

To ensure the Healthcare Identifiers Bill 2010 operates appropriately and effectively, minor amendments to the Health Insurance Act 1973 and the Privacy Act 1988 are required.

For example, the Healthcare Identifiers Bill 2010 seeks to allocate functions relevant to the operation of the Healthcare Identifiers Service to the CEO of Medicare Australia. This includes functions relevant to the day-to-day operation of the Service.

To support the day-to-day running of the Service, it is necessary to provide the CEO of Medicare Australia with the authority to delegate functions allocated to his or her office. To enable this to occur, minor amendments to the Health Insurance Act 1973 are required.

Minor amendments to the Privacy Act 1988 are also required to ensure that an act or practice that breaches the Healthcare Identifiers Bill 2010 is classified as an interference with the privacy of an individual, subject to investigation by the Federal Privacy Commissioner. Any such investigation will be undertaken in accordance with the Privacy Commissioner’s existing functions and the specific functions established to support healthcare identifiers.

Inclusion of the provision in the Privacy Act 1988 supports the strong privacy framework which has been established for the Healthcare Identifiers Service and provides patients and healthcare providers with confidence in the compliance and enforcement arrangements.

Other minor technical changes to the Privacy Act are also required to ensure the Privacy Act 1988 and the Healthcare Identifiers Bill 2010 operate appropriately together and to take account of changes to the Privacy Act that will come into effect with the commencement of the Personal Property Securities (Consequential Amendments) Act.

This Bill seeks to make these changes to ensure the Healthcare Identifiers Service operates effectively and as intended.

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE LEGISLATION AMENDMENT (MISCELLANEOUS MEASURES) BILL 2010

This bill amends the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (the Act). This is a relatively small bill making a number of minor policy and technical amendments.

It is nevertheless an important bill as it progresses the Government’s intention to establish a new National Offshore Petroleum Regulator commencing on 1 January 2012.

To this end, the Bill introduces a measure by which the Commonwealth, will retain the industry fees raised under the Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006 in order to use this money for the establishment of a National Offshore Petroleum Regulator.
Until now the registration fees have been redistributed to the States and Northern Territory. The industry fees raised under the Offshore Petroleum and Greenhouse Gas Storage Act 2006 and the Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006 will continue to be re-distributed to the States and the Northern Territory. I will review the fees to be re-distributed to the States and the Northern Territory to ensure that they continue to recover their costs of administering petroleum activities in Commonwealth offshore areas pending the establishment of the new regulator. If necessary, I will amend the level of the fees by regulation to ensure this outcome.

I do not expect to introduce legislation amendments for the establishment of a National Offshore Petroleum Regulator until next year as discussions regarding the exact arrangements are ongoing within the Ministerial Council on Mineral and Petroleum Resources, however I would like to emphasise that this initiative is a key development in the ongoing improvements and streamlining of the national regime for the regulation of petroleum and greenhouse gas activities in Commonwealth waters.

Also of significance in this Bill is the augmentation of the existing functions of the National Offshore Petroleum Safety Authority (NOPSA) to include non-occupational health and safety (non-OHS) aspects of structural integrity for facilities, wells and well-related equipment in Commonwealth waters.

Since its establishment on 1 January 2005, NOPSA has had structural integrity functions relevant to occupational health and safety for petroleum facilities, including for pipelines, and associated wells.

The amendments introduced in this Bill clarify NOPSA's role and strengthen their ability to fully carry out their functions in relation to all facilities, wells and well-related equipment – including during the drilling and construction of wells and whether or not wells are associated with a facility.

The augmentation of NOPSA's functions to include non-OHS aspects of structural integrity is not to extend NOPSA's responsibilities into environmental management or resource management regulation but to allow NOPSA to more effectively carry out its responsibilities as an occupational health and safety regulator.

This is particularly the case where a structure used in petroleum operations such as a well or a pipeline is on the sea floor and contact between people and the structure is only occasional.

To a large extent, the structural integrity of a pipeline or a well is an OHS matter, as it is central to the safety of operational or maintenance crews whenever they are required to do work on the structure. There will always be some aspects of structural integrity that fall outside this category, however, and it is these that the present amendments seek to address. The amendments will enable NOPSA to take a comprehensive and integrated approach to the integrity of structures, without any question as to the scope of their functional responsibilities.

The Government will work with industry and other stakeholders to determine in regulations which matters relating to the structural integrity of pipelines and wells are also resource security or resource management matters. These will continue to be the responsibility of the Designated Authorities under proposed regulations relating to resource management. There will therefore be an element of overlap between the responsibilities of NOPSA and those of the Designated Authorities, although they will be performing different functions.

Other minor policy amendments proposed in this Bill seek to:

• Provide a streamlined process for the submission of applications, nominations, requests or notices in relation to a title when that title is jointly owned by 2 or more titleholders (known as multiple titleholders);

• Make clear that when the Act imposes obligations on a titleholder and where a title is owned by multiple holders, while the obligation is imposed on each and every titleholder that the obligation may be discharged by any one of the titleholders; and

• Correct a technical problem with the authority of responsible State and Northern Territory ministers to participate in the performance of Joint Authority functions, and to per-
form Designated Authority functions, under the Commonwealth regulations.

On this last matter, existing State and Northern Territory legislation, which corresponds to the Act, provides the Designated Authority (the relevant State or Northern Territory minister) with authority to perform functions and powers under the Act, but this does not include the regulations in force under the Act. This amendment therefore closes the gap, as many important functions and powers of Designated Authorities are conferred by the regulations. For consistency, corresponding amendments have also been made to Joint Authority provisions.

A further small but important amendment clarifies the duties of titleholders under the occupational health and safety provisions of this Act. This amendment narrows the titleholder’s duties in the current clause 13A of Schedule 3 of the Act from facilities generally to wells and well-related equipment, specifically in new clauses 13A and 13B.

As it stands the clause can be read as imposing a duty of care on a titleholder in relation to the design of facilities, such as drilling rigs, which the titleholder could not reasonably be expected to have any control over.

Therefore this duty of care has been recast so that it applies to all aspects of wells from design through to operation and closing off. Consequential amendments have been made to allow OHS inspectors to monitor compliance and investigate possible contraventions.

Technical amendments in this Bill include changes to offence provisions that relate to titleholders, where the offence consists only of a physical element. These amendments provide that offences under these provisions are made provisions of strict liability, which removes the need to prove intent.

Given the geographically remote nature of offshore petroleum and greenhouse gas activities it is not possible for regulatory staff to be constantly monitoring titleholder activities, so they are reliant on accurate reporting by titleholders to inform them that directions and requirements in the Act have been complied with.

Where the offences relate to doing or not doing an act, proving the intent of a titleholder is very difficult. In these circumstances making the offences ones of strict liability is justified.

This application of strict liability is consistent with Government policy on the application of strict liability and is to provide a regulatory regime that is effective and enforceable. These amendments do not increase any penalties on titleholders, in fact in some instances removes imprisonment as a penalty and instead replaces with penalty units.

Further technical amendments in the Bill correct a referencing error and update the listed OHS laws set out in the Act to take into account recent changes to safety regulations.

In summary, through a range of measures including:

- retaining some of the money raised through industry fees to fund the establishment of a National Offshore Petroleum Regulator;
- strengthening the functions of NOPSA;
- increasing the effectiveness of compliance through the application of strict liability to appropriate offences;
- clarifying the application of titleholder provisions in the Act in relation to multiple titleholders; and
- setting out that a titleholder’s duty of care under OHS provisions of the Act relates specifically to wells;
- this Bill underscores the Government’s commitment to the maintenance and continuing improvement of a strong, effective framework for the regulation of offshore petroleum and greenhouse gas activities.

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (SAFETY LEVIES) AMENDMENT BILL 2010

This bill amends the Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2003 to provide transitional arrangements in relation to the phasing out of the pipeline safety management plan levy.
These arrangements provide time for the States and the Northern Territory to amend their jurisdictional regulations to reflect recent changes in this, the parent Act, and in Commonwealth regulations which have replaced the pipeline safety management plan levy with a safety case levy covering pipelines. These changes were applied to pipelines in both Commonwealth waters and designated coastal waters.

The amendments in this Bill specifically relate to the safety regime for pipelines in designated coastal waters. This amendment provides that from 1 January 2010, when amendments to this Act and related regulations came into force, until 31 December 2012—that a pipeline safety management plan in force is treated, for the purposes of this Act, as if a safety case for the pipeline is in force. These amendments ensure that safety levies relating to pipelines in designated coastal waters can continue to be collected.

The amendments also include similar transitional amendments to reflect minor changes in relation to a safety case in designated coastal waters, understood to be within the meaning of regulations of a State or Northern Territory that have not yet been amended to reflect Commonwealth changes made on 1 January 2010.

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

Ordered that the Healthcare Identifiers Bill 2010 and the Healthcare Identifiers (Consequential Amendments) Bill 2010 be listed on the Notice Paper as one order of the day and the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Bill 2010 and the Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2010 as one order of the day.

ELECTORAL AND REFERENDUM AMENDMENT (CLOSE OF ROLLS AND OTHER MEASURES) BILL 2010

SOCIAL SECURITY AND FAMILY ASSISTANCE LEGISLATION AMENDMENT (WEEKLY PAYMENTS) BILL 2010

Bills received from the House of Representatives.

First Reading

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (5.47 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Second Reading

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (5.47 pm)—I table a revised explanatory memorandum relating to the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010. I move:

That these bills be now read a second time.

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

Leave granted.

The speech read as follows—

ELECTORAL AND REFERENDUM AMENDMENT (CLOSE OF ROLLS AND OTHER MEASURES) BILL 2010

I am pleased to present legislation to reform and modernise the Commonwealth Electoral Act 1918 (the Electoral Act) and the Referendum Machinery Provisions Act 1984 (the Referendum Act)
and, in so doing, to meet two of the Government’s 2007 election commitments.

The Joint Standing Committee on Electoral Matters (JSCEM) conducted an inquiry into the conduct of the 2007 federal election. The resulting report, entitled Report on the conduct of the 2007 federal election and matters related thereto (JSCEM Report), contains 53 recommendations for electoral reform. 45 of these recommendations were unanimously supported.

The first four Schedules deal with amendments arising from the JSCEM Report. These amendments will:

• restore the close of Rolls period to seven days after the issue of the writ for an election;
• repeal the requirement for provisional voters to provide evidence of identity;
• modernise enrolment processes to enable electors to update their enrolment details electronically;
• allow the Australian Electoral Commission (AEC) to manage its workload more efficiently by enabling enrolment transactions to be processed outside the Division for which the person is enrolling; and
• enable pre-poll votes cast in an elector’s ‘home’ Division to be cast and counted as ordinary votes.

The final Schedule which deals with an issue that emerged at the 2009 Bradfield by-election and relates to multiple candidates being endorsed for a single Division by the registered officer of a political party. This Bill contains amendments that will allow the registered officer of a political party to endorse only one candidate for each Division.

The overriding aim of the amendments in the Bill is to enhance the ability of otherwise eligible Australians to participate in the electoral process by removing obstacles to their enrolment. The Electoral Act currently contains a number of hurdles to facilitating modern and technologically up-to-date interaction between the AEC and eligible electors. Of particular concern is the estimated 1.4 million eligible electors currently not on the electoral Roll, with up to two thirds of the missing electors falling in the 18 to 39 year age group.

It is intended that amendments introduced in the Bill will address declining enrolment rates and improve electoral participation in this age group, and more generally, by enabling flexible and modern interaction between eligible electors and the AEC.

Passage of the Bill during the 2010 Autumn sittings is necessary to maximise the prospects that the reforms in the Bill will be in place before the next federal election.

The amendments contained in the Bill implement six reforms, to the Electoral Act and the Referendum Act. Three of the reforms, in schedules 3 and 4, implement recommendations of the JSCEM that received unanimous support.

Schedule 1 – Close of the Rolls

Schedule 1 to the Bill deals with the close of the Rolls for an election. There is a deadline for every federal election after which the roll will be ‘closed’ for an election. This is known as the ‘close of the Rolls’ and specifies the date after which no additions or deletions can be made to the electoral Roll. The certified list of voters for an election is a list of persons who enrolled or updated their details before the close of the Rolls deadline.

The amendments proposed by Schedule 1 implement one of the Government’s pre-election commitments to restore the close of rolls period to seven days after the issue of the writ for an election. This amendment will provide sufficient time for new voters to enrol to vote for a federal election or existing electors to update their address details with the AEC.

Schedule 2 – Evidence of identity and provisional votes

Schedule 2 to the Bill repeals the requirement for provisional voters to provide evidence of identity. Provisional votes are a type of declaration vote cast by an elector at a polling place on polling day. The Electoral Act and the Referendum Act currently specify that a person who needs to cast a provisional vote at a polling place on polling day must provide a polling official with evidence of identity at the time of voting or by the first Friday following polling day. If the elector does not provide such evidence of identity by the deadline, his or her provisional vote will be excluded.
The AEC estimates that over 27,000 provisional votes were excluded at the 2007 federal election due to the operation of the existing evidence of identity provisions.

In accordance with JSCEM Recommendation 2, the Bill will repeal the requirement for voters casting a provisional vote to provide evidence of identity and will instead insert the new requirement that, where there is any doubt as to the bona fides of the elector, the signature on the envelope containing a provisional vote be compared with the signature of the elector on previously lodged enrolment records.

The amendments in Schedules 1 and 2 to the Bill implement recommendations of the JSCEM supported by the Government as necessary to provide eligible electors with the greatest opportunity to enrol and vote in an election.

Schedule 3 – ‘Home’ Division pre-poll votes as ordinary votes

The amendments contained in Schedule 3 to the Bill will enable pre-poll votes issued in an elector’s ‘home’ Division to be cast and counted as ordinary votes, wherever practicable.

The Electoral Act and the Referendum Act provide for pre-poll voting to take place prior to polling day. This provides electors who have specified other commitments to meet their voting obligations by voting early. Recent elections have seen a large increase in the demand for early voting; at the 2007 federal election almost 15 per cent of the total votes were cast as early votes.

The increase in demand for early voting has several consequences. First, it requires the AEC to devote increased resources to deal with early voting as more resources are required to issue and count this type of vote. Second, the results of an election are more likely to be delayed as the counting of these early votes generally does not take place on polling night as the declaration envelopes containing the votes must go through the time consuming preliminary scrutiny processes.

The Bill provides for pre-poll votes cast in an elector’s home division, that is, the Division in which the elector is enrolled, prior to polling day to be treated as ordinary votes, wherever practicable. For an elector to cast a pre-poll vote in this manner it will be conditional upon the elector making a declaration at the time of voting indicating that they are entitled to a pre-poll vote and the elector’s name being marked off the certified list. This will ensure that the integrity of this type of vote is maintained. Votes cast as ordinary votes in an elector’s home division, for counting purposes, will be treated in the same manner as ordinary votes cast in polling places on polling day. The AEC estimates that if this amendment had been in place for the 2007 federal election it would have resulted in an additional 667,000 votes being counted on polling night.

Schedule 4 – Efficient management of AEC workload & Electronic address update

Schedule 4 to the Bill contains amendments that can be grouped into two main themes. The first theme provides for the efficient and effective management of AEC workload. The second theme enables electors to update their enrolment details electronically.

Recommendation 42 of the JSCEM Report recommends that the Electoral Act should be amended to enable the AEC to manage its workload in non-election periods by allocating work, principally enrolment applications and enrolment changes, throughout the AEC divisional office network. The Electoral Act as it currently stands provides that such workload sharing can only take place during the election period. There is no apparent rationale for limiting the operation of this workload sharing to the election period. Expanding this ability will result in a number of benefits to electors and reduce handling times.

Such changes will allow the AEC to manage its workload more efficiently by enabling enrolment transactions to be processed outside the relevant Division. These amendments will provide the AEC with additional tools to maintain the electoral Roll in a timely and efficient manner.

These changes will ensure that the Electoral Commissioner has the obligation to receive and action any enrolment related transactions rather than only the Divisional Returning Officer or the Australian Electoral Officer. The Electoral Commissioner will then use an enhanced delegation power to delegate the processing of the transactions to any AEC officer or member of staff, which may include Divisional Returning Officers and Australian Electoral Officers.
The second theme of amendments in Schedule 4 provide for modern enrolment processes to enable electors to update their enrolment details electronically. Despite recent trends encouraging Australians to communicate with government agencies electronically, the Electoral Act still requires voters to complete and sign paper forms when enrolling or updating their enrolment details. These forms are then required to be sent to the AEC by post to be entered into the electronic database used to maintain the electoral Roll.

These amendments give effect to Recommendation 9 of the JSCEM Report and will enable persons who are already on the electoral Roll to update their address details by providing this information to the AEC in an electronic format. In addition to the requirement that the person is already on the electoral Roll, the Bill foreshadows the making of regulations which will prescribe minimum verification information that the elector will need to provide to the AEC before the Electoral Commissioner can act on the electronic communication. The regulations will enable the AEC to request prescribed information from electors, for example date of birth and drivers licence number, to ensure that the electronic transaction is authentic and is being undertaken by the elector to whom the information relates.

These amendments will facilitate the maintenance of an effective electoral Roll by enabling voters to communicate with the AEC by electronic means rather than by written hardcopy forms. These changes are the first tranche of electoral reform aimed at improving participation in the electoral system through enabling modern interaction between eligible electors and the AEC. The Government has referred recent reforms in New South Wales, establishing a ‘smart roll’ in that jurisdiction, for examination by the JSCEM for inquiry and report. The Government also released the second Electoral Reform Green Paper – ‘Strengthening Australia’s Democracy’ in September 2009, a paper which looked at options including automatic enrolment. The Government is actively investigating whether and how automatic enrolment could be introduced at the Commonwealth level in the medium-term.

**Schedule 5 – Limitation on the number of endorsed candidates per Division**

Schedule 5 to the Bill contains reforms which will restrict the number of candidates that can be endorsed by a political party in any one Division. At the by-election in the Division of Bradfield on 5 December 2009 there were 22 candidates, nine of whom were endorsed by a registered officer of a single registered political party.

The ability for a registered officer of a political party to endorse candidates for an election was introduced into the Electoral Act in 1987 to provide a streamlined way for political parties to nominate candidates. If not endorsed by a registered political party, a person seeking to be a candidate for an election must obtain the support of 50 electors in the Division in which the person is seeking to nominate. The current provisions of the Electoral Act do not prohibit political parties from endorsing more than one candidate in each Division for an election.

For a voter to cast a formal vote they are required to number a ballot paper from ‘1’ to the number of candidates on the ballot paper without errors in the numbering sequence. At the above mentioned by-election for the Division of Bradfield the rate of informal votes was 9.00 per cent. This is a record for any election for the Division of Bradfield and more than double the informality rate for the Division at the 2007 federal election. The average national informality rate at the 2007 federal election was 3.95 per cent.

The practice of multiple candidates for a single Division being endorsed by the registered officer of a political party has not emerged on this scale prior to the 2009 Bradfield by-election. Legislative amendment is required to prevent a similar rise in the informality rate in multiple Divisions at the next federal election.

**Conclusion**

The Government is committed to restoring the integrity of our electoral processes and systems. The first step in that process was the introduction of the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008, and the subsequent 2009 Bill, which aimed to restore accountability, integrity and transparency to our system of donation disclosure. Unfortu-
ately, those provisions have been blocked by the Senate. The reforms contained in this Bill will continue the important process of updating the Commonwealth Electoral Act, as well as implementing two of the Government’s 2007 election commitments.

SOCIAL SECURITY AND FAMILY ASSISTANCE LEGISLATION AMENDMENT (WEEKLY PAYMENTS) BILL 2010


In the White Paper, the Australian Government committed to halve homelessness and offer accommodation to all rough sleepers who seek it.

The Government has provided an additional $1.1 billion to boost services for people who are homeless or at risk of homelessness. In addition to this, we are adding 80,000 social and affordable homes to the national housing stock by 2012 – through the Nation Building Economic Stimulus Plan and our National Rental Affordability Scheme. This is the single biggest investment in housing ever made.

While housing is critical, fixing homelessness is not always just about providing a roof and four walls. Many people have a number of challenges they need to overcome to get housed and stay housed.

The Australian Government’s White Paper on homelessness emphasises the need to address these challenges as well as the undersupply of social housing. That is why we are working hard to prevent homelessness, providing people with the support they need to sustain their housing and linking our new housing with intensive, specialist support to break the cycle of homelessness.

Centrelink has a critical role to play in reducing and preventing homelessness. We know that Centrelink provides income support payments to 6.5 million people, many whom are disadvantaged, vulnerable and socially excluded.

As a key ‘first to know’ agency, Centrelink is well placed to identify people who are at risk of homelessness and assist them to stabilise their housing situation.

Centrelink has already introduced an ‘indicator’ in its systems to identify clients who are homeless or at risk of homelessness. This ‘indicator’ will let Centrelink staff know that the client needs active follow up, from a Centrelink social worker, to make sure they are receiving the support they need to stay housed. The ‘indicator’ allows Centrelink to improve and tailor its service to the people who are most vulnerable to homelessness.

