INTERNET
The Journals for the Senate are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

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SITTING DAYS—2010

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

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For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-SECOND PARLIAMENT
FIRST SESSION—EIGHTH PERIOD

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

Senate Officeholders

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

Temporary Chairs of Committees—Senator Hon. Alan Baird Ferguson

Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy

Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwing
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. Eric Abetz
Deputy Leader of the Liberal Party of Australia—Senator Hon. George Henry Brandis SC

Leader of the Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of the Nationals—Senator Fiona Nash
Leader of the Australian Greens—Senator Robert James Brown
Deputy Leader of the Australian Greens—Senator Christine Anne Milne

Leader of the Family First Party—Senator Steve Fielding
Chief Government Whip—Senator Kerry Williams Kelso O’Brien
Deputy Government Whips—Senators Donald Edward Farrell and Anne McEwen
Chief Opposition Whip—Senator Stephen Shane Parry
Deputy Opposition Whips—Senators Judith Anne Adams and David Christopher Bushby

The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert
Family First Party Whip—Senator Steve Fielding

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

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

Clerk of the Senate—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 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 and Minister for Population Hon. Tony Burke MP
Minister for Resources and Energy and Minister for Tourism Hon. Martin Ferguson AM, MP
Minister for Human Services and Minister for Financial Services, Superannuation and Corporate Law Hon. Chris Bowen MP

[The above ministers constitute the cabinet]
RUDD MINISTRY—continued

Minister for Veterans’ Affairs and Minister for Defence Personnel 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 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 Voluntary Sector Senator Hon. Ursula Stephens
Parliamentary Secretary for Multicultural Affairs and Settlement Services Hon. Laurie Ferguson MP
Parliamentary Secretary for Employment Hon. Jason Clare MP
Parliamentary Secretary for Health Hon. Mark Butler MP
Parliamentary Secretary for Innovation and Industry Hon. Richard Marles MP
SHADOW MINISTRY

Leader of the Opposition
Hon. Tony Abbott MP

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

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

Shadow Minister for Energy and Resources
Hon. Ian Macfarlane MP

Shadow Minister for Employment and Workplace Relations and Leader of the Opposition in the Senate
Senator Hon. Eric Abetz

Shadow Treasurer
Hon. Joe Hockey MP

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

Shadow Attorney-General and Deputy Leader of the Opposition in the Senate
Senator Hon. George Brandis SC

Shadow Minister for Defence
Senator Hon. David Johnston

Shadow Minister for Health and Ageing
Hon. Peter Dutton MP

Shadow Minister for Families, Housing and Human Services
Hon. Kevin Andrews MP

Shadow Minister for Climate Action, Environment and Heritage
Hon. Greg Hunt MP

Shadow Minister for Indigenous Affairs and Deputy Leader of The Nationals
Senator Hon. Nigel Scullion

Shadow Minister for Regional Development and Water and Leader of the Nationals in the Senate
Senator Barnaby Joyce

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

Shadow Minister for Small Business, Deregulation, Competition Policy and Sustainable Cities
Hon. Bruce Billson MP

Shadow Minister for Broadband, Communications and the Digital Economy
Hon. Tony Smith MP

Shadow Minister for Immigration and Citizenship
Mr Scott Morrison MP

Shadow Minister for Innovation, Industry, Science and Research
Mrs Sophie Mirabella MP

Shadow Minister for Finance and Debt Reduction and Chairman of the Coalition Policy Development Committee
Hon. Andrew Robb AO MP