In October last year, Centrelink also began to establish its network of Centrelink Community Engagement Officers. This program now has 90 specialist staff, located across all capital cities and many regional centres, supporting some of the most vulnerable people in our community.

Community Engagement Officers are working with non-government organisations like drug and alcohol rehabilitation services, mental health services, hostels, boarding houses, refuges and drop-in centres to provide homeless Australians and people who are at risk of homelessness with better access to income support and the many other services available through Centrelink.

This bill now provides another reform being implemented by Centrelink under the Australian Government’s White Paper on homelessness.

As part of the Australian Government’s efforts to prevent homelessness, we are introducing weekly payments of income support payments for people who are homeless or at risk of homelessness.

We know that some Australians have difficulty budgeting and spend their fortnightly welfare payments too quickly. This can mean they are left with no money to pay for rent, food or essential services.

Vulnerable customers, who are being supported by Centrelink staff, will be able to choose to receive their income support payments weekly instead of fortnightly. While the payment amount will stay the same, weekly payments will allow the most disadvantaged welfare payment customers to budget more easily. It will also give these
vulnerable Australians an opportunity to stabilise and improve their circumstances.

Currently the social security law is unclear on the extent of the Secretary’s discretion to determine that more than one payment can be made in respect of an instalment period. This bill clarifies that a social security payment may be paid on a weekly basis in respect of a 14-day instalment period to individuals in a declared class. This bill provides for weekly payments under the Social Security (Administration) Act 1999 to come into effect on the commencement of the legislative instrument defining ‘vulnerable customers’.

The bill also enables changes to the family assistance law. Those vulnerable customers who receive Family Tax Benefit as well as income support will be able to elect to receive income support weekly, and at this stage it is expected that this will be sufficient to improve their money management. The Government’s intention for the moment is to limit weekly payments to income support payments, and retain family assistance payments on a fortnightly basis. However to enable the Government to respond to changing circumstances, the bill will also amend the family assistance law to allow for the introduction of weekly payments for Family Tax Benefit and Baby Bonus as required.

This measure is intended to alleviate some of the financial hardships faced by those Australians who are most disadvantaged and, in doing so, it is intended to prevent these people becoming homeless.

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

Debate (on motion by Senator Wong) adjourned.

AVIATION TRANSPORT SECURITY AMENDMENT (2009 MEASURES No. 2) BILL 2010
NATIONAL HEALTH SECURITY AMENDMENT (BACKGROUND CHECKING) BILL 2010

Assent
Message from the Governor-General reported informing the Senate of assent to the bills.

COMMITTEES
Finance and Public Administration Legislation Committee
Report
Senator McEWEN (South Australia) (5.49 pm)—On behalf of the Chair of the Senate Finance and Public Administration Legislation Committee, I present the report of the committee on the provisions of the Governance of Australian Government Superannuation Schemes Bill 2010, the ComSuper Bill 2010 and the Superannuation Legislation (Consequential Amendments and Transitional Provisions) Bill 2010, together with the Hansard record of proceedings and documents presented to the committees.

Ordered that the report be printed.

Community Affairs Legislation Committee
Report
Senator McEWEN (South Australia) (5.49 pm)—On behalf of the Chair of the Senate Community Affairs Legislation Committee, I present the report of the committee on the provisions of the Governance of Australian Government Superannuation Schemes Bill 2010, the ComSuper Bill 2010 and the Superannuation Legislation (Consequential Amendments and Transitional Provisions) Bill 2010, together with the Hansard record of proceedings and documents presented to the committees.

Ordered that the report be printed.
Economics Legislation Committee
Report
Senator McEWEN (South Australia) (5.49 pm)—On behalf of the Chair of the Senate Economics Legislation Committee, I present the report of the committee on the provisions of the Tax Laws Amendment (2010 Measures No. 1) Bill 2010, together with the Hansard record of proceedings and documents presented to the committees.

Ordered that the report be printed.

BUSINESS
Rearrangement
Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (5.49 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 2 (Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009).

Question agreed to.

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (2009 MEASURES) BILL 2009
Second Reading
Debate resumed from 24 February, on motion by Senator Wong:

That this bill be now read a second time.

Senator FIFIELD (Victoria) (5.50 pm)—I rise today to speak on the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009. This is a bill that is essentially a compilation of a number of minor amendments across the portfolio. Schedule 1 will amend the Aboriginal Land Rights (Northern Territory) Act 1976 to schedule parcels of land so they can be granted to Aboriginal land trusts. Schedule 2 makes changes to income management provisions in social security law—and particularly in respect to Cape York—which will allow for aged pensioners and carer payment recipients to be income managed. This change, at the request of the Family Responsibilities Commission, will bring Cape York into uniformity with the other income managed areas in Australia.

Schedule 3 will amend legislation regarding the operation of the Social Security Appeals Tribunal. The amendments include changes to the titles of positions from executive director and director to principal member and senior member respectively. Subsequently, the principal member will be provided with the ability to directly request, inspect, copy and retain certain documents from an individual which are seen to be relevant. It will also become practice that the Social Security Appeals Tribunal can conduct pre-hearing conferences with the relevant parties and subsequently make decisions when agreements are made in social security and family assistance law appeals.

This amendment will bring pre-hearing arrangements in line with those currently under the Child Support (Registration and Collection) Act 1988. As the Social Security Appeals Tribunal, in their 2008-09 annual report states:

...appeals in the child support jurisdiction has contributed to the improved timeliness in these areas.

The ability to conduct pre-hearings with the parties involved and resolve the issues without the need for further hearings leads to a more speedy resolution of the issues and disputes before the Social Security Appeals Tribunal.

Schedule 4 amendments ensure that, where disposed-of assets are returned to the person, they will not be double counted when assets are assessed for means test purposes. Schedule 5 amendments clarify provi-
sions relating to beneficiaries of discretionary trusts and assessed as a private trust and not on future beneficiaries of the trust when they are not currently receiving any benefits from it.

Schedule 6 makes amendments to the baby bonus, a payment introduced by the former coalition government in recognition of additional costs associated with having a new child. This amendment requires that when there is a change of carer Centrelink is notified as soon as practicably possible to ensure that the initial carer is not in receipt of overpayment of the baby bonus. The opposition will not be opposing this bill.

Senator SIEWERT (Western Australia) (5.53 pm)—The Greens overall do not have problems with most of the amendments that are part of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009. However, we have specific issues with an element of schedule 3, which introduces changes to the functioning of the Social Security Appeals Tribunal, the SSAT. I have some concerns about the amendments relating to pre-hearing conferences. I believe that they undermine the current functioning of the Social Security Appeals Tribunal and will make it more complex and time consuming while at the same time delivering poorer outcomes for those appealing Centrelink decisions.

This bill was part of a package of legislation that related to these changes and changes to the Racial Discrimination Act—along with the bill to do with welfare quarantining that we will be potentially considering later this week—that was considered during the most recent Senate Community Affairs Legislation Committee inquiry. What happened was that the bulk of the submissions, as you would expect, dealt with the changes to the Racial Discrimination Act and the income quarantining and did not specifically deal in great detail with these issues. Indeed, the committee report did not address these issues in great detail. However, the National Welfare Rights Network in fact did look at this issue in some great detail. I share many of the concerns that they raised in their very extensive submission.

The nature and intent of the SSAT is outlined in section 141 of the Social Security (Administration) Act 1999. The outline says that it will be ‘fair, just, economical, informal and quick’. By introducing pre-hearings, I am concerned that the SSAT will become a more formal and daunting process for Centrelink and Family Assistance Office clients who are representing themselves before the tribunal to appeal decisions. This is quite a stressful process for these people as it is. Having said that, we support it, because we believe that it is a good process. But it is quite stressful for people. We are concerned that these changes will make it more difficult for these people to exercise their right of appeal and reduce their access to procedural justice.

I am aware that there has been a significant increase in the number of appeals being heard by the SSAT over the last couple of years. Between 2007 and 2009 there was a 60 per cent increase in finalised cases. This means an extra 5,000 cases. While child support appeals were added to the SSAT in 2007, the vast majority of this increased case load relates to social security and family assistance. I suspect also that the Welfare to Work laws might have also been a significant factor.

However, I am not convinced that the government has presented to us a compelling case as to why this increase is happening, how these provisions will address emerging problems and whether this change will solve the underlying issues rather than simply
brushing them aside. I am not convinced that the mechanism that they are introducing here to supposedly address these issues does in fact do so.

It must be noted that these changes are a precursor to the larger changes that we will be considering potentially later this week—these larger changes being the changes to Australia’s social security system that are being considered in a package of bills that also look at the RDA and income quarantining. We will be debating those later. I have flagged that we have concerns with those changes.

It must be understood that these changes to the operations to the Social Security Appeals Tribunal, the SSAT, come on the back of, firstly, the changes made that suspended access to the SSAT as part of the NT intervention measures introduced by the former government; secondly, the reinstatement of access to the SSAT for those subject to the NT intervention by the current government; and, thirdly, the changes proposed in the 2008 measures bill, which have yet to be dealt with in this chamber.

I should note the number of appeals that have been made following the changes to the appeals process under the NTER. While there have been a large number of internal reviews, fewer than five appeals had been made through the SSAT process as at February estimates. So there has not been a great take-up of those changes. I supported the reinstatement of access to the SSAT for those in prescribed communities. But at the time I noted that the majority of the decisions that Aboriginal Australians in prescribed communities objected to—particularly those to do with having their income quarantined—were decisions that had already been made, and so could not be challenged retrospectively. I also noted that this unfairness and racial discrimination was contained in the legislation, and so while the reinstatement of their repeal rights was welcome, Indigenous Australians in prescribed communities could not object to income quarantining. Those decisions, because they were made under the legislation, were not open to appeal under the SSAT, which means that I am not at all surprised that people have not been taking up their appeal rights under the SSAT. Their appeal rights have been curtailed under the legislation.

It is clear from answers at Senate estimates over a number of years that Aboriginal people are both much more likely to be breached by Centrelink and much less likely to appeal a negative decision. We need to appreciate the historical context to understand why, in general, Aboriginal Australians are both less likely to be aware of their appeal rights and, when they are aware of them, much less confident in their ability to appeal a decision and receive procedural fairness. We are concerned that, by changing the SSAT process even here with the pre-hearing hearings, Aboriginal Australians will be further disenfranchised from this appeals process.

With the introduction of the legislation to extend blanket income-quarantining into broader categories across the NT and across the rest of Australia, the likelihood of appeals and the amount of work likely to be faced by the SSAT will increase alarmingly, because people will be able to access the SSAT in a different manner to people in the prescribed communities that I was previously talking about. While I mentioned earlier that the primary objectionable decision to subject an individual to income quarantine cannot easily be appealed—because the objectionable bit is actually the legislation—there are a lot of individual administrative decisions involved in the day-to-day operations of income management that will be open to appeal. For example, somebody might apply to
use their 100 per cent quarantined, matched savings to buy a computer so they can look for work or to get their car fixed so they can get to job interviews, and be refused on the grounds that these are non-essential items. All these items will be appealable if the legislation that is being introduced to the Senate—and that should be discussed later in the week—goes through.

The changes to the SSAT have been justified by the Department of Families, Housing, Community Services and Indigenous Affairs as aligning social security and family assistance with its child support jurisdiction. However, it must be understood that appeals against administrative decisions where the individual is in conflict with Centrelink or the department are totally different to decisions about the conflict within the child support system, in which the dispute is usually between two individual parties. The existing exclusion of Centrelink or the department from participating in SSAT hearings is a deliberate recognition of the imbalance in power that is inherent when an unrepresented individual is up against a legal representative of a government department. This imbalance is even more stark when we consider that, for an individual, it is likely to be their first time, whereas the department, of course, is likely to be involved in a large number of similar disputes.

There is a real risk that these changes will undermine the successful features of the current system for no good reason. The SSAT appeals procedures have been in place and working effectively for a long time. By comparison, the child support jurisdiction is relatively new, deals with a much smaller number of appeals and has not been independently evaluated. I cannot see how the argument that this realignment would make SSAT more efficient makes sense, considering that the child support jurisdiction has a much greater problem with the timeliness of decisions and much longer delays due to the high number of adjournments.

It should be noted that the claim of increased efficiency does not seem to sit well with the changes contained in the 2008 measures, which, as I said, have not been introduced and which we believe would add substantial procedural complexity to the SSAT process and elevate the role of the respondent departments or allow them into the SSAT review process. The National Welfare Rights Network has this to say:

It is critical that the Social Security and Family Assistance external merits review system provides a mechanism for review that is accessible and responsive to the needs of people using the system. Each day Centrelink makes millions of decisions under the Social Security Act 1991 and Family Assistance Act 1999 and related legislation, which have a direct impact on the daily lives of individuals. Whilst the decisions appealed are small in proportion to the number of decisions made, the outcome of the appeals lodged has consistently revealed over many years a high rate of error at the primary decision making stage. In 2008/09, Centrelink internal review officers changed 30.8% of the decisions reviewed and the SSAT changed approximately 29.9% of finalised decisions.

Those statistics are from Centrelink’s annual report of 2008-09. The data mentioned by the Welfare Rights Network clearly indicates that, where there were appeals, more than half of the time Centrelink was in fact wrong. Note that 31 per cent of the original decisions were changed by Centrelink itself; therefore, 69 per cent go to the SSAT. Then 30 per cent of those 69 per cent were found to be wrong. That is 21 per cent, and if you add that to the percentage that Centrelink changed themselves it is 52 per cent. That is a large number of decisions that Centrelink gets wrong. It highlights the importance of having an effective appeal system. It also highlights that the SSAT is being used.
The SSAT functions on an intermediate level of review and is designed and intended to allow reviews that are accessible, informal and relatively quick. With this number of appeals, and with the number of decisions Centrelink gets wrong, you can understand why. It allows an applicant to put their case in a straightforward way in a non-adversarial format. This format works well, because above the SSAT sits the higher tier of the Administrative Appeals Tribunal, or AAT. The SSAT is made up of a multi-skilled panel with experience and expertise in welfare, law and administration and must deal with a complex area of law and disadvantaged clients, many of whom have a poor level of education and understanding of the processes involved. Often it involves discussions of sensitive personal information, concerning sometimes the health, sexual relationships and problems of many disadvantaged individuals. This is why we believe a non-adversarial and more informal approach is the most appropriate.

The SSAT provides detailed written decisions which the department can then review and refer to the AAT for a more complex review process where it feels it is necessary. I cannot see the logic behind making the SSAT more complex, more adversarial and a more ‘AAT-like’ process. There is little to be gained by creating an inferior version of the AAT, particularly when we see from the evidence that the SSAT is picking up a high number of poor decisions and is doing so in an efficient and cost-effective manner. I believe that the right of appeal to the AAT makes the participation of the department in the SSAT unnecessary. What is the department hoping to achieve by this? We are worried that it may in fact have an effect of being more intimidatory to the people that are involved. No system is perfect, but we are very concerned that this may affect a system that has in fact been helping deal with a number of areas where Centrelink have in fact made the wrong decision or a poor decision.

The introduction of pre-hearing conferences we believe adds an unnecessary layer of complexity to the SSAT proceedings. Given the informal approach taken by the SSAT to the sensitive issues it deals with, the participation of the department in pre-hearing conferences is likely to make these much more formal affairs. This may have the bizarre result of making the pre-hearing conference much more formal than the actual hearings, but it is also likely to make the hearings themselves more formal and less effective. The usual reason for a pre-hearing conference within an adversarial system is to give parties an opportunity to come to a pre-hearing settlement. However, given the evidence that more than half of the appeals to the SSAT were based on circumstances where Centrelink had got the facts wrong, had insufficient information to make a reasonable decision or made an error in their interpretation of the legislation, it is unfair and unreasonable to be pushing respondents to pursue settlement, and we believe this is undermining the important role of the independent and in-depth review by the SSAT and the role that it plays in bringing to light and remediating poor decision-making processes within the bureaucracy. To this end I recommend that the provisions relating to pre-hearing conferences should be dropped from this legislation.

We also have some concerns about single-member panels, although, as you can tell, we are very deeply concerned about the pre-hearing amendments. As it currently stands, up to four members of the SSAT can hear a review. In practice this tends to result in a minimum panel of two for the majority of straightforward cases, with three-member panels being used predominantly for more complex matters, or when a new panel mem-
Senator Siewert, will you be circulating amendments for the committee stage of the bill?

Senator SIEWERT—This legislation came on slightly earlier than anticipated, so the amendments are just being organised now.

Senator MOORE (Queensland) (6.12 pm)—The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 covers a range of different items under the family assistance area but I particularly wanted to make some comments on the SSAT. Senator Siewert and I have had these discussions on a number of occasions. In terms of the processes before us under this bill, we are seeking to make this whole process more transparent and more user-friendly for the people who are involved in it. We know, and Senator Siewert has pointed out, the statistics regarding SSAT appeals, and one of the major issues is that we do not believe generally that people have total understanding of the process in which they are operating. Certainly over many years there have been attempts for the department to ensure that people understand their rights to appeal, but consistently what we find when people are going through the social security system—through Centrelink—they are unsure of their rights and the processes, and one of things we have to do is ensure that clarity is maintained and that people are fully aware of the processes and the decision-making process within the department.

I disagree strongly with Senator Siewert’s proposition that the process put forward in this piece of legislation which asks for a pre-conference in any way puts more pressure on the people involved or makes the process less clear. The idea of having a conference before the formal hearing is exactly that. It ensures that people are able to get together. Madam Acting Deputy President, anyone who has gone through a formal SSAT hearing understands that it can be stressful and, in terms of bringing forward people’s knowl-
edge and expectations of the process, can actually cause more stress on those people who are involved in working their way through the sometimes quite difficult process within Centrelink. The basis for bringing forward this process to the SSAT is to ensure that people understand their rights throughout the whole process. From the time that they receive a decision from Centrelink they should be in full understanding about the ways that they can question that decision, the documentation that is required and, most importantly, the appropriate process for appeal.

On numerous occasions in my past life I have been involved with people from Centrelink, and previously Social Security, and also clients of the organisation who were, through this process, able to come to some greater awareness as they were able to clarify the situation, become sure of the background to decisions and actually get the appropriate documentation. Very often under the previous system, by the time you actually started the ball rolling you were through to a formal hearing process. However, on so many occasions, by having an appropriate discussion beforehand—and this discussion does not necessarily mean that there is pressure from one side or the other—full documentation can be exchanged, people can clarify the reasons for the decision and the process can therefore be streamlined. This has been used in the child support process.

There has been much discussion between the different agencies about best practice. In no way do the changes in this legislation make it more difficult to appeal, bully someone into not appealing or put further obstacles in the way of people who are seeking to pursue their rights under the system. What they do is add a level of communication. In many ways this is the whole intent: to enforce effective communication. The department have actually put themselves on trial as much as the people who are challenging the decision, because it is in their best interests to ensure that people know what is going on and have their situation clearly understood. I feel very strongly about this element of the legislation. It would sadden me if the kinds of fears that have been put forward, in some cases by various advocacy groups in the community, were used to say that this legislation would be damaging to those involved. Any interaction between a client and the department can be difficult. Of course it is our intention that that is minimised. But this aspect of an effective appeals process adds to the way that people can understand and achieve their rights rather than in any way putting another obstacle in place.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (6.16 pm)—I thank Senator Moore for her contribution. I also thank Senator Siewert for her consideration of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009. I know that your work in and understanding of this area actually helps us to clarify many of these decisions. We had an indication from Senator Fifield that the opposition is supporting this bill. But I want to put on the record what the various minor amendments to the act that are incorporated in this bill are and deal with the schedules in the bill.

These are minor amendments to the act. Some of the amendments are to schedule three further parcels of land in the Northern Territory so that they can be granted as Aboriginal land. These three parcels of land are Alice Valley Extension (East), Loves Creek and Patta, near Tennant Creek. The Loves Creek land is subject to a partially heard land claim, and there was agreement between the Central Land Council and the Northern Territory government to schedule this land under
the Aboriginal Land Rights (Northern Territory) Act 1976. The scheduling will resolve the claim and allow the land to be granted to the appropriate Aboriginal land trust. Scheduling Patta, near Tennant Creek, was also agreed between the Central Land Council and the Northern Territory government as part of an agreement for settling broader native title claims. The Alice Valley Extension (East) parcel of land will be leased by the land trust to the Northern Territory as an extension of the West MacDonnell National Park.

Some minor amendments are made by this bill to the income management provisions in the social security law to improve their operation. Firstly, the bill will allow people in the Cape York welfare reform areas who are receiving aged pension or carer payment to have their payments income managed. As with other payments that are income managed for people in Cape York, the new provisions will be relying on the local Family Responsibilities Commission issuing a notice and relevant conditions being met. It is actually at the request of the commission that these amendments are being brought forward.

Further income management amendments relate to the use of the residual funds in an income management account when a person returns to income management. These amendments are to make sure that any residual amounts being disbursed are retained in the person’s income management account at the time they return to income management.

Lastly, changes are being made to how residual amounts left in an income management account are handled when a customer dies. Currently, and depending on how much is left in the account, these residual amounts may be paid to the deceased customer’s legal personal representative or to a person carrying out certain activities on the estate or affairs of the deceased person. However, if the customer has no legal personal representative, or if there is more than one person carrying out the relevant activities, it can be quite hard to work out who should be paid those residual amounts. These amendments will give further options to disburse the residual amounts in these cases.

Senator Siewert focused most of her comments on the amendments in the bill to improve the operation of the Social Security Appeals Tribunal in the handling of social security, family assistance and child support matters. As an example, changes are being made to the titles of tribunal members, such as renaming the ‘executive director’ to the ‘principal member’, consistent with titles in other Commonwealth tribunals. The bill removes the requirement for the principal member to chair the panels on which he or she sits, by enabling the principal member to determine who will be the presiding member. The SSAT will also become able to convene a pre-hearing conference for social security and family assistance law appeals. If parties reach agreement at the pre-hearing conference the SSAT is empowered to make a decision in accordance with the agreement. Senator Siewert raised several concerns on that matter, and I want to address those concerns.

First of all, as Senator Moore so rightly said, the SSAT process can be quite daunting. The pre-hearing conference is certainly not intended to intimidate participants any further in this process—in fact, it is there to do the opposite. It gives the SSAT the opportunity to explore possible areas for common ground for agreement between the parties. The pre-conference hearing is also aimed at facilitating a settlement on some of the issues to be considered in the review, or even all of the issues. It enables early resolution of many cases that otherwise could be part of a much more formal and daunting process.
The pre-hearing conference, as with pre-hearing conferences in so many other processes, is often a very sensible way of ensuring that everybody understands exactly what is happening; of ensuring that cases can be settled; of limiting the issues in dispute, which is often a really important part of the process; and of explaining the whole process of the Social Security Appeals Tribunal in a very simple way that increases the possibility of settlement before the case goes to a full SSAT hearing. This goes to the issue that Senator Siewert raised. Her concern is that the SSAT will be involved in more hearings in the future. This bill may well mean that proceedings are brought to a close before they would have to go through to a stressful full hearing of the SSAT. It may also actually improve some of the time management issues that are on the SSAT. As Senator Moore said, this is a process that is used very, very successfully in child support cases and it is one that I know the Department of Human Services is now using to manage all areas of family services and family support in Centrelink and the Child Support Agency. It is trying to get some consistency, trying to ensure that there is best practice in these areas and trying to ensure that for those who are least experienced in these kinds of what can be fairly intimidating processes do not have to be put through the mill in this kind of way. We can actually get to informal processes through a pre-hearing conference that will enable outcomes to be much more clearly defined and reached much more easily.

Senator Siewert was also very concerned about the extent to which panels would be reduced to one member. It is quite clear in the legislation that a one-person panel will be used only in very straightforward cases. It is the intention to continue the practice of having at least two-person panels in most cases unless there is a straightforward issue to be resolved.

There are two other amendments on the means test for income support. The first amendment will clarify that a gift that has been returned does not have to be assessed as a deprived asset under the social security disposal of asset provisions. This is to avoid any possibility under the current provisions that a person who disposes of an asset in certain circumstances may have it double-counted as both a disposed asset and the returned asset. In the second means test amendment, it has been clarified that where a customer is the beneficiary of a discretionary trust and the trustee has a duty to maintain the customer then the trust should be assessed as being a controlled private trust in respect of that beneficiary. It is also made clear that when controllers of a trust are being determined it should not be relevant that there are other future beneficiaries of the trust when those parties are not currently receiving any benefits from the trust. These amendments secure longstanding policy in light of a recent full Federal Court case.

The other minor amendments in the bill provide a requirement for the claimant to notify if a child who attracted baby bonus leaves the claimant’s care within 26 weeks of birth or coming into their care and make further minor and technical amendments. On that basis, I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator SIEWERT (Western Australia) (6.26 pm)—The Greens oppose schedule 3 of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 in the terms set out on sheet 6085:

(1) Schedule 3, item 2, page 11 (line 26) to page 13 (line 19), item to be opposed.
(2) Schedule 3, item 7, page 16 (line 14) to page 18 (line 7), item to be opposed.

This relates specifically to the issues that I raised in relation to pre-hearing conferences. I will not bore the chamber with a repetition of my arguments on this other than to deal with a couple of issues that Senator Moore and Senator Stephens raised around the consistency between these and child support processes. As I articulated in my speech in the second reading debate, these are different issues. I can understand why there is a desire to get consistency, but the Greens do not support that desire because we believe that these are very different processes. When you are dealing with child support the cases are more often than not between two parties who are trying to reach agreement. The SSAT process is very different. There an individual is questioning or appealing a decision that has been made by Centrelink. That is a very different process to a negotiated outcome between two parties who are having trouble reaching an agreement over child support. I am not trying to trivialise that. I have been there and I have done that with child support. I understand that system. I do understand the complexities and I know it is very difficult. However, this is a different issue.

We do not agree with the government that you have to have a totally consistent approach across those jurisdictions. The bill might make it easier for the Department of Human Services because it has to deal with, as the minister articulated, three different processes. That is life. These are different and complex issues that deal with individuals’ complex circumstances. So I do not support or agree with that argument. I agree that the bulk of this bill comprises minor amendments, but we do not see these as a minor issue. We see this as a significant issue. We are concerned that this issue will have an adverse outcome on the SSAT process. We appreciate that there has been an increased workload, but we do not agree that the legislation is likely to add in the future to its already increased workload. I agree that, even though the SSAT is designed to be a much more informal process, people do take these processes very seriously. We do not think that this process lends itself to pre-hearing conferences because the circumstances are very different from those which exist in child support.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (6.29 pm)—The government does not accept the amendments. We believe that, just as in other cases, those who are seeking to challenge Centrelink decisions should be given the opportunity to have a pre-hearing conference. We believe that it actually opens up the process and, therefore, we cannot accept the amendments.

The TEMPORARY CHAIRMAN (Senator Troeth)—The question is that schedule 3, items 2 and 7 stand as printed.

Question agreed to.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (6.31 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Sitting suspended from 6.31 pm to 7.30 pm

(Quorum formed)
BUSINESS

Rearrangement

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (7.32 pm)—I move:

That government business order of the day no. 1, Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009, be postponed till the next day of sitting.

Question agreed to.

HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009

MIDWIFE PROFESSIONAL INDEMNITY (COMMONWEALTH CONTRIBUTION) SCHEME BILL 2009

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

Second Reading

Debate resumed from 9 September 2009, on motion by Senator Ludwig:

That these bills be now read a second time.

Senator PARRY (Tasmania) (7.33 pm)—I rise to be the first coalition speaker on the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and the related bills. The way I have to rise to do this is disappointing because I need to correct the record for Ms Roxon, the Minister for Health and Ageing, who has been scathing about the process in the Senate in relation to these bills. I quote Ms Roxon. She said—

Senator Conroy—You are a disgrace!

Senator PARRY—Senator Conroy interjects about us being a disgrace. I was going to let him off the hook; I was not going to embarrass him but now that he has interjected I will say that we just had a quorum called because the government could only muster one senator to attend the chamber. We had four or five on our side and you had one on your side after a dinner suspension. That is pretty ordinary, I think. I was baited by the minister and I mention that now. The minister needs to get his program a bit more organised. It is typical of the government’s program—and this is where we have been heading for some time.

Minister Roxon has blamed the opposition in the Senate for the delay in this legislation proceeding. That is an absolute load of rubbish. Let me give you the chronology since this legislation started. The one accurate thing that the minister said in her statement was that the bill passed through the House of Representatives on 8 September last year. The minister was correct—that is absolutely spot-on: the legislation did pass through the House of Representatives on 8 September last year, and here we are considering it today.

We are considering it today for a variety of reasons. Everyone understands—even speakers on the government side have said for some time—that the government determines the order in which bills are presented to the Senate. Everyone knows that, if you want a bill to be presented to this Senate and debated in the chamber, you list it at a position where it can be considered. There must be some reason the Senate has not yet considered these bills. The Leader of the Government in the Senate, the minister or, indeed, any of the ministers on that side could have delayed the introduction of this bill. If you introduce a bill on a Monday or a Tuesday you have very little time—Senator Conroy—Give us more time, you hypocrite!

Senator Conroy calls for more time.
Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT
(Senator Mark Bishop)—Order!

Senator PARRY—I will take him back to
July, August and October last year, when I
and senators on the crossbenches said,
‘When you plan your program for 2010, put
enough sitting weeks in that program. Don’t
make it the shortest program of sitting weeks
you’ve ever had.’ This is what the govern-
ment has done for two years in a row. You
cannot then come in at the last minute and
say, ‘We need additional sitting hours,’ when
you had the chance back in October. What
have they done? The Prime Minister, who
knows very little about the Senate and is
starting to wake up that the Senate is quite an
important place, has planned the entire sit-
ting schedule against his overseas travel itin-
erary. We need more sitting weeks—that is
correct, Senator Conroy—but you should
have planned it in October last year; you
cannot just do it on the day before you want
extra sitting hours.

Senator Conroy—You are no longer the
government. I know you’re struggling to
come to terms with that.

Senator PARRY—Senator Conroy says
we are no longer the government—it is very
sad for Australia, but that is correct. I just
hope that the people of Australia see the
mismangement by the other side, evidenced
on a daily basis.

Let us go back to the chronology. The
minister or the Leader of the Government in
the Senate or whoever is responsible for this
mismangement introduced the bills in the
week commencing on 14 September 2009,
but the bills were listed last on a Wednesday.
In the week of 16 November, there was an opportunity to list
them; however, they made neither the last
Wednesday nor even the week. They were
not listed for that week. On 23 November,
they were not listed either. I make some al-
lowance for the government on this, because
they went to a committee. We allowed that to
take place and came back in the new year,
but in the week of 2 February—that is, after
the committee had well and truly reported—
the bills, lo and behold, were not listed
again! So the urgency of these bills has
somehow been diminished on many occa-
sions.

In the week of 22 February, they were
listed on Tuesday, but they were listed for
that day after the fairer private health bills.
Everyone from the most junior person in this
place to the cabinet knew that the fairer
health measures were going to be debated
heavily and strenuously, so listing the bills
presently under consideration just after the
fairer private health insurance incentives
bills might have just been a copout to again
not to get to the bills.

In the week of 9 March, what happened?
They were not listed. Now they have been
listed. This is government incompetence. For
some reason, someone forgets about them
and they are not listed, so what does the min-
ister do? The minister says, ‘My gosh, we’ve
made a huge mistake here; let’s blame the
opposition in the Sen-

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CHAMBER
ate.’ The government has been totally caught out again. I put the minister on notice: do not try this cheap political stunt again because we will hammer you every time you misrepresent the truth.

Senator SIEWERT (Western Australia) (7.39 pm)—The Australian Greens broadly welcome the initiatives contained in the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009, the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009. These initiatives have the intention of enabling nursing practitioners and some, though not all, appropriately qualified midwives to request appropriate diagnostic imaging and pathology under Medicare, prescribe certain medicines under the Pharmaceutical Benefits Scheme and make referrals under the Medicare Benefits Scheme. However, there are two aspects of these bills that we find unsatisfactory: the right of a woman to have the choice to give birth outside the hospital system is not appropriately or adequately dealt with and the provisions in the bills regarding collaborative arrangements between midwives or nursing practitioners and doctors.

A lot of the debate around these bills has centred on home births and quite rightly so. I am not diminishing the other important issues that are dealt with in these bills, and I will come to those, but this is an area that has attracted a lot of attention. As noted by many submissions and witnesses to the initial Senate Community Affairs Legislation Committee inquiry last August—we have had two inquiries into various provisions of these bills—the scheme outlined in these bills does not address the needs of many Australian women who wish to have the choice of a home birth. Initially, the effect of the concurrent introduction of these bills and the national registration for health practitioners scheme, referred to commonly as ‘bill b’ as part of the NRAS scheme, was that independent midwives would not be able to practice with registration as there was no available insurance product on the market to provide them with indemnity cover. There has been no professional indemnity insurance for independent midwives in Australia since 2001. Midwives in private practice have not been able to obtain insurance and have been practising uninsured. We are pleased that the government has recognised this for certain categories of midwife—I think that is extremely important, and I should have said that at the outset—but the effect of the legislation when it was initially introduced was to make it essentially illegal for independent midwives to provide midwifery services for home births.

On 4 September, the Australian health ministers met in Canberra and announced a transition clause in the draft national registration and accreditation scheme legislation. This provided a two-year exemption until June 2012 for privately practising midwives requiring indemnity insurance. As part of a package of measures, private practising midwives were required to participate in a quality and safety framework being developed in consultation by Victoria through the finalisation of the registration and accreditation process. The process of this legislation, which has sought to bring about significant changes to midwifery practice in Australia, has been undertaken in a fragmented and uncoordinated manner. We are very concerned about the fact that the government seems not to have foreseen some of the issues here, has made a series of amendments and that there has been a series of ongoing negotiations around the safety and quality framework which seem to be separate from some of the other collaborative arrangements and some of the other negotiations that have been undertaken.
The lack of initial consultation with the key stakeholders and the failure to identify the overlap and contradictions between these two major legislative measures at the outset of this process made it unnecessarily complicated and chaotic. To pick up some of the comments that Senator Parry made, if some of these issues had been dealt with by the government in the first place we would not have seen this legislation delayed as long as it has been. The Greens shared the concern raised by a number of witnesses to the Community Affairs Legislation Committee inquiry that, under the provisions of these bills, if registered midwives were unable to attend a home birth there was a very real potential that many women would still choose to give birth at home. The government saying that there should not be home births does not mean that Australian women will not make that choice. In fact, I had a number of mothers and expectant mothers say to me: ‘We want a home birth. The fact that the government thinks that it can make it virtually illegal does not mean that we are not going to choose to have a home birth.’ Unfortunately, they would have had to have made the choice of it being unsupported or done with the help of non-registered midwives.

When this issue was raised, some people in the government did not seem to think that it was a problem that people would be using non-registered midwives. It seems to me that it was a complete contradiction that the government wanted to set up a national registration scheme and certain people from government were saying, ‘What’s the problem with non-registered midwives? As long as they don’t call themselves midwives, it’s not a problem.’ This would increase the risk of negative outcomes for mothers and newborns. The government mitigated the immediacy of this problem when the announcement was made about the two-year exemption, but it is yet to indicate how it intends to solve the problem of access to midwifery care for homebirth in the long run. It seems to have delayed the successful outcome of negotiations and a resolution of the problem, as it sees it in terms of dealing with homebirths, to just two years down the track.

The government has done nothing to allay the fears of those who believe the future of homebirthing and the ability of women to choose the location of their birthing is being undermined by the ideology of some sections of this country’s medical profession. The Greens believe that the choice of having a low-risk homebirth should be available in Australia. The government needs to recognise that there are a significant number of women who want to birth at home. I do not know when the government is going to take this message on board and realise that women want the choice. They want to be able to birth at home. There are a number of women who want to be able to birth at home. There are a number of women who have birthed at home and want to have their next birth at home. There are a number of women who may not even want a birth at home but they absolutely support the right of women to have the choice of birthing at home.

The Greens support the requirement that practitioners hold adequate indemnity insurance. The exemption of private practice midwives providing homebirth care from this requirement should only be considered as a temporary measure until access to professional indemnity insurance has been resolved. We are very concerned about this legislation. As I said, we are pleased that an indemnity insurance scheme is being introduced. It is long overdue. What we have concerns about is the fact that midwives providing homebirths have been excluded. The insurance scheme should not be dependent on the location where a woman and her family choose to birth. Research indicates that
well-integrated models of homebirth care are safe. However, homebirth, predominantly in the private sector, has been marginalised by some medical profession bodies and lobby groups. This marginalisation has made it extremely difficult for individual private midwives to integrate their care into hospital based maternity services.

I have lost count of the number of women and midwives I have spoken to who have had very significant difficulties in talking to hospitals to integrate their care. Midwives are very keen to integrate their care into the hospital system, but in many, many cases they have been denied that access. It is important at this juncture of the reform process that consideration is given to ways of better integrating private homebirth care into the delivery of maternity services rather than taking an approach that could potentially drive homebirth underground. The Greens consider that the model of homebirth proposed by the Australian College of Midwives has particular merit. This model ensures that quality practitioners who are experienced, credentialed and completing continuing professional development will use collaborative processes for consultation and referral according to nationally agreed guidelines to provide care for low-risk women. Under this proposal, indemnity insurance would only be extended to midwives who are Medicare eligible. These midwives will have already undertaken a credentialing process, will be linked to models of professional development and will work in collaboration with medical practitioners.

Evidence based guidelines should be used by midwives in making decisions regarding consultation and referral of the care of women. There is a need for nationally endorsed guidelines to support midwifery care. These guidelines should be for all areas of maternity care, including antenatal care, minimum standards of care in labour, caesarean section birth care, after caesarean section care and care for women with twins and breech birth babies. Such guidelines exist in other developed countries and inform practice. The maternity review recommended the development of guidelines, and this should be progressed as a priority. The adoption of a policy or a framework for private practice midwives providing homebirth care could be a way to progress the issue of indemnity while addressing insurance risk concerns.

One of the issues that have been a central part of this discussion is collaborative arrangements. This issue has been debated at length and it is one of the other areas that delayed the legislation. When the government realised that there were still some issues with the legislation, they introduced another amendment requiring collaborative arrangements. That had to be reviewed because we felt that there were significant changes. We had deep concerns. Also, countless women made representations, certainly to the Greens. I am sure all the other politicians in this place also got representations from mothers and midwives raising concerns about the government’s amendment that was introduced late last year.

On 28 October last year the government circulated amendments to the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009. These amendments were designed to clarify in legislation that eligible midwives and nurse practitioners wishing to access the new arrangements would be required to have collaborative arrangements with medical practitioners. The details of the arrangements were to be specified in secondary legislation. The Greens were alarmed at the implications of these changes. A midwife or nurse practitioner would not be able to their job without the threat of veto from a doctor. In other words,
it put a doctor in the position of having power of veto. If unamended, the only midwives who would be able to participate in the new arrangements would be those working directly in the rooms of obstetricians. This would be a long way from fulfilling the vision articulated by the minister of enhancing women’s access to care from midwives across all communities in Australia. For midwives who want to work in obstetricians’ rooms, that would not be a problem, but it would be a problem for a large number of other midwives.

The Greens referred the amendments to a second Community Affairs Legislation Committee inquiry to specifically look at the implications of the amendments. On 8 December, the Minister for Health and Ageing, Ms Roxon, wrote to the committee’s chair indicating that the circulated amendments were intended to clarify in legislation the collaborative intent that had been articulated. The minister went on to advise that after further consideration of the issues raised by stakeholders in relation to access to professional indemnity insurance—in other words, there were problems with the amendments, so this is the second lot of amendments that the government has to make to its legislation or to the process—and subsequent registration under the NRAS, she was persuaded that it would not necessarily desirable to just proceed with the collaborative arrangements in one of the bills, which was the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009.

In the second community affairs committee inquiry into the bills, Dr Barbara Vernon, the Executive Officer of the Australian College of Midwives indicated to the committee that all stakeholders had largely agreed on the issues around eligibility. She said:

The key issue around eligibility that is problematic is whether or not we add this additional requirement of an arrangement with a doctor as to whether or not the midwife is going to be a capable, safe and competent practitioner in providing this care, and that is where there is a difference of opinion. But the material on midwives and their qualifications et cetera has been largely agreed upon, and it is likely that the Nursing and Midwifery Board of Australia would have carriage of administering that; they would have some kind of mechanism for identifying these midwives and maintaining their eligibility over time.

The department also commented on the progress to establish what was meant by eligible midwives and informed the committee that a very broad consensus had been reached around the level of experience that would be expected of an eligible midwife and that the midwife would need to have practised in a number of settings. We are yet to be informed of the outcome of these discussions that the department started.

The Greens acknowledge and support the minister’s intention that Medicare funded midwives should work collaboratively with medical and other health professionals as needed in the care of women and their babies. That issue is absolutely not in dispute. We completely agree. We do not, however, agree that it is necessary to legislate for collaborative arrangements in order to achieve this goal. Collaboration with medical and other health professionals is already encoded in the regulatory framework within which midwives work in Australia. Disciplinary action may be taken by regulatory boards if midwives are found to practise in a non-collaborative manner.

The Greens agree with the Australian College of Midwives that midwifery is a profession committed to the provision of collaborative care. We believe it is essential. Women choosing the care of a private MBS funded midwife must have ready access to appropriate medical care if and when the need arises.
for themselves or their baby. The issue is how collaboration is ensured. The Greens believe the inclusion of collaborative arrangements in the manner in which it is proposed in this legislation may undermine how midwives work collaboratively with the medical and other health professionals. The Australian College of Midwives says that midwives should be able to demonstrate their adherence to safe, collaborative practice through the use of formalised maternity care notes for each woman for whom they provide care, which can be audited by Medicare Australia or the Nursing and Midwifery Board of Australia as appropriate. This seems to us to be a very sensible way forward.