[The above constitute the shadow cabinet]
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<th>Member Name</th>
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<td>Shadow Minister for Tourism and the Arts and Shadow Minister for Youth and Sport</td>
<td>Mr Steven Ciobo MP</td>
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<td>Shadow Minister for Employment Participation, Apprenticeships and Training</td>
<td>Senator Mathias Cormann</td>
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<tr>
<td>Shadow Minister for Consumer Affairs, Financial Services, Superannuation and Corporate Law and Deputy Manager of Opposition Business in the House</td>
<td>Mr Luke Hartsuyker MP</td>
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<td>Shadow Assistant Treasurer</td>
<td>Hon. Sussan Ley MP</td>
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<td>Shadow Minister for COAG and Modernising the Federation</td>
<td>Senator Marise Payne</td>
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<tr>
<td>Shadow Minister for Early Childhood Education and Childcare and Shadow Minister for the Status of Women</td>
<td>Hon. Dr Sharman Stone MP</td>
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<td>Shadow Minister for Justice, Customs and Border Protection</td>
<td>Mr Michael Keenan MP</td>
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<td>Shadow Minister for Defence Science and Personnel and Assisting Shadow Minister for Defence</td>
<td>Hon. Bob Baldwin MP</td>
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<td>Shadow Minister for Veterans Affairs</td>
<td>Mrs Louise Markus MP</td>
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<td>Shadow Minister for Ageing</td>
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<td>Shadow Minister for Seniors</td>
<td>Hon. Bronwyn Bishop MP</td>
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<td>Shadow Special Minister of State and Scrutiny of Government Waste</td>
<td>Senator Hon. Michael Ronaldson</td>
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<tr>
<td>Shadow Parliamentary Secretary Assisting the Leader of the Opposition and Shadow Parliamentary Secretary for Infrastructure and Population Policy</td>
<td>Senator Cory Bernardi</td>
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<tr>
<td>Shadow Parliamentary Secretary for Northern and Remote Australia</td>
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<td>Shadow Parliamentary Secretary for Education and School Curriculum Standards</td>
<td>Senator Hon. Brett Mason</td>
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<td>Shadow Parliamentary Secretary for the Murray Darling Basin and Shadow Parliamentary Secretary for Climate Action</td>
<td>Senator Simon Birmingham</td>
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<td>Shadow Parliamentary Secretary for Public Security and Policing</td>
<td>Mr Jason Wood MP</td>
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<td>Shadow Parliamentary Secretary for Regional Health Services, Health and Wellbeing</td>
<td>Dr Andrew Southcott MP</td>
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<td>Shadow Parliamentary Secretary for Disabilities, Carers and the Voluntary Sector and Deputy Manager of Opposition Business in the Senate</td>
<td>Senator Mitch Fifield</td>
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<td>Shadow Parliamentary Secretary for Families, Housing and Human Services and Shadow Parliamentary Secretary for Citizenship</td>
<td>Senator Gary Humphries</td>
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<td>Shadow Parliamentary Secretary for Agriculture, Fisheries and Forestry and Shadow Parliamentary Secretary for Innovation, Industry, Science and Research</td>
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Tuesday, 22 June 2010

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 12.30 pm and read prayers.

AFGHANISTAN

Senator FAULKNER (New South Wales—Minister for Defence) (12.31 pm)—by leave—I want to make a brief statement to the Senate on the medical condition of the seven soldiers wounded in yesterday’s helicopter crash in Afghanistan.

As the Senate is aware, tragically, three Australian commandos from the Special Operations Task Group were killed yesterday. Seven were wounded in the incident involving the crash of an ISAF helicopter in southern Afghanistan in the early hours of yesterday morning. The United States has confirmed one of their personnel was killed and three other ISAF soldiers were also wounded. An ISAF civilian interpreter travelling with the Australian element was also injured.

The types of injuries sustained by the Australians include fractures, lacerations, crush injuries and a head injury. Of the seven wounded Australian soldiers the most recent assessment is that two are in a very serious condition, and one of those soldiers has sustained a serious head injury. Five soldiers are now listed as being in a satisfactory condition. Six of the seven soldiers have undergone surgery. The two soldiers in a very serious condition are in intensive care, and all are in the Kandahar medical facility. No decision has yet been made as to when any of the injured soldiers might be moved to the Landstuhl Regional Medical Centre in Germany, but of course it will not take place until their condition allows the move to be undertaken.

The names of the fallen soldiers have not yet been released. They will be released after Defence has approval from all the families involved. As everyone knows this is a terrible time for them and we do need to respect their privacy. The names of the wounded soldiers cannot be released as they are Special Forces and, of course, have protected identity status.