The Greens agree with the Australian Nursing Federation that the consequence of the government’s amendments to the bills will mean that a medical practitioner could have veto over the ability of a midwife to practise. The Greens agree with the Australian Nursing and Midwifery Council, who have argued that collaborative practice between midwives and nurse practitioners and other health professionals is already legislated through the professional framework developed by the Australian Nursing and Midwifery Council. We remain concerned that the legislation should be presented to parliament before advisory groups have been able to complete their work—the very groups that the minister has set in place—and believe that this has contributed to the confusion and concern felt by many, not least by the public themselves.

The Greens support the minister’s intention that Medicare funded midwives should work collaboratively with medical and other health professionals as needed, as I have said. We do not agree that these legislative practices are necessary. We believe having collaboration in the legislation is not necessary. Collaboration with medical and other health professionals is already encoded, as I said, and there is provision for disciplinary action. In order for midwives to do their job, it is absolutely essential that they are involved in collaborative care. I have certainly had extensive consultation that I have undertaken with midwives and with mothers—and I have been ignoring fathers—and with fathers. When you go to a rally on homebirth, the fathers are always there as well. They are totally supportive and they want homebirth as well. We should not—and I should not—keep referring just to mothers. Fathers and families want the provision of homebirth. They support the indemnity insurance scheme and they want it extended to homebirths. They have very strong concerns about collaborative arrangements.

As I said, it is the midwives who are always talking about collaborative arrangements. It is the midwives who raise concerns with me about the fact that they have not been able to get collaborative arrangements with doctors. That is particularly important in regional centres. I note the number of emails, telephone messages and conversations I have had from women and men in Australia, particularly from regional centres, who have said that they have not been able to get a homebirth in their centre because their midwife has not been able to access collaborative arrangements.

As a Green, I do not want any mistake made; we do support collaborative arrangements and provisions. We do not support the way the amendments that have been proposed for this legislation enable a doctor to have a power of veto. That puts limits over a midwife being able to practise. That in itself starts to suggest to me that is no longer a collaborative arrangement. That is a power imbalance between a midwife and a doctor. It is likely, unfortunately, that in many cases doctors will exercise that power of veto. That is why the Greens are proposing some
amendments to provide for collaborative practice but not mandate collaborative arrangements as is articulated in this legislation.

The government made some mistakes in this legislation. We support the intent of the legislation but not some of the provisions. The government got it wrong twice. That is what held up this legislation. I do not always agree with Senator Parry but I agree with him on this one. It is disingenuous for the government to blame the Senate for this legislation being held up. In fact, we have helped you make it better, Guys. We have identified the problems with this legislation and we have been communicating with the public. If it was not for the pressure from the various people in this place and the public, you would still be going ahead with that flawed NRAS legislation which effectively outlawed homebirths. So stop having a go at the Senate about this particular legislation and look at the changes that were made.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop)—Senator Siewert, your time has expired. Before you resume your seat, do you want to move your amendment to the second reading motion?

Senator SIEWERT—Yes, I move:
At the end of the motion, add:

“and the Senate calls on the Government:

(a) to ensure that midwives have access to a contract of insurance that provides midwife professional indemnity cover for a person irrespective of the location or venue of the births that they attend; and

(b) to undertake a thorough review, 12 months after the regulations under this legislation commence, to ensure that the collaborative arrangements as stipulated in the regulations are effective and have in no way obstructed independent midwifery practice”.

Senator FIERRAVANTI-WELLS (New South Wales) (8.00 pm)—I rise tonight to speak on the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and related bills. The purpose of these bills is to amend the Health Insurance Act 1973 and the National Health Act 1953 to enable nurse practitioners and midwives to request diagnostic, imaging and pathology services for which Medicare benefits may be paid. It will also allow these health professionals to prescribe certain medicines under the Pharmaceutical Benefits Scheme. The new Medicare benefits items will be for services provided by nurse practitioners and midwives working collaboratively with doctors. The midwifery components of the bills implement the recommendations of the Maternity Services Review. This is significant legislation and has generated a strong and emotive response. The minister for health was also forced to write to the chair of the inquiry to clarify the intention of collaboration as a result of concerns raised by stakeholders.

The legislation has also been the subject of two Senate inquiries. The bills were initially considered by the community affairs legislation committee in August last year. The committee examining this legislation received over 1,800 submissions and was due to report on 7 August. The reporting date was moved to 17 August due to the overwhelming public reaction. However, on 29 November 2009 the Senate again referred the bills for inquiry, but this time together with the government’s proposed collaborative arrangement amendments. This inquiry again generated considerable interest and within a very short period of time the committee received 933 submissions relating to the bills and amendments and also received 430
comment letters and 900 form letters. The inquiry report was tabled in February 2010.

Can I just pick up on some of the points that Senator Parry and Senator Siewert have made: it is really disingenuous of Minister Roxon to come in here and criticise the Senate. The reason that this series of bills has had such a chaotic iteration has been that this minister has bungled the handling of these bills. Why should we be surprised given the bungling that this government has made of health? It does not surprise me at all that we have seen another example of Minister Roxon’s bungling.

These bills extend subsidised indemnity insurance to eligible midwives, and a lot of the detail giving force to these bills will follow by way of regulation. In the first instance the coalition and the public were given scant detail by the government on this critical future regulation. The government has yet to provide the actuarial modelling for the indemnity insurance scheme other than a very simplified explanation provided to the Senate community affairs inquiry by departmental officials. It causes concern that once again the minister has rushed headlong into legislation with the attitude of, ‘We’ll work out the details later.’ It is clearly not the responsible way to legislate, and as we have seen time and time again from this Labor government it leads to mistakes, oversights and bungling. The parliament and the public are entitled to detail of policy and legislation that is to be voted on.

According to the bills, an eligible midwife is a person who:

(a) is licensed, registered or authorised to practice midwifery by or under a law of the Commonwealth, a State or a Territory; and
(b) meets such other requirements (if any) as are specified in the Rules for the purposes of this paragraph; and (c) is not included in a class of persons specified in the Rules for the purposes of this paragraph.

We learnt of possible extended classes of midwives in the minister’s second reading speech, where she stated:

… the Commonwealth supported professional indemnity cover will not respond to claims relating to homebirths.

It is the intersection of these bills with the National Registration and Accreditation Scheme where serious and genuine concerns arose. The Health Practitioner Regulation National Law Bill 2009, under ‘Eligibility for general registration’, states:

(d) there is, or will be, in force in relation to the individual appropriate professional indemnity insurance arrangements, including a policy held, or arrangements made, by the individual’s employer that will cover the individual …

Under this, in accordance with clauses 128 and 129, an individual who practises as a midwife without indemnity insurance and is therefore unregistered would have been subject to a financial penalty.

Come 1 July 2010, given the minister’s original position, midwives would have effectively been prohibited from providing birthing services outside of a clinical setting. This was an issue that was fundamentally about choice. It was extraordinary for the health minister to assume to effectively prohibit mothers and parents around the country from having an appropriately qualified health professional in attendance at childbirth. I acknowledge and accept that there is a great diversity of opinion on homebirthing, both within the medical and health fraternities and in the wider community. However, I am not here today to debate the merits or otherwise of homebirthing. That is for others. I am here to emphasise the right of intelligent, informed Australian adults to have a choice, to be entitled to decide for themselves. Child-
birth is an intimate and personal decision for families in consultation with health and medical professionals. It is not appropriate for the Rudd government or Minister Roxon to mandate the conditions of childbirth for all women across Australia.

This is a nanny state Labor government treating with contempt the rights of mature adults to make informed decisions. For that reason, I am glad to see that the proposed registration requirements have been amended to allow existing services to continue. After months of prevarication, in her letter of 8 December 2009 to the chair of the committee, Minister Roxon said:

I am persuaded that it is not necessary or desirable to proceed with the collaboration amendments to the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009.

I now turn to the Pharmaceutical Benefits Scheme and the Medical Benefits Scheme access for midwives and nurse practitioners. There needs to be a more holistic approach to health care in Australia especially in the areas of preventative health and chronic illness. The skills of all health and medical professionals should be utilised to their full potential in accordance with appropriate scope of practice. Practice nurses, for some time, have been an invaluable and integral part of primary health care in Australia. Their role, skills and professional development will be central as we go forward. However, extending access to the PBS and MBS has significant ramifications in terms of scope of practice, patient safety and the economic viability of the health budget.

The interest bill alone on the Rudd government’s huge debt will make it hard in future years to meet the extra expenditure on the schedules and other expenditure across the health system. It is important that PBS and MBS access for all professions is carefully considered and monitored in accordance with professional qualifications and experience.

The coalition firmly believes that GPs are the cornerstone of primary health care in Australia. It is important that there is genuine collaboration between other health professionals and GPs in managing patient health care. We have not received any clear detail on the so-called collaborative model, which is central to these bills. What we do not want to see is a two-tier system in Australia. Anyone who wishes to see a doctor for their healthcare needs should be entitled to do so. We do not want to see a situation where Australians have to see a nurse, not because they want to or because it is convenient but because it is an easier solution for this government. We need to see a genuine model of collaboration of GPs working with other health professionals and specialist practitioners in managing patient care. It is important that there are appropriate guidelines for a scope of practice in ensuring patient safety and the economic viability of the PBS and MBS.

The government’s current investment in the PBS and MBS is significant. As at 30 June 2007, the coalition government spent $6.4 billion per annum on pharmaceutical benefits. Coalition government expenditure on the MBS was some $11.7 billion as at 30 June 2007. This is a significant increase from 1995-96 amounts under the last Labor administration of $2.2 billion and $6 billion respectively.

It is important that these programs are utilised as effectively as possible and that they remain viable into the future. However, in order to consider that issue, the government needs to release the detail under which this legislation will operate. There is still a conspicuous and concerning lack of detail behind these bills. The creation of referral rights for nurse practitioners to specialists is
another significant component of this legislation. However, once again, we need to be assured of the efficiency of such a model. Currently, GPs refer only a very small proportion of patients to specialists. We asked the government to release the modelling or at least some sensible detail as to how this measure may affect the quantity of referrals, waiting times for specialists and the MBS.

Whilst there is a logical argument for nurse practitioners and midwives to have some capacity to order pathology and diagnostic services attracting a Medicare rebate, the workability and efficiency of this proposal will entirely depend on the collaborative model, which we understand the government has not yet devised. Without a national e-health record and without knowing how the government’s planned collaborative model will work, there is significant risk of duplication and over-servicing in this area.

The health budget, provided by the taxpayers of Australia, is certainly not infinite and needs to be managed carefully to make the worthy but almost endless demands placed on it. It is certainly one of the most difficult aspects of the health portfolio. There are many worthy causes that would benefit from funding in the health portfolio. However, the reality of the situation and something which we all need to remind ourselves is that funding is provided by the hard-working taxpayers of this country and the pie is only so big. There is a duty, an obligation in fact, on government to ensure that taxpayers’ money is always used efficiently. Unfortunately, this is clearly not something the Rudd government understands. We have seen billions of dollars of taxpayers’ money squandered on populist cash handouts, racking up debt for the youth of this country to pay off.

As I say, the debt-servicing requirements caused by the Rudd government’s reckless spending will cut deeply into key budget areas such as health in future years. There are a few portfolios where this obligation to ensure the best use of funds is more important than health. There is an opportunity cost to all initiatives. The stark reality of the situation is that taxpayers cannot fund everything. Policy needs to be considered and refined and there needs to be more consultation than what this government has committed itself to in the past in this portfolio. Taxpayers deserve and the government is obliged to provide the best bang for the buck.

The minister’s bungled handling of this critical legislation follows this government’s complete mismanagement of the health portfolio. I would like to take a few moments to dwell on this. Mr Rudd and Minister Roxon made numerous explicit and unambiguous promises that a decision to hold a referendum to take financial control of public hospitals would be made by mid-2009. For example, a media release by Nicola Roxon and Kevin Rudd on 23 August 2007 stated:

If by mid-2009 the Commonwealth and the states and territories have not begun implementing the National Health Reform Plan, a proposition for the Commonwealth to assume full funding responsibility will be developed and put to the Australian people.

As at 30 June 2009, Mr Rudd had failed to state whether he would honour this promise. However, some confusion is understandable given that Mr Rudd has gone to some great lengths to retract it.

A paragraph referring to the referendum was removed from the Prime Minister’s website between October and November 2008. Under questioning in this parliament the Prime Minister failed to say why this had occurred. In addition, a heading ‘Fixing our hospitals’ on the Prime Minister’s website was replaced with ‘Improving our hospitals’ during the same period. And how can we forget the evidence given to Senate estimates
on 10 February by the head of the Department of Health and Ageing, when it was revealed that the incoming Rudd government did not have one document to hand across to the department to implement its plan to fix hospitals? Not even a back of the envelope plan for fixing hospitals could be produced. And yet, magically, on 3 March, the Prime Minister announced his grand plan for health. I think there was a lot of scurrying between 10 February and 3 March so that they could cobble something together which vaguely resembled something called a health plan.

The Prime Minister’s plan was not considered by cabinet and is very light on policy detail, to say the very least. It was hastily put together—indeed, cobbled together. Premier Keneally, amongst other premiers, said that she had only found out about Mr Rudd’s health plan on the morning of the announcement. Mr Rudd has now become a travelling health salesman, but without the free pens and the samples. His mission is to whack the recalcitrant states of Queensland, New South Wales and Victoria to persuade their premiers to sign up to his plan next month at COAG. Mr Rann has gone along willy-nilly in the vain hope that this will save his hide.

I come back to the bills before us. I would like to conclude by reading the additional comments by coalition senators to the second inquiry of the Senate Standing Committee on Community Affairs, tabled in February 2010: Significant concerns were originally raised about the affect of the amendment on the ability of Midwives to gain indemnity insurance and therefore be registered. The Minister has since given notice that the Government will withdraw the amendment relating to the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009. The Coalition Senators acknowledge the importance of an appropriate collaborative arrangement that provides for patient safety and confidence. Mothers-to-be and midwives have not been assisted by the Health Minister’s numerous changes in policy direction and the Coalition will reserve the right to consider the regulations that define the nature of collaborative arrangements between nurse practitioners, midwives and medical practitioners.

That is the real reason why this bill has been delayed. I come back to my original comments: it is absolutely disingenuous of Minister Roxon to try and blame this Senate. The reason that this legislation has been delayed and has taken so long to come here is because of her bungling and her inability to properly deal with this matter. In the end, she had to admit that she had got it wrong and had to backtrack. It is not the only time she has backtracked; she seems to be making a habit of it.

Whilst we will not be opposing the passage of this bill, the coalition remains concerned about the nature of the collaborative arrangements between nurse practitioners, midwives and medical practitioners and will consider the regulations once they finally become available. The implementation of this health measure will also be closely followed.

I refer to the proposed amendments that Senator Siewert has flagged and advise that the coalition will not be supporting those amendments. Later in the debate I will be making some additional comments in relation to that.

Senator STERLE (Western Australia) (8.18 pm)—I rise to comment on the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009, the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009. These are particularly important and timely health bills and are a great credit to the Minister for Health and Ageing, the member for Gellibrand. I think this country is very fortunate to have such an outstanding minister. The
measures contained in these bills are an essential step forward in the necessary reform of Australia’s health system. They will make lasting changes, for the better, in the way health services are delivered in this country. My only regret is that they could have come much sooner had it not been for the lack of effective action by the previous coalition government.

It is gross hypocrisy for opposition senators, including Senator Fierravanti-Wells, to come into this chamber and try to make out that they are the champions for the cause of private midwives and nurse practitioners when, for at least a decade, the coalition repeatedly failed to support, in any real and practical way, the very valuable roles carried out by nurse practitioners and private midwives. It has all gone quiet on the opposition side, Mr Acting Deputy President!

Measures contained in these bills will enable the implementation of the $120 million 2009-2010 budget commitment to improve choice of and access to maternity services. The maternity services reform package, made possible by this budget allocation, is the outcome of a very wide-ranging review of Australia’s maternity services. The 2009 Maternity Services Review, which was led by Rosemary Bryant, the Commonwealth Chief Nurse and Midwifery Officer, received over 900 submissions from a broad cross-section of stakeholders. Many of these submissions drew upon the personal experiences of women accessing available maternity services.

These bills will significantly improve maternity care options for women while ensuring that there is a strong framework of quality and safety for mothers and babies. The improved maternity service arrangements made possible by these bills should enable many more women to have access to maternity care closer to home.

Women who made submissions to the maternity services review were almost universally dissatisfied with the maternity care options available to them. In particular, they gave high priority to having access to midwifery models of care that were capable of and committed to providing continuity of maternity care from antenatal care, to birthing, through to postnatal care. The review found that too often the current system of maternity care was uncoordinated and, unfortunately, disjointed. The enhancement of the role of midwives that these bills will facilitate will ensure many more women will have the benefit of a coordinated care pathway from pregnancy through to professional postnatal care.

The measures contained in these bills are very much about promoting and enhancing multidisciplinary and professional collaboration in the provision of maternity care in Australia. The importance of collaborative multidisciplinary maternity care in order to ensure the delivery of high quality, safe and supported maternity care was confirmed by the various health professional groups.

This package of bills will enable eligible midwives to have access to the Medical Benefits Scheme and to the Pharmaceutical Benefits Scheme under appropriate arrangements. These arrangements include a requirement to work in collaborative arrangements with obstetricians and GP obstetricians. This requirement is an important practical aspect of a best practice multidisciplinary model of maternity care. It will foster and enhance the professional relationships that are essential in providing safe and high quality maternity care.

The minister has advised that at this stage it is not proposed to include home births in the new arrangements for midwives. The reason is that the maternity services review did not recommend that public funding
should be provided for home birthing. Hence the government's proposed professional indemnity insurance arrangements for private midwives do not include cover for attending home births. However, it also needs to be said that these bills do not take away any current rights in respect to home birthing.

It has been recognised, nonetheless, that there has been concern that the proposed national registration and accreditation for health professionals could make it unlawful for private midwives to practice without appropriate professional indemnity insurance. In this regard, the minister has advised that the planned national registration and accreditation legislation for health workers will include a transitional clause that will provide a two-year exemption, until 2012, from the requirement for privately practicing midwives who are unable to obtain professional indemnity insurance for attending a home birth to hold professional indemnity insurance. In order to access this exemption it will be a requirement for midwives attending home births to provide full disclosure to their clients that the midwife does not have professional indemnity insurance and to receive informed consent.

As well, midwives will be required to report each homebirth and to participate in safety frameworks which will be developed after consultation—led by consultation in Victoria. This measure will provide an added safeguard in ensuring the maintenance of high standards of quality and safety with regard to homebirths attended by nationally accredited midwives. In other words, the current arrangements will continue in respect to homebirths. If a mother has chosen to have a child at home and has been properly informed that the activity will not be insured, as is currently the case, the midwife will not be at risk of deregistration or penalty. It is important to note that this is no different to the situation that pertained during the period of the Howard government, except that there will be added quality and safety measures in respect to midwife attended home births.

I would now like to move on to discuss nurse practitioner reform measures that are contained in the proposed legislation. These measures will greatly enhance the role of nurse practitioners and their effectiveness in supporting essential primary care and other specialist nurse practitioner roles in the community. I believe that an enhanced role for nurse practitioners has the potential to greatly improve access to primary care services and to add significantly to the efficiency and effectiveness of primary care and chronic disease care in Australia.

The bottom line is that, unless we move to fully utilise the expertise and skills of our existing health workforce, Australia will face extreme difficulty in adequately meeting the health service needs of Australia’s growing and ageing population. It is important to note that nurse practitioners are by no means a new invention. They have been essential members of the health workforce of many OECD countries for many years. In fact, in some countries nurse practitioners have been in existence for over 40 years. Why then has Australia lagged so far behind the rest of the developed world with regard to nurse practitioners? The answer is simple: the medical profession, backed by the Liberal Party and the National Party, has persistently stymied an increased healthcare role for qualified nurse practitioners. The AMA is the greatest workplace turf protection outfit in this country, bar none. The turf war continues to this day even if it has become a little less overt.

For example, in respect to nurse practitioners, the AMA has not come up with a shred of credible evidence that the use of nurse practitioners in primary care lowers either access to or provision of high quality primary care. Too many doctors, egged on by
the AMA’s closed shop specialists, remain antagonistic and suspicious of the concept of nurse practitioners. In this regard it is discouraging to find on the Australian Medical Association website an AMA position paper in respect to nurse practitioners which states:

The role of a nurse in the primary care setting does not include:

- Formulating medical diagnosis
- Referring patients to specialists
- Independent ordering of pathology or radiology
- Prescribing medication and issuing repeat prescriptions.

In other words, the official position of the AMA, as stated on its website, is to firmly ring fence anything that it regards as doctor territory regardless of benefit to patients or the health system. The AMA’s position statement with respect to nurse practitioners illustrates an even more important issue: namely, the poor record of the medical profession and its union—and they are a union, and a very powerful union; they do not like being called a union, but they are a union—to embrace the need for reform of the broader healthcare delivery model. The fact is that the inflexibility of politically powerful elements within the medical profession is harming the attainment of sustainable, efficient and high quality healthcare delivery for all Australians.

Maintaining entrenched regressive positions about the retention of turf rather than having regard to best practice healthcare delivery will in the end serve neither the interests of patients nor the interests of health providers. It is of meagre benefit to patients to be told that the quality of medical and health care provided in Australia stands alongside the best in the world if, when they need to access a healthcare service, they encounter significant and unnecessary obstacles to gaining access to needed health care.

It has been recognised for well over a decade that Australia faces major challenges in maintaining and expanding its health workforce into the future. Australia’s health workforce is currently growing at approximately twice the rate of its total workforce growth. Already health workforce shortages are creating significant difficulties in meeting the medical and health service needs of a growing and ageing population. This is particularly so for people living in rural and remote areas and in the outer urban areas of Australia’s major cities. On current trends, the ability of Australia to maintain the current rate of health workforce growth seems, sadly, unlikely to be sustainable.

Hence it is necessary to ensure that Australia achieves maximum output and productivity from its existing health workforce. This will inevitably require changes to the structure of the health workforce and, where appropriate, to the roles of individual health workforce categories. The time has come when we cannot afford to have necessary health workforce reform stilled or stalled by vested interests of the various health occupations and health professional groups, particularly the Australian Medical Association. The fact is that many of the required reforms, such as an enhanced role for midwives and nurse practitioners, in reality are neither radical nor all that difficult to implement.

Australia has a nurse workforce of over 200,000 well-trained and well-educated nurses dedicated to professional excellence. Added to this, many nurses, through scholarship and personal initiative, have accumulated extensive experience in complex areas of healthcare delivery and hold postgraduate qualifications in their chosen health discipline and medical specialty. Certainly anyone who has had cause to attend a busy public hospital or who has witnessed the workload of a remote area nurse in, say, the north-west of Western Australia knows from direct
personal observation the capabilities of nurses to deal with complex clinical situations. We need to ensure that our nurse workforce is able to continue to develop its skills and capacity to meet the complex healthcare service needs of Australia’s growing and ageing population. Access to required high-quality healthcare services is already a significant issue for Australia—for many people living in rural Australia, for people with mental illness and for many frail aged people. This situation will only get worse if we do not make better use of the skills and capabilities of our existing health workforce.

Members of the Howard government cannot claim to have been unaware of this problem. Senior health officials and planners have been drawing attention to Australia’s looming health workforce crisis for years. In 2005, at the request of the Howard government, the Productivity Commission undertook an extensive investigation into Australia’s health workforce issues. The Productivity Commission was requested:

…to undertake a research study to examine the issues impacting on the health workforce, including the supply of, and demand for, health workforce professionals, and proposed solutions to ensure the continued delivery of quality health care over the next 10 years.

The request to the Productivity Commission went on to say:

The study is to be undertaken in the context of the need for efficient and effective delivery of health services in an environment of demographic change, technological advances and rising health costs.

The Productivity Commission submitted its report to the government in December 2005. In its study the commission found:

… measures aimed at boosting the supply of health workers will not by themselves be sufficient to provide a sustainable solution to Australia’s health delivery needs. In particular, they will not address inefficient and inflexible workplace arrangements that reduce the productivity of the available workforce.

Even cursory reading of the commission’s report would leave most readers in little doubt that the latter comment concerning inefficient and inflexible workplace arrangements is largely directed at the tactics of the strongest occupational group in the country: the doctors and the doctors’ union—in other words, the AMA. It is an undeniable fact that, whereas most other occupations have had to adjust and accept wide-ranging workplace change in the cause of economic reform, the medical profession has been almost totally untouched by these events. The medical profession has been cocooned from workplace reform, and this is costing the taxpayer dearly as total healthcare costs continue to rise faster than the value of Australia’s GDP. This is unsustainable in the long term.

Finally, the measures in the proposed legislation of enabling eligible nurse practitioners to access the MBS and the PBS, to prescribe certain medicines and to have rights to refer to specialists is exactly the sort of critical action required to increase the efficiency and effectiveness of the available health workforce. These measures will significantly improve access to primary care services where there are shortages of medical practitioners and where timely access is too often problematic. The Minister for Health and Ageing and her department are to be congratulated on bringing forward these healthcare delivery changes. Not only are the changes urgently needed but also I am sure that they will be a huge success and will benefit thousands of Australians throughout the country. I commend the bills to the Senate.

Senator IAN MACDONALD (Queensland) (8.36 pm)—I am indeed indebted to Senator Sterle for that very fine explanation of the Health Legislation Amendment (Mid-
wives and Nurse Practitioners) Bill 2009, the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009 and all the issues surrounding them. I have known Senator Sterle as a very competent senator for Western Australia. His expertise in Transport Workers Union matters is without parallel. I had not realised that he was such an expert on midwifery and the issues before the chamber at the moment. In fact, he is such an expert that I would have almost thought he had written the speeches for the Minister for Health and Ageing, because his speech sounds very much like the minister’s written speech. If I were a cynic, which I am not, I would think that Senator Sterle’s speech, which he read every word of, was prepared by the minister or the minister’s department. But I am sure that is not right, because I know Senator Sterle is a very genuine representative for Western Australia. As I said, I was delighted to learn from what he read of every word of the speech he has just delivered for 20 minutes.

I do not come to this debate with any of that sort of expertise that Senator Sterle has shown. I wanted to speak tonight because, while I have to say it is not an area that I claim any expertise in at all, I was very impressed with the group of women in Townsville who came to see me and who explained this issue to me before I had really ever taken any interest in it. It probably does not need emphasising that I was someone who was not really terribly involved in this sort of policy issue. I said to them, ‘But wouldn’t you rather have your children in a hospital, where you have got immediate access to the very best of technical assistance, the very best of science, the very best medical expertise in the nurses and doctors and specialists all at hand?’ That seemed to me to be a common-sense provision. But after listening to these women—for about an hour, I think it was—I could understand their concerns at the legislation that the Labor government was bringing in. They had very real and genuine concerns. Apart from that, I have a concern about rural and regional Australia, and particularly northern remote Australia that I have some very great interest in. I just wonder where this legislation will leave people who are not very close to hospitals, to specialists and all that very best of attention. But I digress a little. I was very impressed with this group of women who came to see me in Townsville and the arguments they raised.

It has been the subject of great debate and in the end result the coalition has determined that the legislation is perhaps better than nothing. As colleagues have mentioned before, the coalition will not be opposing the passage of this bill. But I am concerned, and I readily understand the issues that this group of women who came to see me in Townsville have with this bill and with the general approach of the Labor Party to this issue. As I understand it, the government introduced legislation providing for MBS and PBS access for nurse practitioners and midwives to commence from 1 November 2010. The Commonwealth-subsidised indemnity insurance for midwives working in a collaborative setting is to commence on 1 July 2010. The legislation is in response to recommendations of the maternity services review. The indemnity insurance provisions will not, as I understand it, cover midwives providing birthing services outside of a clinical setting. I know that will be of great concern to many of my constituents who have spoken to me about this. The national registration and accreditation scheme will make indemnity insurance a mandatory requirement of registration as from 1 July this year. Therefore it will effectively be illegal for independent midwives to provide home birthing services
from this date, and individuals who practise as midwives without registration face a maximum penalty of $30,000, in accordance with the exposure draft that came out in relation to the Health Practitioner Regulation National Law. Currently, as I understand it, insurers do not consider it viable to offer independent midwives indemnity insurance due to their small numbers and the lack of a risk profile. Women who have a home birth privately contracted with midwives without indemnity insurance, I can understand, have a great reason for concern.

Whilst we are in opposition and are powerless almost to get the right sort of legislation, this legislation, as I indicated, will not be opposed. But can I indicate that I am concerned for those who have a very genuine concern for having childbirth in the hospital systems and in what quite clearly the majority of Australians would consider is the right way to bring children into the world. But there are a very significant number of people who have very intense and well-grounded fears for the way that the state is, effectively, regulating what is their private lives.

I am also very concerned about the impact that this will have upon people living in remote and rural Australia. I often think that governments in Canberra and bureaucrats in Canberra do not really understand what life is like for admittedly a very small percentage of Australians. Indeed, they form a voting block which is of no significance whatsoever, but they are Australians and they deserve to be considered. I think it is very hard at times for ministers coming from capital cities to understand that there are places in Australia where you will drive eight hours to get to the closest hospital. You will wait for two days for the flying doctor service to come in and service your medical needs, including childbirth.

Legislation such as that we are dealing with today—and I think this is a very good example of this—really does not pay any attention to those Australians from remote and rural areas, who happily and stoically put up with their lot but who I think deserve some greater consideration. In the past they may have been able to give birth where they live, several hours from expert medical attention—when I say ‘expert’, sometimes they can get a midwife, and that is in my view expert medical attention; but in the common thinking they are remote from that—and they should have that option, they should have that choice. That is where I have some concerns with this bill.

I did not want to speak all that long on this. Earlier speakers from our side have indicated the coalition’s position, and have indicated very clearly the view that we take on this particular issue. Had we been in government we may have been taking a somewhat different approach. But I did want to speak in this debate to highlight the issues of those women who came to see me who very passionately believe in their right to give birth at home and to have the assistance, should they require it, of qualified midwives to help them with those births. I qualify my remarks by saying that this is not an area—unlike Senator Sterle, who gave a very detailed and very keen explanation of the whole bill. Unusually for Senator Sterle, he read every single word of his speech; but, as I say, he clearly has a very keen and detailed interest in this. But I want to highlight the issues that have been made known to me and to indicate that, for the reasons my colleagues have pointed out, we will not be opposing the bill. I indicate in concluding that there are issues that I think do require further consideration by the government of the day.

Senator ADAMS (Western Australia) (8.48 pm)—I too rise this evening to speak
on the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and related bills. Being the only trained nurse and midwife within this parliament, I feel that perhaps I do have a little expertise. Senator Moore, I and the other members of the Senate Community Affairs Legislation Committee also worked very hard with the people who came before us during two inquiries. The first inquiry was on 6 August 2009 and we had 1,958 submissions. Our second inquiry was on 17 December 2009 and we had 933 submissions. I think this indicates how very strongly the general public feel about this issue.

Might I say at the outset that I am very pleased that these bills have come forward, because 1 July was coming up very quickly. I feel very sorry for those women who will be having home births or have private midwives and will then be going, under the care of the private midwife, into a hospital to have their baby. This has been a terrible time for them. They have been put through an enormous amount of pressure. I can assure you, having had two children, that being pregnant is pretty hard—but, by gee, imagine that you are pregnant and you are not sure whether or not the person who has taken you through your pregnancy, who has been looking after you and supporting you, will be beside you after 1 July.

As I said, having sat through numerous deliveries in the time that I was working as a midwife, I can say it really is an exciting time. The fact is that as a midwife you tend to be with the patient, a complete stranger, in your hands, with her husband or her partner, and you go right through every contraction, through everything they are feeling—the angst, the anxiety. You are there to support them if things do not go right but also to congratulate them on having the birth of a normal, happy child. It is such a terrific area of nursing. Before I became a midwife I was working in operating theatres. You get to the stage—although this sounds very bad—where you have lists and lists of different types of operations that you are going to do; and, unfortunately, when your next-door neighbour comes down and goes through the theatre you do not realise who it is. I decided I had better go back to midwifery. I really do have a great passion for it.

I am not sure whether I heard Senator Sterle say that the coalition had not supported nurse practitioners, but I can assure you—going back probably 11 years in Western Australia, when we had the first nurse practitioners—just how supportive coalition and Liberal governments have been towards the nurse practitioner. Originally their role was to be to go to remote areas of Western Australia, and then later into remote areas in the rest of Australia. But, unfortunately, a number of the people who became qualified, having done their nursing, gained considerable experience and then gone on and done a masters degree—they are very well educated and well trained—decided they would rather work in the city, in the emergency departments and those areas. So I really would encourage anyone who is a nurse practitioner, if they could possibly go out and help in the rural areas, to do so. It would be a really great thing for rural areas.

We used to have what we called nursing post sisters. I did a lot of relieving in these areas as one. I think that a nurse practitioner could fill that role very adequately for the community. Unfortunately, as we are all aware, trying to attract GPs into rural areas is very difficult and trying to attract a GP who has qualifications in obstetrics is even harder because these people like to stay in the city and a number are not taking up the work because of the problems of litigation and the cost of their indemnity insurance.
We are looking at the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009, the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009. For eligible nurse practitioners and midwives, the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill will provide the right to request certain diagnostic imaging and pathology services for which a Medicare benefit may be paid; the right to prescribe certain medicines under the Pharmaceutical Benefits Scheme, known as the PBS; and new Medicare items and referrals under the Medicare Benefits Schedule, known as the MBS, for midwives and nurse practitioners working in collaborative arrangements with doctors.

I will speak later about the collaborative arrangements, which have been quite a problem, but I will say that the passage of these bills has been very difficult. At the supplementary budget estimates hearings in October it was very, very difficult to find out from the Department of Health and Ageing what the definitions of eligible midwife and nurse practitioner were. Unfortunately, the legislation had been put through but the regulations had not been prepared. Even some of the most experienced department officers could not answer the questions I asked. That made me very dubious about what was happening with these bills. It was one of the reasons that later, when we did get the completed legislation, we pushed very hard to have another hearing, as did members of the public. Senator Macdonald has spoken about the number of people that spoke to him about whether they could have a choice and have a home birth or go with their midwife and be able to go to a hospital if things did not quite work out.

As you can imagine, as the only midwife in the parliament, I have received a large number of emails and many people have come to see me. I felt privileged that those people chose to come and talk to me about their concerns. I was able to talk to them on a first-hand basis about their problems and how they were feeling. I do hope that the coalition will not be opposing these bills, so that on 1 July those mums-to-be and the midwives looking after them will be feeling a lot happier and more confident about their situation.

I have been very frustrated with all that has gone on since the legislation came out. I think that the members of the Senate Standing Committee on Community Affairs should be congratulated on the work they have done on this legislation. I am not satisfied with the end result, but I think it is a great start. Nurse practitioners will now have prescribing rights and be able to do a lot more than they are doing and our midwives are going to have the opportunity to continue practising rather than being fined if they continued to practise, as was the case with the first lot of legislation. That meant that probably 200 of the most experienced midwives in Australia were going to be penalised because the government had not looked at its national registration legislation, which conflicted completely with the fact that an eligible midwife had to have indemnity insurance. Unfortunately, those who work as homebirth midwives are ineligible to have insurance because no-one will insure them. That was a real worry and I would hate to have seen that happen, particularly as I know a number of these midwives. Also, it was not going to give women a choice.

As a midwife, I look at the safety of the mother and the baby. When the coalition senators submitted their additional comments to the inquiry we held in December we said we wanted some sort of arrangement where a woman who is having a baby has to be booked into a hospital and her midwife work
with the local GP. Then if something were to go wrong the woman would be able to have a safe delivery in the hospital into which she had been booked. I believe that this is the safest way. Some of the women were saying they had had children before by homebirth with a midwife and everything had gone well, and they were having another one and saying, ‘If my midwife can’t do anything for me I am going to have a free birth.’ I would hate to see that. It is the last thing we want: a woman at home labouring, probably with children and her partner there. If something were to go wrong it would be a dreadful thing for a child to be present to see that happen.

Most midwives have an effective relationship with the doctor anyway. I just think back to my own days in the profession. The doctors knew what we were capable of. I was trained in New Zealand and we did most of the deliveries within the hospital and the GP came in later. They very rarely were there to do the delivery because they considered that the midwives were well practised in it and had been with the woman through her labour. The GPs did not want to interfere except to be there to congratulate the mother and her partner on the birth of their child.

Being a midwife, there are a lot of things I could say, and I will support these midwives so long as I am in this parliament. They play such a terrific role. During the inquiry there were issues raised by the AMA and the doctors, but I think there are terrific partnerships between health professionals. Evidence was given by the AMA, but, when members of national bodies give evidence at these inquiries, they tend to have moved away from their practical experience years ago—though I will not say that about the current president of the AMA, because he is an obstetrician and gynaecologist. It was hard because, obviously, the nurse practitioners and midwives are to be given rights that are normally restricted to the medical fraternity. But I think that as a team they can work together for the good of the community. With low-risk homebirths and the midwife’s collaboration with the doctor, hopefully it will all go very well.

This word ‘collaboration’ really has caused some problems. The doctors associations all wanted a signed agreement with midwives. In some rural hospitals only one doctor is on duty, but how many doctors perform obstetrics in the larger hospitals? Some babies come on time, but not many do and they come at all hours of the day and night and other people are on call. These collaborative arrangements meant that the midwife was going to have to have an arrangement with the medical superintendent or whoever was in charge of the other professionals who perform obstetrics, which would create a complication. The midwives were pushing for what they called a collaborative practice. Senator Siewert spoke about this. Collaborative practice is exactly what is happening now. All these hospitals have guidelines. The midwives are working under these guidelines and are fully aware of their rights and responsibilities, as are their patients. Unfortunately, this time around it was not to be. There will be a collaborative agreement, but I still feel that this legislation has moved mountains as far as nurse practitioners and midwives are concerned. I believe that it will bring together a much more cohesive team—and I do not want to omit the other allied health practitioners, who often are involved with the midwives in helping their patients.

It really is a step forward, but I do have a few reservations about the way that things went on. It did get a bit nasty, but as a committee we are quite used to that. We dealt with it very well and I am certainly proud to have been a member of the community affairs committee when it received this evidence and conducted the inquiries. The in-
queries were very rushed, with only a day for each. With such a terrific number of submissions, we were able to accommodate a number of witnesses by having four or five community people there together giving evidence with the support of others rather than sitting alone at the witness table. We were able to achieve that, but, if the legislation had been a lot clearer, the regulations had been prepared and there had been a lot more consultation by the minister with the nurses, nurse practitioners, midwives and doctors, the Senate probably would have passed this suite of bills a lot sooner.

At least parents are going to be given a choice as to what happens. The midwives have guidelines. They know where they are going and what the consequences are. I hope that after these bills are passed, if certain issues have to be amended later, that will occur. I believe the committee did a great job. I congratulate the chair on the way in which she conducted these inquiries. As you can imagine, with the number of people who put submissions forward, there was a lot of disappointment because they could not all come before us. I will be supporting the legislation.

Senator BOYCE (Queensland) (9.06 pm)—As has been pointed out to you, Madam Acting Deputy President Moore, and as you would very well know, the Senate Community Affairs Legislation Committee, of which I am a member, conducted two inquiries into this legislation, the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and related bills. We did not do that for lack of something to do; we did that because the first piece of legislation that was brought to us was in many ways unsatisfactory and, in fact, was being changed as we were inquiring into it. The regulations which went with that legislation were not available for either the first or second inquiry that we conducted. Our committee has often commented on and often criticised the lack of understanding of the regulations that underpin the laws being made. That was one of the biggest problems with this process.

I would like to join Senator Adams in congratulating the women of Australia—the mothers, the mothers-to-be and the midwives—on their extraordinary reaction to what they saw as an attack on their rights. In the second inquiry, as Senator Fierravanti-Wells pointed out, over 900 submissions were received in a very short time as well as hundreds of form letters and other individual letters. The first inquiry we held received just under 2,000 submissions, again in quite a short period because at the time the government was telling us that it was urgent that we complete the inquiry and get the legislation passed. Those submissions were received primarily from midwives who provide home birth services and of whom we know there are only about 200 in Australia—so do the sums on that—from parents and from organisations that support homebirths. In that first inquiry they were faced with a mishmash of legislation, the consequences of which were completely unknown.

The outline of this legislation would have meant that privately practising midwives performing home births would to all intents and purposes have become quasi-illegal. They would not have been able to have professional indemnity, and without professional indemnity they could not have been registered under the proposed National Registration and Accreditation Scheme for the Health Professions and therefore, if they had practised, they would have been practising completely outside the system. As Senator Adams pointed out, this would have meant that about 200 independent midwives could have been deregistered when this scheme came into play on 1 July 2010 and that if they had...
continued working they may very well have been fined up to $30,000 each.

Having met the state and territory health ministers, Minister Roxon announced a two-year exemption from holding indemnity insurance for privately practising midwives who could not obtain cover for attending a homebirth in September last year, which was after the first reporting period. So they have a two-year ‘amnesty’, for want of a better word, until June 2012 while the minister works at what to do. Minister Roxon was quoted at the time as having said:

I was concerned that as an unintended consequence of the national registration and accreditation process that homebirthing may be driven underground, that that would not be a good outcome.

It is something of a minor understatement, I would have thought, to suggest ‘that that would not be a good outcome’. At the same time, that phrase ‘unintended consequences’ comes up again as the government seeks to suggest that legislation is urgent and necessary without having done the homework. The government adds insult to injury by suggesting, as Senator Parry outlined earlier, that the coalition has in any way been responsible for the slowness of this legislation being passed.

Indemnity insurance is a consumer right within what should be a well-developed, professional, well-regulated health system. Pregnant women are not sick. I think that is a point that needs to be made over and over again. Pregnant women, their partners and other members of their families that they choose to involve should be able to have their child where they choose. Of course we must have requirements in place so that if there are any difficulties or problems they can be dealt with by medical intervention.