As the Senate is aware, the casualties occurred when the aircraft crashed heavily to the ground. The specific cause of the incident is yet to be determined, and it is inappropriate to speculate until the investigation into the matter has been completed. It remains the case that this incident was not caused by insurgent action. The Australian Defence Force is making arrangements for the repatriation of the three fallen soldiers later this week.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.34 pm)—by leave—I thank Senator Faulkner for informing the Senate about this tragedy which has overtaken so many Australians, an American and an Afghan in the war in Afghanistan. I add, simply, a word—which I know all in the Senate and the people of Australia agree with—of sympathy, empathy and heartfelt condolences to the families, friends and working comrades of the Australians who have lost their lives or who were injured. They are there in the service of this nation; they are courageous Australians, and our thoughts are with all of them.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12.35 pm)—by leave—Mr President, as you would be aware, yesterday we had statements of condolences and best wishes in relation to our fallen soldiers and wounded and injured personnel. I invite anybody listening to the Senate today to go to the Hansard, where the heartfelt views of the various parties were expressed.
Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (12.36 pm)—by leave—Unfortunately, at the time of the condolence motion last night the National Party were in a meeting and were at that point unaware of the condolence motion. It goes without saying that we concur with the remarks of Senator Faulkner and thank him very much for the information. We also concur with the remarks that were given by the Liberal Party. Obviously, we hope and pray for the speedy recovery of those who were injured and our thoughts and prayers are also very much with those who have fallen. The National Party will also be writing letters to them, as we do.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.37 pm)—by leave—I join with the government and the coalition in sending our sympathies, our empathy and our concern for those wounded. I will say now, as I said yesterday, that these soldiers continue to put their lives at risk to keep us safe and sound, and we very much appreciate that. We pray for a speedy recovery.

Senator XENOPHON (South Australia) (12.37 pm)—by leave—I was not here yesterday when this matter was being discussed and the condolence motion was dealt with, and I would like to put on the record my heartfelt sympathies and condolences after what has occurred and to join my colleagues in the sentiments that have been expressed this morning.

BUSINESS

Consideration of Legislation

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.38 pm)—Pursuant to contingent notice of motion, I move:

That so much of the standing orders be suspended as would prevent the Preventing the Misuse of Government Advertising Bill 2010 having precedence over all government business until determined.

This legislation is to bring into place a process adopted and given lip service by senior members of both the government and the opposition in recent years, about the potential for governments to misuse public funds—in particular, on the way to elections—the most controversial case in recent times being the current $38 million allocated by the government to its defence and advocacy of the mining boom tax. While we are very well aware that the mining industry itself is being financed to the level of 30 per cent of its own advertising campaign—and we intend to deal with that in separate legislation—the matter does require attention now. The question to the government is: why have we not seen legislation on this matter? The Prime Minister, as Leader of the Opposition, committed to it in 2007, and effectively nothing has happened since in terms of legislation through the parliament. The question to the opposition is: is there a better time for us to be legislating on this matter than now, when the feedback we have had—and I am sure the feedback you have had is the same—is that the public is feeling very distressed about the tens of millions of dollars that governments can so readily put into the advocacy of a point of view they have in the run to an election? It is undemocratic, it is illogical and it needs, by agreement, to be vetted.

The legislation that I have introduced to this parliament on behalf of the Australian Greens involves the vetting of such advertising, first by heads of department. If there is a campaign of more than $250,000 to be engaged in by the government, the head of department needs to sign off that the prudent guidelines which are outlined in this legislation have been adhered to. To summarise the guidelines, they are that the advertising must be in the public interest and that it must not
be for party political promotion. Then the advertising campaign goes to be seen by the Auditor-General, who is at arm’s length and who does not make the decision as to whether it should go ahead or not but, again, determines whether what the head of department has signed off on is correct. The Auditor-General reports to both houses of parliament, and that report then can be taken up or ignored by the minister of the day, but woe betide the minister of the day who says, ‘The Auditor-General believes this is a political advertising campaign and we’re going to proceed with it.’ That will not happen.

I am aware that the government feels that such legislation as this should not be on the agenda, but I would point out to the Senate that we are dealing with many pieces of legislation at the moment in a much more peremptory way than with this bill, which at least has been to a quick committee opportunity. There were not oral hearings, but there were submissions on a matter that has been debated over many periods of parliament in the past. The government wants bills that have been introduced quickly to this place debated this week, and that means today and tomorrow: the Tax Laws Amendment (Research and Development) Bill 2010, introduced to the Senate yesterday and listed for debate today; the Excise Tariff Amendment (Aviation Fuel) Bill 2010, which is up for debate this week; and the Export Market Development Grants Amendment Bill 2010. There were also 20 other bills passed by the Senate over the last week which went through as non-controversial and not requiring great debate.