I must admit that I was not aware until after the did this inquiry—I do not have the same depth of experience as Senator Adams on the topic of midwifery; my only claim here can be having given birth to three children—of the practice of free birthing. In home births a medical professional, generally a midwife, is involved in both the preg-
nancy and the delivery of the baby, while free births are conducted without that involvement. There may be a doula—someone who has some basic knowledge or who has helped other people to deliver babies—which is the sort of midwife you may have had 200 or 300 years ago. Often these babies are delivered without the assistance of anyone with any medical experience.

I personally find the idea of a free birth quite worrying, but some women choose to do that. What we do is lump together the statistics about homebirths and free births and suggest that the dangers represented by free births are the same whether you have a midwife or the next-door neighbour helping. This of course is not the case and we need to clarify this. One of the things that Senator Adams and I, as the coalition senators in the first inquiry, suggested was that we needed a more wide-ranging inquiry into the topic of homebirths. It is not well understood in Australia because, in my view, the topic has been taken over by the medical profession. The medical model of how to go about a pregnancy has been the dominant model in our country. I do not think that should happen any longer. We need to recognise that women choose. They should have the choice and will have the choice irrespective of what our laws say about where they have a child. I cannot quite imagine the situation where we will start arresting women at 8½ months pregnancy and take them off to have births according to the way the AMA thinks that all births should be conducted. It is not on, it is not reasonable and it is condescending.

There were some very serious concerns about the way the medical profession presented a number of their problems. They had concerns about nurse practitioners having prescribing rights; they had concerns about nurse practitioners having referral rights; they had concerns about midwives having referring rights. The view was that it should always go back to a GP who would be the case manager, irrespective of the wishes of the women involved, particularly in terms of pregnancy. It was interesting to get an insight into why some women simply do not want to go to hospital to have a baby. It came back to their previous experiences in hospitals. Some of them were just not going to darken the door of a hospital again, no matter what, and there is no way we can force them to.

At the same time we have done very little to encourage the development of birthing centres. These are generally very small and overbooked. People are very lucky to get the chance to have this sort of halfway access—halfway between a homebirth and having a baby in a full hospital setting. We have done nothing there. That is partly because it has not been encouraged. In fact, it has been actively discouraged by many of the doctors involved in the industry. I hate the idea that we might turn this into something like male doctors versus women midwives or pregnant women, but at times there was a sense in the inquiry that professionals have had control of this business—let’s call it women’s business, shall we—for a long time and have been very reluctant to share it. They had used all manner of excuses to stop the development of sharing. In some cases what they did was quite condescending. Suggesting that a trained midwife, who was a member of the college, needed the oversight of a GP to know her job is offensive and wrong. Midwives have a very rigorous accreditation system. It requires that midwives work in a collaborative way with others in the medical profession and the health profession, and that happens. It does not require doctors telling midwives that they need a collaborative arrangement for this to happen, but the problem has not gone away. It seems to me that, until there has been a certain amount of more pressure applied and a certain level of success achieved by midwives and nurse practi-
tioners doing the job that we need them to do, we will not get better action in this area.

I hope that we will simply have the evidence to suggest that the concerns of GPs, obstetricians and gynaecologists that we will have an epidemic of over-referring, an epidemic of overprescribing and an epidemic of poor outcomes in pregnancies will prove to be completely wrong and that the women who have done an extremely good job for many years in assisting women to give birth will continue to do so. There is of course another aspect to this. For a start, homebirths, if they are healthy and safe—and, of course, the job any midwife would want to undertake would be to ensure that was going to be the case or they would refer the woman to a hospital if it were not—are much cheaper than hospital births. They do not use the same health resources that hospital births do. Not only that but, given the right encouragement, there will be more than sufficient midwives available to assist women who want to have their pregnancies dealt with outside of a full hospital setting.

We have a shortage of obstetricians and gynaecologists—we know this. We have a shortage of most specialists. I heard today, in fact, that there is a two-year waiting list to see a rheumatologist in Townsville. I know that is not entirely relevant to this topic, but there are not enough GPs, obstetricians and gynaecologists to go around, so further developing the existing resources of midwives and nurse practitioners would make economic and sensible use of resources rather than simply fighting to ensure that a monopoly is maintained in a particular area.

The other question, as I think Senator Macdonald mentioned, was the problems for women in rural and remote areas. I have spoken at length with a group of women from the state electorate of Southern Downs in Queensland—an electorate represented by Mr Lawrence Springborg, who is very supportive of the women who came to see me and whom I also spoke to about this problem. If you live a long way out of town, what is your chance of having a baby delivered by an obstetrician and gynaecologist? If you live a long way out of a small town, your chances are even less. The women of the Southern Downs were concerned that people had to come to town one week, perhaps two weeks early and wait to have their baby.

Senator Adams—Four.

Senator BOYCE—Four weeks in some cases, Senator Adams tells me, so that they could use this medical assistance to have their baby. But these women wanted that to be the default position. They only wanted to do that if some harm was likely to happen to themselves or to their baby. They are very sensible and, in the main, very fit, active women that we are talking about. They are farmers. They are not going to risk their child, but they are fit healthy women. They want to have a midwife who can assist them and who can be confident that she is not going to be sued by anybody and that she can do the job that needs to be done—and that there will be more midwives coming up to replace those as people age. This is a constant problem in many of our not just remote areas but smaller rural areas where it is difficult to get a GP and where families have to be broken up often for weeks and weeks on end—four weeks as Senator Adams mentioned—so that the baby can be born in a venue considered to be medically suitable surroundings.

The other group that is particularly affected by this problem is Aboriginal women. It has been put to me that many Aboriginal women are having babies without any assistance whatsoever except from older women in their group. They are simply frightened to see obstetricians, gynaecologists and GPs
who are, in the main, white and obviously strange and obviously are going to examine them in what could be considered culturally inappropriate ways without any training to support them in undertaking that examination. One of our solutions is for there to be more Indigenous doctors—GPs, obstetricians and gynaecologists—but it is not just about having more. It is also about recognising that in some cultures, and the Aboriginal culture qualifies because of the remoteness from hospitals of many Aboriginal people, the remoteness and cultural sensitivity mean that people would be far more comfortable with a midwife to deliver the child, a midwife to support them and a midwife to accompany them if in the unlikely circumstance they needed to go to a hospital for that delivery to take place. The coalition will be supporting this legislation because it is an improvement on where we have been. We hope that we can have more and better amendments for this legislation as the program proceeds.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.26 pm)—I will speak generally on health to start with, as these bills are related to health, and then I will move directly on to the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and related bills. Australia has a health system that is on life support at the moment. We have a health system that is broken. Just months ago, we had a major report put out by the National Health and Hospitals Reform Commission which essentially said the same thing. The facts speak for themselves. There are nearly 90,000 patients on public surgery waiting lists. There are 70 per cent of emergency patients who are forced to spend more than eight hours waiting for a bed. The third point is that the average waiting time for elective surgery has increased in most states and is still a real concern.

I have lost count of the number of times that the Prime Minister and the Minister for Health and Ageing have been snapped by the cameras, yet there is still a massive shortage of doctors across the country, particularly in rural and regional areas. The Rudd government is actually going backwards, not forwards, when it comes to health. In 2007, the Labor Party went to the election promising Australians they would fix the healthcare system and would take it over by the middle of the year if it was still stuffed. Guess what? It is still stuffed. It cannot even get its health takeover right. The Rudd government’s plan for a federal takeover is half-baked. It is not a real takeover. It is just rearranging the deckchairs. The Rudd government has proposed a 60-40 funding split, which is a change from a 40-60 funding split. That is not a takeover; that is just rearranging the split between the federal government and the states. The Rudd government has once again overpromised and underdelivered when it comes to health.

The legislation before us now is, once again, proof of how the Rudd government has mismanaged the health system. The legislation contains some good initiatives but also contains some bandaid solutions to our massive health problems that the Rudd government just does not seem to want to address. The legislation before the parliament will see nurse practitioners prescribing pathology and referral rights almost equivalent to that of a GP. I am not against nurse practitioners, but what I am against is the Rudd government using these supernurses to deal with the fact that we do not have enough GPs. Before Family First kicked up a fuss that these supernurses were going to be allowed to operate without the supervision of a GP and without the need for any collaborative agreement with doctors’ clinics, nurse practitioners were going to be able to refer patients to specialists without having any
involvement from GPs. Thankfully, common sense has now prevailed and the government has realised that this kind of health reform is only going to fragment the health services even further and end up costing the health system more because it will lead to multiple consultations and claims. The government has now backtracked on this and has put forward new amendments which will require nurses to enter into a collaborative agreement with a doctor’s clinic.

But despite introducing the requirement for collaborative agreements, there are still some issues with the approach which has been taken by the government to fixing the healthcare system. I am all for increasing the role of nurses in the healthcare system because they are highly skilled health professionals who are certainly capable of doing more in the primary health team. The expert knowledge and skill level of nurses is often underappreciated in our health system and it is good that we are looking to expand their role in the health system. But I have big concerns about what the government is looking to do—that is, to simply replace GPs with nurses, particularly in towns where there is a GP shortage. The solution to the massive doctor shortage is not to give nurses more responsibility; it is to train more doctors. It is plain and simple and I cannot understand why the government just is not getting the message.

No-one can replace the family GP who knows your history and your health issues. Unfortunately, the government is prescribing people living in the country a second-rate medical treatment. This plan will disadvantage towns in Victoria like Sale or Hamilton, where there are already GP shortages, because families will be forced to see a nurse instead of their family doctor, while their city counterparts can still get to their GP. This is going to create a huge disparity between the country and the city as to the standard of health care. Country people still deserve access to a doctor and the GP must remain the cornerstone of the primary health team and the first port of call for patients.

I want to also touch on another aspect of the bills where I have some real concerns. There is a big problem that needs to be fixed and that is in relation to the government’s treatment of homebirths. Until very recently, the Rudd government was committed to effectively banning homebirths in Australia altogether. The decision to ban homebirths went against all common sense. Under the government’s original plan, midwives were to be banned from assisting with homebirths and any midwife caught breaching the rules would be fined $30,000. The decision to ban homebirths was totally outrageous and was inconsistent with how the healthcare systems in all other parts of the world are allowed to operate. The decision to ban homebirths came out of left field and was without any justification whatsoever because it ran counter to the right of women to choose how they wish to give birth. It is just another example of how the Rudd government is treating Australians like children and trying to tell us what is best for us. It is not up to the government to tell women how or where to give birth; it is up to women to make a choice about this matter.

Numerous studies have shown that for low-risk women with appropriate transfer-to-hospital options available, homebirths are at least as safe as births in hospitals or birth centres. More recently, in April last year, a study comparing the relative safety of homebirths and hospital births found that there was no difference as to death or serious illness among either mothers or their babies. These facts demonstrate that there was never any good reason for the government to intervene and block the choice of women to deliver their babies in a home environment. After rallies outside the minister’s offices in
Melbourne and in Canberra, the government was forced into yet another embarrassing backflip and announced that it would grant a two-year suspension to the ban on midwives attending homebirths. The government, with its tail wagging between its legs, was forced to basically admit that it had completely got it wrong and did not have a clue as to what was the best way forward.

The two-year exemption for midwives who attend homebirths is a short-term bandaid solution. The two-year exemption is a temporary measure that does not fix the problem that the government has created for itself. The two-year exemption is nothing more than a delay tactic to silence any critics so that the government can go to the next election pretending that it is doing something about the homebirth issue. The government has known for months about the problems with homebirths and now it claims that it needs two more years to fix the problem. Surely the government knows that Australians are smarter than that. Surely the government does not think that we were all born yesterday. The changes that the government has put forward are not good enough because they do not fix the issue once and for all, and it has had plenty of time to address the issue.

Family First are not interested in a temporary solution. We want a permanent solution that will make sure that women continue to have the right to give birth at home if they want. And what we certainly do not want is for doctors to have the right to veto midwives who want to attend homebirths by refusing to enter into a collaborative agreement with them. The only person that should have the right to decide whether or not they have a homebirth is the pregnant woman in consultation with the primary care people. This is an issue which needs to be addressed by the government and there is no reason why the government cannot maintain collaborative agreements with nurses while still fixing the homebirth issue. The government needs to stop playing games and demonstrate that it is serious about the homebirth issue by putting forward a solution that will solve the problem once and for all rather than deferring it with a bandaid solution.

Senator MOORE (Queensland) (9.34 pm)—This evening we are looking at three separate pieces of legislation, and they are all important in the evolution of our medical system. As has happened consistently from the time that the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 was brought forward, we have had a concentration of the discussion on the issue of homebirths. And while I, like everybody else in this debate seemingly, will talk about homebirth later in my contribution, I want to put on the record straight away that it is important that we know the legislation in front of us does not do anything to change the status of homebirth in this country. Despite the statements that have been made around the chamber this evening, it is important to know that the legislation which we are discussing this evening does not take away any current rights or make homebirth illegal or more difficult in this country. It is part of the process that we are discussing about the way a range of legislation will operate in our community into the future. However, I am disappointed that so many people throughout this debate have continued to create some kind of scare campaign and have not looked at what we are considering this evening. That does not make it any easier to make people in the wider community understand what exactly is going on.

What has happened with the legislation before us is that we now have a major breakthrough, a major move forward in the way that nurse practitioners and midwives will be treated in our health system from the end of June 2010. It is something that we need to think about because the discussion about the
professional skills and the involvement of nurses in our health system is one that has been going on for many years. Through this legislation the government, our government, with the support of the opposition, has been able to say that with appropriate skills and training, with that recognised, and with the regulations imposed, we will be able to come back into this place, through disallowable instruments, and we will be able to allow practising midwives and practising nurse practitioners in our country to be able to use the PBS and the MBS systems most effectively in our health system.

This is a major achievement and one which has been celebrated and recognised by people across the country. Go to the evidence we received in the Senate Community Affairs Committee and note the pride with which so many people from the nursing professions were able to say that this is something for which they have been working and this is something which we have now achieved in our community for the first time. It acknowledges professional skill. It looks at the role that nurse practitioners and midwives can take in our wider health system. It does not create a two-tier health system, which is another scare tactic that has been used in this debate tonight. There is no attempt to create a two-tier health system in this country.

What we are doing is looking across the community, looking at what the available skills are and looking at the professionalism and the strong cooperative arrangements that are present to ensure that we have the best possible health system that reaches people across all our communities and in all parts of our country. This is not a contest between people with different sets of skills; it is a celebration of the different values of the skills and of using them together in our system. The passing, which I am very pleased to hear is going to occur, of the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 will achieve this outcome. That is one step along the road to an ever-evolving health system. But if we have people who are continuing, for whatever reason, to create conflict or to create contest then it will take away the value of the practitioners who are seeking to work. Encouraging our people, our nurse practitioners and our qualified midwives with advanced skills to use the PBS and MBS systems most effectively to ensure that they are able to prescribe medication appropriate to their skills area, to be able to refer appropriately according to their skills area and to work in cooperative arrangements with other professionals at all levels will create a stronger, more flexible and better health system for all of us.

Those opposite are trying to create some kind of scare that we are going to be trading skills off against each other and that some parts of the country will not be able to use or have access to particular professionals. That is just not true. What we have before us is a bill that ensures skills will be recognised, that people will be able to practise effectively for the betterment of all of us, that resources will be used more effectively and that we will be able to celebrate and collaborate together.

The Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009, which we are looking at tonight, is, again, something which is long overdue. Whilst I do acknowledge so many contributions in this debate that talk about why we need to move more quickly, why we should be including all aspects in tonight’s legislation and why we have failed to include homebirths in this process, I want to remind the people who are involved in this debate that midwives have been without effective professional insurance since 2002 in this country and there has been no effort made across this chamber to ensure that that is ad-
dressed. Through this legislation, there has been an attempt. There are some processes which need to be addressed. There needs to be much more discussion between the various groups involved in this process, including the professional groups and, most assuredly, the insurance industry.

Through this legislation, the threshold achievement has been reached, which allows practising midwives in this country to access professional medical insurance with government support, which has been lost in much of the debate that we have had up until this time. If you look at the history of medical indemnity insurance in this country, in 2001-02, when there were so many problems, the government stepped in to provide support for the medical profession. At that time there was no support for midwives in that process. They have been effectively operating without support since that time. This legislation addresses that. With people and the professional colleges working together, we will be able to ensure that there will be that protection for midwives.

We have heard before in this debate about the process around homebirths. I knew we would come to it because it took up a considerable part of all the debate that we had in the two Senate Community Affairs Committee inquiries that were formed around the legislation. When you have a look at the committee reports, while they were looking at three pieces of legislation, they seemed to be concentrating exclusively on the role of homebirth. It is an important fact that many women came to those inquiries and said that this was a choice they wanted to make.

It is also an important fact that people from the various parts of the medical professions—doctors, nurses and people who worked in the hospital system—also came forth and gave their ideas about how we should move effectively forward to ensure that we have the safest possible birthing arrangements for all women in this country. I applaud the fact that these people were able to come forward and talk together very openly about a shared interest—and there is a shared interest. Overwhelmingly, people talked to us consistently about the need for safety and security and the involvement of the people who choose to be involved, such as family and medical practitioners.

People talked about the fact that there needed to be cooperation and collaboration, a word which was used much and which I value. We have not formally been able to pull that completely together at this stage but we have a process for ensuring that does occur. It is something that has never happened before in this country. What we have, through the processes which the government has put together, is continuing work on the national registration scheme, which is bringing together the professional colleges to ensure appropriate registration for medical practitioners of all kinds in our community. We also have the ongoing work of the Victorian government, which is looking to put together a framework for professional practice and which will be able to show the effect of midwives and doctors working together to see how best that can be defined. That has been an agreed process and it has been a cooperative process.

The Maternity Services Advisory Group was formed to provide information to the government about the whole range of issues which we need to address on safe birthing in this country and it has been working extraordinarily hard for the last several months, once again, to come up with an agreed solution. That is what will be involved in the regulations, which will come back to this place as disallowable instruments, to put this in place.
There has not been any attempt to close down any of this debate. In fact, what the government has done is encourage it to occur, but for the last few years this particular process has not been in place. The legislation, through a combination of the NRAS—the National Registration and Accreditation Scheme—and this process, which is looking at professional indemnity for midwives and people who are working in the system, will be able to come up with the outcome which so many people have sought. Many people have given us evidence and put forward their views in the various Senate community affairs committees, and senators and members in this place have received many emails and contributions from people talking about their birthing rights.

We have heard the views of a number of senators tonight about what the future of this process should be. There must be an outcome. There is a genuine commitment from all the people who have been involved to ensure that there is an outcome. This particular legislation provides movement forward. It does not determine what the regulations are going to be; that will come back to this place. There is no way that there is going to be a disconnect between the regulations which support this legislation and the legislation which is before us this evening. Again, the role of the Senate will be to consider those regulations through the various processes, to ensure that they once again meet the needs of consumer groups, medical groups and of the government and funding groups. It is a simple stage of our medical process.

There continues to be genuine interest in this process, as there must be. We have a collaborative arrangement between the state governments and the federal government looking at how we can bring this to a conclusion through COAG, because so much of what happens in maternity services at this stage is the responsibility of state governments. I want to put on record this evening the amazing welcome and support that I had from a number of state hospitals in Queensland, when I visited their midwifery services to see how they operate. I want to congratulate and thank the staff members in the midwifery section of the Goondiwindi Hospital, where I spent many hours talking about the way midwifery services are operating in that place, and I saw a genuine collaborative service.

I also want to congratulate the number of people—particularly from the private midwives group—who have worked tirelessly to ensure that the needs of their members are met and are put into place in any legislation that comes forward. There is no doubt that there will be an outcome because there is so much goodwill and determination. It is not a competition or a conspiracy between different parts of the medical profession. Many people have moved a long way from when this debate began and I think that should be acknowledged. We have before us three pieces of legislation, none of which make anything that is happening illegal and all of which provide an incredible breakthrough for people with professional skills. So many people will benefit from now having greater access to professional skills in our hospitals and health system.

Senator XENOPHON (South Australia) (9.48 pm)—There is no question that the very debate we are having in this chamber tonight on the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 has similarly been held in homes, cafes, offices and around the water cooler by Australians around the country—men and women alike—and by those with or without children. I certainly know that in my own office we have had some extensive discussions that have, at times, been robust about this very issue. There are so many aspects to this debate: the right for a woman to decide...
how to give birth; the right for a child to be born safely into this world; the purported risks of both home births and medical intervention; and the claimed benefits of natural birth and of delivery in hospital, to name but a few. In many ways, this debate has gone far beyond these pieces of legislation. While the debate in the media has certainly been focused on the impact these bills will have on home births, this legislation will impact on midwifery, full stop.

Over the past few months I have been contacted by dozens of families, as I am sure many of my colleagues have, who want to share their experiences of pregnancy and of delivering their baby at home with a midwife. In fact, I have had literally hundreds of emails on this particular topic. They have told me about the trust and bond they shared with their midwife throughout their pregnancy and how safe they felt during the delivery of their child.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator McGauran)—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Water

Senator O’BRIEN (Tasmania) (9.50 pm)—This is a convenient opportunity for me to continue a subject that I raised in the adjournment debate on 23 February. This followed two successive Australian Story episodes, which were directed at claims that there were substances affecting the water in the George River in Tasmania. The second of those programs, on 22 February, suggested that certain research had been conducted which indicated that foam on the surface of the George River contained a substance which researchers traced to a eucalyptus species, Eucalyptus nitens. This eucalyptus was growing in plantations in about 3.7 per cent, but less than five per cent, of the entire catchment for the George River. Researchers believed that they were able to establish a connection between that small proportion of the catchment and its eucalypt plantations and the substance in the water.

As the river provides drinking water for the town of St Helens on the east coast of Tasmania, one can imagine that a significant amount of concern was expressed by members of that community. The chief public health officer in Tasmania, Tasmanian public health director Dr Roscoe Taylor, indicated a number of things in response to the public concern, including that there would be carbon filters applied to the water supplied as drinking water, and for other purposes, to the community in St Helens. He indicated that he had contacted the researchers who made the claims, including Dr Alison Bleaney, who is a medical practitioner in St Helens. Dr Taylor said to the public that he had been referred to lawyers for those who made the claims—Dr Bleaney and Marcus Scammell, a marine ecologist who conducted some of the research.

I indicated in a previous contribution in this place that I was concerned that if there were claims about the public health status of the water and there was research material that was the basis of the claims—claims which were made public and which were concerning the public and which were, frankly, affecting the reputation of the town of St Helens through concerns about the potential health impacts of the water supply—then that material should be supplied. I observed in the media in the days following that contribution that there had been a change of heart by those who made the claims about the status of the water supply and I was content that there would be proper assessment of the material on which they based those claims so that if there were in-
deed any matters of substance they could be understood and addressed. This is not least because the claims were suggesting that the species *Eucalyptus nitens* in plantations had been genetically altered in some way, which seemed to transmogrify in some people's minds to 'genetically modified' in some sense. Given that the species is found not just in that catchment but in many parts of Tasmania that feed into many water supplies, I felt that it was urgent that this matter be addressed.

As I said, I thought that it was going to be addressed and the material provided. That seemed to be indicated in the media in the ensuing days. As I recall, Dr Roscoe Taylor gave such an indication. In addition, members of that community started to buy bottled water to avoid having to consume the town’s water. Dr Taylor talked of the addition of carbon filters to the water supply—or rather he pointed out that they were there at that time. A number of other statements were made.

What we have seen since—given that there has obviously been an attempt to assure the public that the matter will be properly examined, that there is proper filtration of the water and that water tested below the surface where water is extracted for drinking purposes does not show any such contamination—is people in the community backing up the original claims. A Mr Andrew Lohrey seemed to be a source for an article in the Victorian Weekly Times suggesting that the eucalypts had been genetically modified. Mr Lohrey and another gentleman seem to be intent on attacking the defender of public health in Tasmania, Dr Roscoe Taylor, and in fact called for his resignation. This is quite bizarre. We know that there is a state election on and some people clearly believe that this is a matter in which there can be some political advantage gained. Perhaps, in a politically partisan way they are seeking to politicise these activities for the purpose of gaining a few votes. It is inappropriate in my view to do so. It is inappropriate to attack the chief public health officer in Tasmania, the director of public health.

Dr Taylor was reported in the Launceston Examiner as responding to some of those claims. He is quoted as saying:

St Helens residents needed answers, not personal attacks.

I could not agree more with that claim.

He said that he had made efforts to obtain more information on a water quality investigation of the George River funded by St Helens general practitioner Alison Bleaney, marine ecologist Marcus Scammell and East Coast oyster farmers.

He is quoted as saying:

Unfortunately, these efforts to date have yielded only scant information, with law firm Slater and Gordon apparently awaiting instructions from their client.

This is many days after the initial claims were made and many days after it was suggested that there would not be a problem getting the information. He went on to say:

It seems bizarre to me that I am being criticised for endeavouring to provide reliable information to the St Helens community in the aftermath of a situation where a media program has aroused human health concerns well in advance of any scientific confirmation.

There has been some suggestion, and I think Senator Milne said it here in the chamber in another debate, that there is some bias on the part of Dr Taylor and that he has not properly investigated claims in the past about atrosine in the water supply—claims which have been found to be baseless. But nevertheless those claims were made. The article went on to say:

Dr Taylor said Environmental Protection Authority chairman John Ramsay had established a panel of five independent scientists who would hand down an interim report next month on a review of the recent water tests.
So why the delay? With five independent scientists going to review the information, why would those scientists, if they have a genuine concern about public health, be holding back that information? Frankly, I really think it is time for it to be provided, or the Tasmanian community can take the view that there is something other than public health concern behind the publication of this material and that there should be some serious questioning of the veracity of the research. That is where it is at the moment. It is incumbent upon those people to supply the material to the public health authorities or back off.

**Greater Western Sydney**

*Senator PAYNE* (New South Wales) (10.00 pm)—Greater Western Sydney is a broad community of about 1.85 million people and growing in a society that has been described as the most multicultural on earth, with one in two residents being either first- or second-generation migrants. In its diversity, it is a microcosm of young, modern, multicultural and aspirational Australia with the strong traditions of Western Sydney history. It is an area of ever-growing prosperity and business strength and, as a region, it ranks behind the Sydney CBD and South-East Queensland as the third largest in Australia by economic output, which is estimated at $80 billion per annum. So, it is rightly seen as a great place to live—to live affordably and to enjoy all that the west has to offer.

However, it would be remiss of me in making any observations about this part of New South Wales to not also say that it faces its own challenges, not the least of which come from Labor state and federal governments that are all too willing to take Western Sydney for granted. Among a litany of examples—and I acknowledge that it is very difficult to choose one in particular—I think the most glaring failure of public policy in Western Sydney is probably in the area of transport. You only have to try to catch a train from Penrith or Parramatta station or sit in a car on the M4 on a weekday morning to get a firsthand look at the culmination of 15 years of state government inertia when it comes to transport policy in my state. It is a government that has set the standard for failing to deliver on promises, although the current federal government is giving it a run for its money.

Let us start with the Parramatta-Epping rail link announced in 1998 for completion in 2006. We are still waiting for the first sod to be turned, and will wait a lot longer yet, having learned recently that the project start date has been deferred until at least 2020. What about the north-west rail link, originally announced in 1998 for completion in 2010, then pushed back to 2017, then scrapped? Now, it is back on the agenda. However, construction will not even begin until 2017—almost 20 years after it was originally promised. The south-west rail link is a project that has been announced a staggering nine times by four Labor premiers—a veritable panoply of premiers: Mr Carr and Mr Iemma in the old school, Mr Rees and Ms Keneally in the new school. Will the residents of places like Edmondson Park and Leppington be ninth-time lucky and finally get the rail line they have been promised so many times? Given Labor’s track record—no pun intended—I do not think the people of Western Sydney should count on rail infrastructure ever being completed under this government. Why would you trust them?

This government, over 15 years, has made at least five major rail announcements and wasted hundreds of millions of dollars on preliminary work committing to hundreds of kilometres of new tracks in Western Sydney. And what have they delivered? Not a single metre, let alone kilometre, of new track. Between them, the state and federal Labor gov-
ernments now want to build new cities of 300,000 people each on either side of the west. This is important growth for Australia and important growth for Sydney. Good on them; go ahead. But for goodness’ sake, plan for it. Plan for the infrastructure now, and plan for it properly. Commuters in Western Sydney have ample time to ponder their taken-for-granted fate as they wait for their invariably late or cancelled bus or train that just does not arrive. Not that those commuters can rely on the federal government for assistance either: unfortunately, of the $1.1 billion in federal government stimulus money for rail projects, not one single, solitary cent was spent on rail improvements in Western Sydney. Of the $860 million in stimulus money for road projects, less than $1 million was spent on major highway and freeway projects in Western Sydney.

But back to our state trials and tribulations: what is the New South Wales state government’s latest plan? The government is going to make track modifications to the Western Line to enable a so-called Western Express service. You could not be blamed for having a sense of déjà vu at this point. What about the Western FastRail? Don’t be confused here between the Western Express service and the Western FastRail. The Western FastRail was proposed a few years ago. It was an ambitious project to construct a high-speed rail line linking Penrith to the CBD in 28 minutes. It had the backing of the then Treasurer, Michael Costa. The Prime Minister pledged, from opposition, to help fund the project in government. I hope nobody is holding their breath for anything to arrive.

There are certain eerie similarities between the Western FastRail concept and the new Western Express service, not least of which are their similar sounding names and significant price tags—I think $4.5 billion for the Western Express—and the remote prospect of any of them being delivered by state Labor. The key difference though is that, despite its name, the Western Express is not very express. In fact, Cobb & Co. might be a better option. This government in New South Wales is apparently going to spend $4.5 billion on a project that will deliver a five-minute saving on trips between Penrith and Parramatta and a nine-minute saving on trips between Penrith and the CBD. At over $4.5 billion, that is a cost of about $25,000 for every man, woman and child in the Penrith local government area for that nine minutes. It just isn’t good enough. It is not even good enough in transport, and it is not good enough in health.

With this region enjoying the sort of robust population growth that others would envy, you might have expected to see some expansion of the provision of health services in the area. Instead, we have seen precisely the opposite and, in that process, a complete failure to support the dedicated and professional medical staff across the region who give their all every day. We see bed closures in the paediatric unit and restrictions on elective surgery at Nepean Hospital in Penrith. We see the scaling down of emergency procedures at Mt Druitt Hospital in Western Sydney. In the St Marys-Mt Druitt Star last week a senior doctor advised that:

The area health service hasn’t listened to the doctors and nurses, who have no confidence in the new system.

The senior doctor went on to describe the paediatrics situation as:

… a fiasco, where a child presented to Mt Druitt Hospital who needs after-hours emergency surgery is transferred to Blacktown and then returned to Mt Druitt to recover because Blacktown doesn’t have a paediatric ward.

We have also seen the closure of the maternity ward at the Blue Mountains Hospital
and the diversion of major trauma patients from Nepean Hospital to Westmead. Westmead, notwithstanding the extraordinary dedication of its staff, is a hospital with one of the worst records in the state for patient admission times. The Sydney Area West Health Service experienced a funding shortfall of over $60 million. They cannot even perform basic responsibilities like paying suppliers on time as a result of that. That says to me that the consequences of this state government’s inaction is that they have given up on providing satisfactory health outcomes for residents of Western Sydney.

Where is the federal government? We have seen the grandstanding of the last few weeks, where cooperative federalism has degenerated to a point in New South Wales where the Premier of New South Wales, Kristina Keneally, is forced to leak her own correspondence to the Prime Minister to gain political traction. How is that cooperative federalism? On what planet is that defined as cooperative? And what has actually happened about health services in the region? Have a close look at the GP superclinics promise which the now Prime Minister had as a much vaunted policy at the last election, they were going to be built all across Australia. Not one GP super clinic is being constructed in the Sydney metropolitan region. In a state which has the dire health services that New South Wales experiences that is absolutely phenomenal and in fact would devastate most people if they actually sat down and thought about it, I suspect.

When the last set of health announcements were made by the Prime Minister, one of the local papers in Parramatta was at Westmead Hospital with the member for Parramatta as she tried to explain the policy, I am sure to the best of her ability given the information available, to patients and staff. Even then she was unable to give a straight answer to even the most basic questions. One health reporter put it this way:

Asked what difference a health consumer going to a hospital like Westmead might expect to experience as a result of the changes, Ms Owens was unable to provide a lot of the detail.

Likewise, the staff who were there seeking answers did not get very many. We do not know how the local area health authorities or networks will be structured and people continue to ask questions, and not unreasonably. There are a litany of problems that arise out of the failures of state and federal Labor governments in Western Sydney to address the needs of residents genuinely and constructively.

I started tonight with transport. I have ended on health. There are many more issues to come.

**Work-Life Balance**

**Senator JACINTA COLLINS** (Victoria)

(10.09 pm)—Last week we celebrated International Women’s Day and today, as the Special Adviser to the Deputy Prime Minister on Work and Family Balance and Pay Equity, I had the honour of awarding the winners of the National Work-Life Balance Awards. Firstly I would like to acknowledge those national award winners. The standout national winner was a construction company based in Victoria called Probuild Constructions. Also winning were Minter Ellison in Perth, the Playgroup Association of Queensland, Norwest Childcare Centre Pty Ltd, Landgate, and Take A Break Away, an ACT small business award winner. I should also note the special commendations that the judging panel issued to DASI from Victoria, the Transport Accident Commission of Victoria, Woodside Energy, the Wrigley company and Sageco Pty Ltd.

These awards give me a chance to highlight that the Rudd government has introduced a number of policies to help women
balance their work and family life and thereby improve the standard of living for them and their families. Let me go through some of those. With the changes introduced with the Fair Work Act, Labor established a special bargaining stream for the low paid that will benefit many women in low-paid sectors such as cleaning, child care and the community sector. Also we introduced a new right to request flexible working arrangements on return to work so that new parents can request to extend parental leave by a further 12 months or they can request part-time work arrangements to better suit their needs. We have also established a process for a pay equity test case—under the new, more generous equal remuneration provisions of the Fair Work Act—for the social and community services sector. This case was lodged by the ASU last week. These changes have occurred on top of improvements to childcare support with increasing the childcare tax rebate to 50 per cent.

Of course, the most important step has been in giving the opportunity for women to re-enter the workforce with the introduction of Australia’s first paid parental leave scheme. The government will soon introduce legislation so that from 1 January 2011 eligible employees will receive up to 18 weeks of taxable payments paid at the level of the national minimum wage. Mr Tony Abbott sought to gain some cheap points today on this scheme in question time. I think it is important to review some of what has occurred in relation to paid parental leave and the posturing that has occurred from the other side. Mr Abbott would have us believe that he has had a road to Damascus experience. He is now advocating six months paid maternity leave funded by a great big new tax on employers. Or is his maternity leave just his way of giving us women more time to think as we do the ironing? Mr Abbott’s scheme appears to have been a thought bubble which occurred to him when he was doing the ironing—well, maybe not the ironing; perhaps he was stacking the dishwasher. On the other hand, the Rudd government’s paid parental leave scheme was the outcome of extensive discussions with employers, unions and family groups and came after a year-long Productivity Commission inquiry. Mr Abbott’s proposal—policy on the run, drafted in haste, perhaps on the back of a beer coaster—will have adverse consequences for Australian working families, and I will come back to some of those later.

Mr Abbott’s recent comments on what housewives of Australia need to understand as they do the ironing sent his Liberal colleagues scurrying for their ironing boards. The member for Sturt, Chris Pyne, was quick to point out that he does his own ironing. Senator Brandis went one further—he claimed not only that he did his own ironing but that he was very good at it. He even offered to do the ironing of others. There is dedication to the cause.

Senator O’Brien—Has he done yours, Brett?

Senator Jacinta Collins—I am coming to that point. I am not talking about throwing yourself on the grenade for your leader; I am talking about the act of doing ironing for others. Perhaps Senator Brandis might be prepared to do Senator Mason’s ironing. I leave that to him. He says his rate is much cheaper than his usual working rate. I am afraid that, when it comes to ironing, I am right there with Erma Bombeck, who had a 30-year career writing humorous newspaper columns in America about, as she described it, ‘the perils of raising children and training husbands’. She once said about ironing: ‘My second favourite household chore is ironing, my first being hitting my head on the top bunk bed until I faint.’
Mr Abbott and I have longstanding differences of opinion in some areas; work and family life balance is one of these. He thinks it is impossible in public life, believe it or not, to genuinely balance work and family life. He thinks it is impossible to combine these in public life. I think it is not only possible, or that we should be doing more to make it possible, but that it is desirable if we are to have balanced politicians. By now it is probably very clear to Mr Abbott that when it comes to ironing he stepped on a landmine with his comments. Ironing is one of the most hated chores and the most contentious issues to domestic harmony in the household. In my own home life, large amounts of energy and time are devoted not ironing but on strategies to minimize or avoid it.

Let me run through a couple of those strategies. Firstly, hang out the washing immediately—do not let it partially dry or the creases will set. Secondly, let gravity be your friend, and take some care in how you hang it. Thirdly, once dry remove the items from the clothesline and take a little care in how you fold them—hopefully, while they are still warm. Lastly, give a quick run over with the iron if you need to beyond that.

On the other hand, if you are a climate change sceptic who thinks climate change is rubbish, and you can afford not to worry about your carbon footprint, there are a couple of strategies that are just right for you. Dry everything in the clothes dryer. That is guaranteed to virtually eliminate ironing altogether, as well as a large portion of the Amazon rainforest. Secondly, hang your washing in the bathroom and take a long hot shower, allowing the steam to make your clothes crease-free as well as depleting the local water reserves. However, the holy grail of avoiding ironing is a system I saw in the Australian film called the Boys are Back, which involves moving the washing machine out into the backyard, under the Hills Hoist, and getting the kids to get dressed for school directly from the clothesline. It is probably a bit extreme, and I am sure my children would not much appreciate it. The final strategy I would highlight, which I am practising today, is to wear clothes that do not need ironing. It is a little bit easier for women, I think, but I am sure you can get shirts that do not require ironing. Senator O’Brien has pointed to the fact that he can.

With ironing 101 out of the way I would like to return to the issue of Mr Abbott’s parental leave proposal, which he announced without consulting his coalition parliamentary colleagues—another example of Mr Abbott’s crash or crash through approach to everything. In fact, I predicted that fairly quickly after becoming Leader of the Opposition Mr Abbott would choose to lead with his chin in one policy area or another. It is much to my own regret that he has chosen to do that on such an important and historic public policy proposal as this one, with paid parental leave. Mr Abbott’s proposal is for a paid parental leave scheme funded by a great big new tax on employers. Well, that was last week. This week Deputy Liberal Leader Julie Bishop is saying that the great big new tax is only temporary; it will be replaced by taxpayer funding of the proposal. So now we are talking about public spending. Can you imagine that people earning up to $150,000 a year will have their parental leave fully paid, at their normal income, at taxpayers’ expense? Ordinary working families getting by on a third of that amount or less will be forced to pay more tax to fund these higher earners—or higher prices. But what seems to have been missed, apart from about the first day of reporting on this issue, is that under the proposal as we currently understand it some people will get less than the scheme that is proposed by the government because they work part time. They may only work part-time and earn an income less than the
national minimum wage. Under Tony Ab-
bott’s scheme they will get less—and they
will be blocked from the existing baby bonus
scheme as well. Details about eligibility have
been missed by the opposition with their
sloppy policy approach. We still have seen
no details about how they propose this
scheme might work. (Time expired)

Coral Sea Conservation Zone Declaration

Senator MASON (Queensland) (10.19
pm)—I want to speak tonight about the Coral
Sea Conservation Zone declaration that was
made in May 2009 by the then Minister for
the Environment, Heritage and the Arts. As
the Senate would know, in November 2009
the opposition voted in favour of a motion to
disallow that declaration, and I am sorry to
say that that motion was not carried by the
Senate. It is a great shame for many Queen-
slanders along the central and northern coast
of my home state.

The Coral Sea Conservation Zone
stretches from Cape York to Bundaberg in
south-east Queensland and covers approxi-
mately one million square kilometres. The
western boundary of the Coral Sea Heritage
Park is the eastern boundary of the Great
Barrier Reef Marine Park. There is much
concern about this declaration throughout the
affected areas of Queensland. In particular,
the declaration was made after farcically in-
adquate consultation, when the government
had only spoken with the Australian Conser-
vation Foundation and Pew Charitable Trusts
and had not bothered to talk to the affected
communities or industries or indeed Indige-
nous representatives. Fundamentally, there
was no assessment made as to the financial
costs to regional communities and stake-
holders, particularly the impact the non-
transferability of permits will have on local
tourist businesses. Lastly, at the time this
declaration was made the Coral Sea Conser-
vation Zone was already fully included
within the eastern marine bioregional plan-
nig process that runs from Cape York all the
way down to Batemans Bay in southern New
South Wales. That process is being used to
determine the level of protection required for
Australia’s eastern coast and includes a sig-
nificant public and scientific consultation
process. In other words, this is the proper,
comprehensive, fair and scientific process to
determine the level of environmental protec-
tion that the Coral Sea needs, not the declara-
tion process which the minister seems to
have used as a convenient shortcut to ride
roughshod over all the affected parties.

The Coral Sea is a very low-volume, high-
value fishery, with $10 million worth of fish
stock taken in 2006. A number of charter
boats work the area and the game fishing
industry is a catch-and-release industry. The
area is in pristine condition, and has been
since time immemorial. There is no evidence
that any activity currently carried out in the
area threatens this state of affairs. I am con-
cerned that, as was highlighted during a de-
bate last year, there was no public consulta-
tion in relation to this declaration. This as-
tonishing fact was confirmed by Department
of the Environment, Water, Heritage and the
Arts officials during the estimates process.
However, it has also been confirmed that two
organisations did have the ear of the minister
in this decision: the Pew Charitable Trusts
and the Australian Conservation Foundation.
It hardly represents procedural fairness and a
proper democratic process when special in-
terest groups can influence the government
to the exclusion of all the others. This is also
not a fair representation of the stakeholders
affected by this decision. In fact, consulting
just these two groups to the exclusion of
anyone else affected by or interested in the
minister’s ultimate decision makes a mock-
ery of the entire process.