If there is genuine support from the big parties for an independent vetting of advertising campaigns, let us have it this debate. We can make it very fast, we can make it to the point and we can have in law by tomorrow legislation which will ensure that the parliament properly keeps watch over the public interest and the use of taxpayers’ money.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (12.43 pm)—What we have is a seeking of suspension in relation to the Australian Greens’ Preventing the Misuse of Government Advertising Bill 2010. What the five minutes of speaking time is for is to make a case for why the parliament should suspend to allow this bill to come forward. No case has been made with respect to Senator Brown’s submissions. Senator Brown went to issues of the content of the particular legislation. None of his issues went to why this bill is urgent.

The bill attempts to legislate the Rudd government’s 2008 process for government advertising, which we have now improved. I have to say that it is flattering that the Greens consider that so many aspects of this government’s advertising framework that we introduced in 2008 were so faultless. Another pleasing aspect of the bill is that it is evidence that the Greens agree with many aspects of our current 2010 guidelines, such as the five key principles of the guidelines, the need to be able to advertise before legislation has been passed by parliament and the need to ensure that exemptions can be granted. All of that is contained within the bill.

Of course, the unconstitutional bill was developed and brought forward before this chamber at breakneck speed. Perhaps a little bit more work should have been done on it. It does offend the constitutionality of Australia’s Constitution. It did provide a report a very short time afterwards, less than a week from when it was referred to the Senate committee. The report is surprising. It says the Greens said—I guess you would have to say they had the hide to say—the committee ‘failed to acknowledge the widespread community concerns about this critical issue’. I
would like to note that it is very difficult, if not impossible, for members of the community to make submissions to the committee with only two days notice.

If Senator Brown were serious about progressing this bill then you would have expected it to have gone to a committee to allow public input, to allow submissions to be dealt with and to allow the committee to then take its ordinary course of work. But, once again, we see the Greens in this instance unable to live up to the principles that they often espouse. I am sure Senator Brown would concur with me in these remarks when noting that we complained about the short periods in which the previous government pushed legislation through following short committee processes and the inability of the committee to use its committee resources to examine the bill in context and cast its net wide to allow submissions to be made so that a proper report could be produced and recommendations made. It appears Senator Brown has thrown that principle out in bringing on this piece of legislation without providing justified grounds as to why it should now upend the program for this bill.

It does not take away from the seriousness of the bill. I am sure Senator Brown honestly and reasonably believes it is a worthwhile bill to progress. My advice, although uncalled for, is that the proper processes of the Senate would demonstrate that it was unconstitutional—it would allow proper submissions to be made; it would allow proper community engagement in relation to the legislation. You have not chosen to do that and that is a matter for you, but do not complain if I draw it to your attention. This is the last week we have to deal with legislation—that is right. We do have a leaders and whips deliberation and we had one at the beginning of this week to determine what legislation we would deal with before we go home at the end of the week. There are proper processes in this place to ensure that the proper legislative agenda is dealt with in this week.

This bill is unlikely to go forward. It does take up time—I will not take up as much time as I otherwise would like to have committed to this bill, but it is unsupported as it seeks to up-end this parliament for the purposes of what can only be described as selfish motivations of Senator Brown to deal with a very important issue. If Senator Brown wanted to have a debate in relation to this then he could use other forums within this parliament to allow that to occur.

Senator RONALDSON (Victoria) (12.48 pm)—In making comments in relation to the Australian Greens’ Preventing the Misuse of Government Advertising Bill 2010, I find myself in the interesting position of agreeing with some of the comments of the Special Minister of State, Senator Ludwig, and certainly agreeing with many of the comments of Senator Brown. In relation to the minister’s comments, I think this process has been rushed and I do not think it has been given appropriate levels of consideration. In relation to the comments of Senator Brown, I think there is far more on which I agree with him in relation to this matter than I do with the minister, but, having said that, we will not be supporting this motion.

There is no doubt that there was a great sense of urgency in relation to the question of government advertising. There was a great sense of urgency to address what has been a gross abuse of governmental process over the last two months. Regrettably this particular bill, in my view, is not the way to address this issue. Senator Brown knows that we have had concerns for some time now, and that for the Auditor-General to be the judge and jury is not the best process. I remind honourable senators of the letter the Auditor-General sent to the Prime Minister on 26 November 2007. It read:
Dear Prime Minister

I am writing to outline an approach to addressing your plans to increase the scrutiny of Australian government advertising campaigns.