I would like to highlight the fact that no
assessment was made of the financial cost of
this declaration to business, tourism operators, regional communities and other stakeholders. In particular, there is still great uncertainty for charter operators currently operating in the Coral Sea Conservation Zone. While permits may be issued under the existing regulations, clause 2 of the regulations prohibits the sale or transfer of those permits. The fact that the permits are not transferable is having an effect on the value of charter boat businesses and is creating great uncertainty within the industry. The assignment of property rights, at an appropriate price, is a proper way, and an environmentally and financially responsible way, of monitoring access to the Coral Sea fisheries.

Contrast the Coral Sea declaration process undertaken by the minister—if you can call it a process—with the East Marine Bioregional Plan process, which has been underway since early 2009 and which has included a six-month extension of its consultation period. The process in this instance includes consultation with stakeholders on specific issues and activities. It also includes workshops and public meetings to provide updates on progress and to discuss and seek feedback on planning approaches. In addition to these workshops, targeted consultation will be undertaken on specific aspects of the planning process. A further public consultation period of at least 60 days will occur on the release of each draft marine bioregional plan. This seems like a much more thorough process of consultation and analysis. Furthermore, it is much fairer and more open to the locals. One has to ask why it was necessary for the government to make this declaration and create so much uncertainty for key stakeholders when this other comprehensive process was already underway.

But there are more problems with the declaration process than just the lack of public consultation. It certainly raises some questions when some of the so-called scientific evidence that the government refers to as the basis for its decision was also partly funded by Pew Charitable Trusts, one of the two organisations that were consulted in the making of this declaration. It has since come to light in correspondence with the Department of the Environment, Water, Heritage and the Arts that the decision to make the declaration relies on only three studies. It is notable that Pew Charitable Trusts contributed to the funding of one of these studies.

Remarkably, the journals that this same study was published in, Science and Nature, have been criticised by a leading fishery scientist, Professor Ray Hilborn, Professor of Fisheries Management at the School of Aquatic and Fisheries Sciences at the University of Washington. Professor Hilborn commented:

Two journals with the highest profile, Science and Nature, clearly publish articles on fisheries not for their scientific merit, but for their publicity value.

Professor Hilborn also commented:

Critical peer review has been replaced by faith-based support for ideas and too many scientists have become advocates. An advocate knows the answer and looks for evidence to support it; a scientist asks nature how much support there is for competing hypotheses.

It is this last comment by Professor Hilborn that is really the crux of the matter. It is very concerning that the government makes declarations such as this on advice from special interest groups but without consultation with those directly affected by the decision. It is even more worrying when it is done in the absence of any assessment of the financial cost to business or, indeed, of any robust scientific analysis.

I have great hope that when the East Marine Bioregional Plan process concludes the results will clearly demonstrate the flaws in the minister’s rushed and flawed decision to issue a declaration. It will only be at the con-
clusion of the eastern bioregional planning process, sometime this year, when there has been sufficient public consultation and scientifically sound analysis of the situation, that informed decisions can truly be made about the level of protection required in the beautiful marine resource that is the Coral Sea. Until then, the residents of the central and north coasts of Queensland, affected by a reckless and premature decision by the minister, can only hope that good sense and fairness will prevail in the end.

Senate adjourned at 10.28 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Christmas Island Act—Select Legislative Instrument 2010 No. 34—Christmas Island (Courts) Amendment Regulations 2010 (No. 1) [F2010L00610]*.

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—
AD/GAS/1 Amdt 9—Inspection, Test and Retirement [F2010L00632]*.
AD/HS 125/89 Amdt 2—Elevator Mass Balance Side Plate and Spigot [F2010L00635]*.

Cocos (Keeling) Islands Act—Select Legislative Instrument 2010 No. 35—Cocos (Keeling) Islands (Courts) Amendment Regulations 2010 (No. 1) [F2010L00611]*.

Customs Act—
Tariff Concession Orders—
0922439 [F2010L00398]*.
0923933 [F2010L00375]*.
0923934 [F2010L00395]*.
0924411 [F2010L00397]*.
0924955 [F2010L00396]*.
0925286 [F2010L00399]*.
0925658 [F2010L00402]*.
0925824 [F2010L00400]*.
0926550 [F2010L00401]*.
0926581 [F2010L00424]*.
0927401 [F2010L00425]*.
0927859 [F2010L00420]*.
0928637 [F2010L00479]*.
0929074 [F2010L00478]*.

Tariff Concession Revocation Instruments—
41/2009 [F2010L00443]*.
42/2009 [F2010L00444]*.
43/2009 [F2010L00445]*.
44/2009 [F2010L00446]*.
45/2009 [F2010L00447]*.
46/2009 [F2010L00442]*.
47/2009 [F2010L00448]*.
48/2009 [F2010L00449]*.
49/2009 [F2010L00450]*.
50/2009 [F2010L00451]*.
51/2009 [F2010L00452]*.
52/2009 [F2010L00453]*.
53/2009 [F2010L00454]*.
54/2009 [F2010L00456]*.
1/2010 [F2010L00461]*.
2/2010 [F2010L00463]*.
3/2010 [F2010L00589]*.
4/2010 [F2010L00466]*.

Disability Discrimination Act—
Disability (Access to Premises – Buildings) Standards 2010 [F2010L00668]*.

Disability Standards for Accessible Public Transport Amendment 2010 (No. 1) [F2010L00669]*.

Environment Protection and Biodiversity Conservation Act—
Amendments of lists of exempt native specimens—
EPBC303DC/SFS/2010/07 [F2010L00650]*.
EPBC303DC/SFS/2010/08 [F2010L00652]*.
EPBC303DC/SFS/2010/09 [F2010L00656]*.
Instrument adopting and revoking Recovery Plans, dated 1 March 2010 [F2010L00625]*.
Extradition Act—Select Legislative Instrument 2010 No. 36—Extradition (United Arab Emirates) Regulations 2010 [F2010L00601]*.
Migration Act—Migration Regulations—Instrument IMMI 10/012—Skilled occupations for skills assessments [F2010L00657]*.
National Consumer Credit Protection (Fees) Act—Select Legislative Instrument 2010 No. 43—National Consumer Credit Protection (Fees) Regulations 2010 [F2010L00634]*.
Protection of the Sea (Shipping Levy) Act—Select Legislative Instrument 2010 No. 40—Protection of the Sea (Shipping Levy) Amendment Regulations 2010 (No. 1) [F2010L00637]*.
Social Security Act—
  Social Security (Deeming Threshold Rates) (FaHCSIA) Determination 2010 (No. 1) [F2010L00649]*.
  Superannuation Act 1976—
  Superannuation (CSS) Assets Transfer (PSS Fund) Determination No. 10 [F2010L00613]*.
  Governor-General's Proclamations—Commencement of provisions of Acts
  Road Transport Reform (Dangerous Goods) Repeal Act 2009—Schedule 1—5 April 2010 [F2010L00647]*.
  * Explanatory statement tabled with legislative instrument.

Indexed Lists of Files

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:
Indexed lists of departmental and agency files for the period 1 July to 31 December 2009—Statement of compliance—Department of Defence.

Departmental and Agency Contracts

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:
Departmental and agency contracts for 2009—Letter of advice—Health and Ageing portfolio agencies.

Departmental and Agency Appointments and Vacancies

The following document was tabled pursuant to the order of the Senate of 24 June 2008, as amended:
Departmental and agency appointments and vacancies—Additional estimates—Letter of advice—Foreign Affairs and Trade portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Human Services: Media Training**

*(Question No. 2016)*

**Senator Abetz** asked the Minister representing the Minister for Human Services, upon notice, on 21 July 2009:

1. Has the Minister undertaken any media training since 24 November 2007; if so:
   a. when;
   b. who was the provider; and
   c. what was the total cost.

2. Have any of the Minister’s staff undertaken any media training since 24 November 2007; if so:
   a. who, including their Members of Parliament (Staff) Act 1984 classification;
   b. when;
   c. who was the provider; and
   d. what was the total cost.

**Senator Ludwig**—The Minister for Human Services has provided the following answer to the honourable senator’s question:

(1) and (2) No.

**Human Services**

*(Question No. 2187)*

**Senator Ronaldson** asked the Minister representing the Minister for Human Services, upon notice, on 14 September 2009:

With reference to resources provided to the Minister and/or Parliamentary Secretary by their home department that are above and beyond their entitlements as senators and members:

1. For the 2008-09 financial year: (a) can a list be provided of each brand and model of colour printer that was provided for the office of the Minister and/or Parliamentary Secretary; and (b) what was the total cost of: (i) printer cartridges and/or toner, and (ii) servicing these printers.

2. For the 2008-09 financial year, what was the total value of photocopy paper received in the office of the Minister and/or Parliamentary Secretary.

3. For the 2008-09 financial year, what was the value of other office consumables received in the office of the Minister and/or Parliamentary Secretary.

4. For the 2008-09 financial year, can a list be provided of all departmental publications, excluding ordinary or mail-merged letters, which contained the name and/or photograph of the Minister and/or Parliamentary Secretary, including: (a) the cost of producing each of these publications; and (b) how many copies were distributed and to what category of persons they were distributed to.

5. Does the Minister and/or Parliamentary Secretary have a departmentally-funded and maintained website/webpage; if so: (a) what was the cost of developing the website of the Minister and/or Parliamentary Secretary; (b) was the site refreshed during the 2008-09 financial year and if so, what was the cost for refreshing the site; and (c) what resources does the department provided to maintain, update and upload the content for the site.

QUESTIONS ON NOTICE
Does the department distribute the media releases for the Minister and/or Parliamentary Secretary; if so: (a) how and to whom; and (b) for the 2008-09 financial year, what was the cost for this distribution.

Senator Ludwig—The Minister for Human Services has provided the following answer to the honourable senator’s question:

(1) In 2008-09 one colour printer was provided to the office of the Minister for Human Services.
    (a) Brand: Fuji Xerox, Model: C4300.
    (b) (i) and (ii) Total costs: $8,820.60.

Note: The 2008-09 leased cost for that printer, which includes all servicing, consumables and black toner was $5,592 GST excluded.

The 2008-09 colour printing costs, which includes supply of colour toner (based on copy count via meter readings) was $3,228.60 GST excluded.

(2) For the 2008-09 financial year, the total value of photocopy paper received in the office of the Minister was $1,362.05 including GST.

(3) For the 2008-09 financial year, the total value of other office consumables received in the office of the Minister was $8,508.59 including GST.

(4) For the 2008-09 financial year, the only publication released by the Department of Human Services (including CRS Australia and the Child Support Program), excluding ordinary or mail-merged letters, which contained the name and/or photograph of the Minister, was the Department of Human Services 2007-08 Annual Report.
    (a) The cost of producing this publication was approximately $74,585 GST excluded ($8,115 was paid in the 2007-08 financial year).
    (b) 1,500 copies were printed. 207 copies were provided to Parliament as part of tabling requirements, approximately 1,100 copies were distributed to a ‘general’ category which included the Minister’s Office, portfolio agencies, department staff and other agencies/organisations as requested.

(5) The Minister has a departmentally-funded and maintained website which is www.mhs.gov.au
    (a) The Minister’s website is developed within the Media and Communication branch as part of general website development with minimal staff costs.
    (b) The website was refreshed when the Hon Chris Bowen MP started as the Minister for Human Services (the cost of the refresh was approximately $2,955 for the time of an APS6).
    (c) The Minister’s website is maintained within the Media and Communication branch as part of general website management (APS6 – 10 per cent of their time).

(6) The department occasionally distributes media releases for the Minister; if so:
    (a) The department will occasionally forward-on Ministerial releases about the department’s programs to media who have a known interest in the topics via email. If a physical item is involved, such as a program booklet, distribution is normally by mail.
    (b) The cost for the 2008-09 financial year distribution was minor. The precise detail requested in the question is not readily available and I am not prepared to authorise the commitment of resources required to provide a detailed response.

Child Support Agency
(Question No. 2590)

Senator Abetz asked the Minister representing the Minister for Human Services, upon notice, on 2 February 2010:
Is it correct that music tuition is not factored in to the child support formula for the purpose of assessment: if so, why?

Senator Ludwig—The Minister for Human Services has provided the following answer to the honourable senator’s question:

The Child Support Agency (CSA) uses an administrative formula to make child support assessments. This administrative formula takes into consideration the circumstances of both parents, including their incomes, relevant dependant children and the amount of care they provide for the children. This formula is based on independent research into the costs of raising children and does not factor in discretionary amounts paid by either parent for expenses such as music tuition.

There are, however, several options available to parents who seek payment for these additional expenses. In a considerable number of cases, parents negotiate between themselves informal arrangements for extracurricular expenses to be paid without involving the CSA. Alternatively, parents may enter into a formal child support agreement specifying how these extra payments will be met. There are different types of agreements depending on the needs of parents and any non-parent carer and there are services such as Family Relationship Centres and Community Legal Centres available to assist people if they are considering an agreement. Once a child support agreement has been made that meets the requirements of the legislation, either parent or a non-parent carer can apply to the CSA to have it accepted.

Sometimes formal or informal agreements are not possible or there are other circumstances that mean the administrative formula may not provide a fair level of child support. In these situations, Part 6A of the Child Support (Assessment Act) 1989 (the Act) provides a means for CSA to administratively change a child support assessment to take into account the special circumstances of a case.

There are 10 reasons under the Act for a person to make a ‘change of assessment’ application and parents may apply under one, or as many reasons as are relevant to their situation. In relation to music tuition, the appropriate reason for a parent to apply for change would be ‘Reason 3 - high costs of caring for, educating or training the child in the manner expected by the parents’.

The most common application under Reason 3 involves the payment of private school fees and whether the child is being educated in a manner expected by both parents. However, this reason can apply to education and/or training outside the school environment, which may include an extracurricular activity such as music tuition.

Where a parent is seeking a change of assessment using Reason 3, the CSA would generally determine whether both parents agreed to the child attending the extracurricular activity in the manner outlined in the application. The fact that a paying parent can afford the fees, is not in itself a reason for imposing an obligation to contribute to the activity. The CSA would consider the financial circumstances of both parents, all the details of the case and what would be fair to the parents, any non-parent carer and the child, before making the appropriate adjustment to the ongoing child support payments.

Australian Broadcasting Corporation
(Question No. 2595)

Senator Bob Brown asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 3 February 2010:

With reference to the answer to question on notice no. 2415, concerning Australian Broadcasting Corporation coverage, by party, for party state conferences in Tasmania: Can the transcripts for the 5 stories of the Australian Greens’ state conference be provided.

Senator Conroy—The answer to the honourable senator’s question is as follows:

The transcripts for the 5 stories of the Australian Greens’ Tasmanian State Conference are attached.
ATTACHMENTS

ABC TV 7PM NEWS SCRIPT – TASMANIA
Title: Green Conference September 5, 2009
INTRO
THE TASMANIAN GREENS HAVE TURNED THEIR POLICY SPOTLIGHT ON PUBLIC HOUSING IN THE RUN-UP TO NEXT YEAR’S STATE ELECTION.
AT THEIR ANNUAL CONFERENCE THE GREENS ACCUSED THE GOVERNMENT OF FAILING TO ADDRESS THE HOUSING SHORTAGE DESPITE A DECADE IN POWER AND SAID THEY’LL BE HAPPY TO WORK ON IT AS PART OF A POWER SHARING ARRANGEMENT ... IF THAT’S WHAT THE ELECTORATE CHOOSES.
STORY SCRIPT
THE GREENS MIGHT BE SMALL IN NUMBER BUT THEY MAKE UP FOR IT WITH PASSION ... CHEERING THEIR ELECTED REPRESENTATIVES LIKE ROCK STARS AS THEY TOOK THE STAGE THIS MORNING.
TWO ISSUES WERE SINGLED OUT FOR SPECIAL ATTENTION AS THE PARTY SWITCHES TO ELECTION MODE... PUBLIC HOUSING WAITING LISTS AND THE RISING COST OF LIVING IN TASMANIA.
THE GREENS WANT TO SEE ALL PUBLIC HOUSING RETRO-FITTED WITH ENERGY AND WATER SAVING DEVICES TO CUT UTILITY BILLS.
THEY ALSO WANT THE GOVERNMENT TO BUY HOUSES AND UNITS OFF THE OPEN MARKET TO REDUCE WAITING LISTS ... EVEN IF THAT PUSHES UP PRICES.
NICK MCKIM GRAB: “THIS IS A REAL TIME PROBLEM WITH REAL PEOPLE AND WE BELIEVE IT’S TIME FOR NEW, INNOVATIVE “SOLUTIONS TO THIS CRISIS.”
THE PARTY’S DEPUTY FEDERAL LEADER SAYS VOTERS ARE SICK AND TIRED OF GOVERNMENT INACTION ON ISSUES LIKE CLIMATE CHANGE AND HOUSING... AND THAT’LL SHOW COME ELECTION TIME.
CHRISTINE MILNE GRAB : “WE ARE REALLY GOING FOR AS MANY SEATS AS WE CAN GET AND WE WOULD LOVE TO HAVE REPRESENTATION IN ALL ELECTORATES ESPECIALLY IN BRADDON.”
RAISING THE SPECTRE AGAIN OF A POWER SHARING DEAL ... A PROSPECT NICK MCKIM’S HAPPY TO CONSIDER.
NICK MCKIM GRAB : “WE’RE READY FOR THE RESPONSIBILITY OF SHARED GOVERNMENT AT ANY LEVEL OF GOVERNANCE BE IT NATIONAL, BE IT STATE, BE IT LOCAL.”
AND ONLY THEN WILL THE PARTY’S POLICIES BE PUT TO THE TEST. REBECCA HEWITT, ABC NEWS.
DURATION : 1’24”
The Tasmanian Greens have identified public housing waiting lists and the cost of living as two key issues for the next election.

Rebecca Hewett reports from the party’s annual conference being held at Rokeby, on Hobart’s eastern shore.

“It was more like a religious revivalist meeting rather than a political conference, when the Greens leader Nick McKim took the stage to much clapping and cheering this morning. He unveiled two key policies for the next election, the Greens want to see private houses and units bought off the market to add to public housing stock to reduce waiting lists. They also want all public housing retro-fitted with water and energy saving devices to cut utility bills. Mr McKim says Labor has done nothing to improve living standards for those doing it toughest, even though they’ve had more than a decade in power, and the Greens are ready to take the helm through a power sharing arrangement with a major party, if that’s what the electorate chooses. Rebecca Hewett, ABC News, Rokeby.” (41 SECS)

The Tasmanian Greens say they’ll release the costing of two new policy initiatives once they have updated budget figures from Treasury.

Tasmanian Greens leader Nick McKim announced the policies at the party’s annual conference yesterday.

The party wants the Government to reduce public housing waiting lists by purchasing existing houses and units off the open market.

Then, to reduce tenants utility bills, Mr McKim wants all public housing retro-fitted with energy and water saving devices.

But right now no-one knows how much it’ll cost or what impact it’ll have on the housing market.

The Greens say urgent action is required regardless and they’ll release policy costings when they get new figures from Treasury, as all parties are required to do under budget responsibility legislation.

The Greens say they’ll release costings of two new policy initiatives soon.

The Greens leader Nick McKim unveiled the policies at the party’s annual conference in Hobart yesterday.

The party wants to see all public housing retro-fitted with energy and water saving devices to reduce power bills.

It also wants the Government to start buying houses and units off the open market, to increase public housing stock and cut waiting lists.

Mr McKim says his party will release policy costings as required by legislation.

AUDIO GRAB: “We need to see the latest budget figures which will be provided by Treasury in due course before we announce exactly how much money we’re going to dedicate to all our policy initiatives. But look, like all political parties we will fulfill all our responsibilities under the Charter of Budget Honesty and the Charter of Budget Responsibility Act.” (19 SECS)
September 6, 2009
Title: GREENS CONFERENCE 2 - AM
Tasmania’s Greens are hoping voter disenchantment with Labor will give them a shot at the only electorate where they’re not represented, at next year’s state election.
Greens senator Christine Milne told the state party’s annual conference yesterday, voters are frustrated with the Government’s failure to act on issues like public housing, and she expects that to show at the polls.
She believes voters will choose to give the Greens a place in a power-sharing government ... because she says the majority Labor government hasn’t delivered.
AUDIO GRAB – MILNE “ We have a level of cronyism and secrecy and backroom deals that people are just sick to death of. So I think the Tasmanian people are going to respond, we’re really going for as many seats as we can get and we’d love to have representation in all electorates especially in Braddon.” (18 SECS)

September 6, 2009
Title: GREENS POLICY REAX
The Tasmanian government has defended its energy efficiency strategy for the state’s public housing.
It says there’s already a project in place to improve energy efficiency, and all new public housing construction will receive a 6-star energy rating.