That was in the days when the Prime Minister actually believed in appropriate scrutiny of government advertising campaigns. Those days, as honourable senators know, are long gone, with this government’s commitment to openness and transparency in government advertising. I go on to page 2 of the letter from the Auditor-General, Mr McPhee:

Given the sometimes controversial history of government advertising there is a real risk that whoever administers the guidelines could be drawn into the policy and political debate as an active participant in, and possible defender of the processes of executive government. To preserve both the real and perceived independence of this office, I and my predecessors have actively sought to avoid placing the ANAO in a situation of being both decision maker and auditor.

Similar concerns have seen previous governments take action with our support to avoid the involvement of this office in ongoing administrative roles—for example, in relation to the electoral redistribution committees and tax agents registration boards.

I think that letter sums up the position of the Auditor-General in relation to this matter. I think the Auditor-General at the moment has been forced into a position where he has indicated to various parliamentary fora over the last two weeks that he would at a pinch be involved again as the judge and jury, but from recollection certainly not with the guidelines as they exist at the moment.

The opposition is absolutely adamant that the role and integrity of the Audit Office must be retained. We do not believe it is appropriate to compromise that independence by making the Auditor the judge and jury. Of course, the Australian Labor Party for, I think, seven or eight years believed that the Auditor-General could be judge and jury, and then, when they saw things occur which indicated that they did not like the Auditor-General being the judge and jury, they just changed the rules. The outcome of those rule changes has been the subject of substantial media commentary over the last month. The outcome of rolled gold promises by the Prime Minister prior to the election, the outcome of Labor Party conventions and the weasel words spoken then in relation to this matter have all been proved to be absolutely false, and we saw the farcical situation some two weeks ago when the minister provided an exemption to the Treasurer—the great big new tax on mining exemption for advertising.

Senator XENOPHON (South Australia) (12.53 pm)—I will be supporting the Greens motion to suspend standing orders in relation to the government advertising legislation. It is the appropriate thing to do in the circumstances. I know that the Special Minister of State has said that this process is flawed. I think it would be fair to say—and I do not think Senator Brown would mind me saying this—that the process is not perfect but it is still very much preferable to what we have in place now: a series of government advertising campaigns that have thrown out appropriate process, that have thrown out the whole issue of appropriate scrutiny and have removed the role of the Auditor-General as the independent watchdog to do this.

I think it is important that we look at what the key public policy issue is here—that we actually have some integrity in government advertising. I think that has been lost, unfortunately, as a result of what has occurred, and therefore it is important to support this particular bill to support the suspension of standing orders, because a consequence of not supporting this is that this will continue on right up until election day, in effect. We will continue to see ads that should not be aired because they contravene the govern-
ment's own policies prior to the 2007 election. It is important that we do have integrity in this process. Obviously it would have been better if we had a longer lead time, and it would have been better if we had greater consultation, but I think the public opinion on this is very clear: people are quite mortified that the government has gone down this path to break a key promise that they made at the last election in relation to government advertising. I note that the Prime Minister said in opposition that this was a cancer on democracy, or words to that effect—it was very strong language. I agree that it is a serious issue that needs to be dealt with. If we want to deal with the problem, if we want to fix it, we can start now by suspending standing orders and debating this piece of legislation that effectively puts into effect Labor Party policy that was put to the people at the last election.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.55 pm)—I thank Senator Xenophon for those supportive comments, which are true. In response to Senator Ronaldson—and I thank him for also acknowledging the importance of such legislation as this being passed in the parliament—it is not true that the bill makes the Auditor-General judge and jury. The beauty of this piece of legislation is that it gives the Auditor-General the ability to furnish parliament and the minister with an opinion, but the decision maker remains the government. But even that does not satisfy this government.

Senator Ludwig has said that the legislation is unconstitutional. How unsatisfactory is that contribution when it is not followed up with any reasoning. It is just an opinion floated in the air. The most debasing part of it is in relation to any parliamentary debate against legislation where members get up—and I have seen this for decades—and say the bill is badly drawn, hastily done or does not fit some unspecified constitutional parameter. That is not an argument; that is specious. If we are to have a proper debate about why legislation like this should not be debated now and rapidly put through the parliament, as are so many pieces of government legislation this week, courtesy of the crossbench as well as the opposition, the government needs to come up with a better argument than that.

Senator Ludwig also said that there was a short committee process. As I pointed out in my submission, we are dealing with a number of important pieces of government legislation here which have had no committee process at all, let alone public debate. As you will know, there has been widespread public debate on this issue. Four major commentators on this legislation, including the Auditor-General himself, have favoured this legislation proceeding, and have offered recommendations—and I have amendments to accord with the suggestions of the Auditor-General—for this legislation, which is now not going to pass because the government and the opposition oppose it.

I would remind the government that in October last year when the sitting times for this year for the Senate were laid down by the government, the Greens pointed out that it was one of the shortest sitting periods set down for a Senate year in history. It was totally unsatisfactory and we moved for an extra four sitting weeks of the Senate, but both the government and the opposition voted that down. Two of those weeks would have been in April and two would have been in August. We would have had plenty of time to debate at length, with fuller committee and public consideration, all the pieces of legislation which are being rushed through, mostly by the government, this week. No, the difficulty we have in getting proper vetting of legislation rests wholly on the shoulders of Senator Ludwig and the government,
because they have refused to have this Senate have the sitting times which are appropriate to dealing with the large legislative slate. I have no doubt that, come Thursday, the government is going to say that lots of pieces of legislation have not been dealt with. That is totally a situation of the government’s own manufacture.

The argument used by Senator Ludwig has no internal coherence or logic at all. I might remind the Senate that there are 31 private senators’ bills waiting to be dealt with in this place. They are important bills. There are bills on the improvement of democracy, the performance of the Senate, the wellbeing of Indigenous Australians, environment protection, the promotion of climate change issues and a whole range of other issues that deal with people. These bills ought to have passed this parliament but there is no time to deal with them. This is not only because we do not have private senators’ time—and I have tried very hard to get that up, but that has been blocked as well through the committee system—but because there is no time even to deal adequately with government legislation. That is the responsibility of this government. It is totally on its shoulders. I am very pleased that we have had this debate. I recommend this suspension so that this chamber can pass this important legislation.

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

The Senate divided. [1.05 pm]
(The Acting Deputy President—Senator A Hurley)

Ayes............ 7
Noes............ 33
Majority......... 26

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

NOES
Bilyk, C.L.
Bishop, T.M.
Cameron, D.N.
Colbeck, R.
Cormann, M.H.P.
Farrell, D.E.
Fifield, M.P.
Furner, M.L.
Hutchins, S.P.
Lundy, K.A.
McEwen, A.
Moore, C.
Pratt, L.C.
Ryan, S.M.
Sterle, G.
Williams, J.R. *
Wortley, D.

* denotes teller

Question negatived.

NOTICES
Withdrawal

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (1.08 pm)—I withdraw government business notice of motion No. 1 standing in my name for today.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.08 pm)—I withdraw general business notice of motion No. 819 standing in my name for today.

APPROPRIATIONS

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (1.08 pm)—I move:

That, in accordance with the recommendation made in the 50th Report of the Appropriations and Staffing Committee, the Senate resolves:
(1) To reaffirm its constitutional right to amend proposed laws appropriating revenue or moneys for expenditure on all matters not involving the ordinary annual services of the Government.

(2) That appropriations for expenditure on:
   (a) the construction of public works and buildings;
   (b) the acquisition of sites and buildings;
   (c) items of plant and equipment which are clearly definable as capital expenditure (but not including the acquisition of computers or the fitting out of buildings);
   (d) grants to the states under section 96 of the Constitution;
   (e) new policies not previously authorised by special legislation;
   (f) items regarded as equity injections and loans; and
   (g) existing asset replacement (which is to be regarded as depreciation),
   are not appropriations for the ordinary annual services of the Government and that proposed laws for the appropriation of revenue or moneys for expenditure on the said matters shall be presented to the Senate in a separate appropriation bill subject to amendment by the Senate.

(3) That, in respect of payments to international organisations:
   (a) the initial payment in effect represents a new policy decision and therefore should be in Appropriation Bill (No. 2); and
   (b) subsequent payments represent a continuing government activity of supporting the international organisation and therefore represent an ordinary annual service and should be in Appropriation Bill (No. 1).

(4) That all appropriation items for continuing activities for which appropriations have been made in the past be regarded as part of ordinary annual services.

This is a motion that I signed in my capacity as Manager of Government Business in the Senate. I note that the motion reflects the recommendations made in the 50th report of the Appropriations and Staffing Committee, of which I am not a member. I also note that the government’s position on these matters has been outlined previously in correspondence from the current and previous finance ministers to the President of the Senate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.09 pm)—I want to express the Australian Greens’ strong support for this motion. It is about quite a complicated issue, but it is aimed to make sure that the constitutional role of the Senate in the passage of legislation dealing with the expenditure of the money supplied by the Australian people is not subverted by special projects, one-off projects in particular, being put into the annual services budget of the government. A number of committees have met about this over the years, and there has been a general recognition that a motion of this sort would clear the matter up. I am very pleased the government has brought it forward. I also pay a word of tribute to former Clerk Harry Evans, who promoted such a motion for a good number of years. He would be very pleased to know that it is before the Senate and would want to see it passed as well. It is about a quite complicated matter, but it is one that is very firmly in the public interest and will help us all to understand budgetary matters much better in the future and to question government much more clearly about matters that are in budgets in times ahead, and that has to be good for democracy.

Question agreed to.
BUSINESS

Consideration of Legislation

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

That the government business orders of the
day relating to the Veterans’ Affairs Legislation
Amendment (2010 Budget Measures) Bill 2010
and the Veterans’ Entitlements Amendment (In-
come Support Measures) Bill 2010 may be taken
together for their remaining stages.

Question agreed to.

RENEWABLE ENERGY
(ELECTRICITY) AMENDMENT BILL 2010

Consideration resumed from 21 June.

In Committee

Renewable Energy (Electricity) Amendment
Bill 2010

Bill—by leave—taken as a whole.

Senator WONG (South Australia—
Minister for Climate Change, Energy Effi-
ciency and Water) (1.12 pm)—I table three
supplementary explanatory memoranda relat-
ing to government amendments to be moved
to the Renewable Energy (Electricity) Amendment
Bill 2010. The memoranda were
circulated in the chamber today.

On behalf of the government, I thank
senators in this place for the various conver-
sations and negotiations we have had on this
legislation. I have hope that there is broadly
an interest in passage of this legislation
forthwith. The government believes it is in
the interests of the clean energy sector for us
to do so. We have certainly engaged in dia-
logue with the opposition, the Greens and
Senator Xenophon, and I had a brief discussion
with Senator Fielding as well. I thank
the parties represented in those discussions
for the constructive and cooperative way that
those discussions have been engaged in, and
I thank again Mr Macfarlane for his negotia-
tions on behalf of the opposition.

I seek leave to move government amend-
ments (1) to (8) on sheet AL260 together.

Leave granted.

Senator WONG—I move:

(1) Schedule 1, page 3 (after line 15), after
item 4, insert:

4A Subsection 5(1)
Insert:
clearing house price has the meaning
given by section 30LA.

(2) Schedule 1, page 4 (after line 7), after
item 8, insert:

8A Subsection 5(1)
Insert:
GST inclusive clearing house price
has the meaning given by sec-
tion 30LA.

(3) Schedule 1, item 58, page 15 (before line
12), before section 30M, insert:

30LA Clearing house price etc.

(1) The clearing house price is:

(a) subject to paragraph (b)—$40; or

(b) if the Minister, by legislative in-
strument, specifies a lesser amount
as being the clearing house price for
the purpose of this subsection—the
amount so specified.

(2) The GST inclusive clearing house
price is the amount equal to 110% of
the clearing house price.

(3) Before making an instrument under
paragraph (1)(b), the Minister:

(a) must take into consideration:

(i) whether the total value, in MWh,
of small-scale technology certifi-
cates created in 2015 exceeded or is expected to exceed 6,000,000; and

(ii) any changes to the costs of small generation units and solar water heaters; and

(iii) the extent to which owners of small generation units and solar water heaters contribute to the costs of small generation units and solar water heaters; and

(iv) the impact of the clearing house price, and the number of small generation units and solar water heaters installed, on the electricity market, including on electricity prices; and

(b) may take into consideration any other matters that the Minister considers relevant.

(4) If the Minister is considering a matter mentioned in paragraph (3)(a), the Minister must obtain, and take into consideration, independent advice about that matter.

(5) An instrument made under paragraph (1)(b) must not be expressed to commence earlier than the first 1 April following the making of the instrument.

(6) If:

(a) an instrument is made under paragraph (1)(b); and

(b) on a particular day (the tabling day), a copy of the instrument is tabled before a House of the Parliament under section 38 of the Legislative Instruments Act 2003;

then, on or as soon as practicable after the tabling day, the Minister must cause to be tabled before that House a written statement setting out the Minister’s reasons for making the instrument.

(4) Schedule 1, item 58, page 15 (line 22), omit “$44”, substitute “the GST inclusive clearing house price”.

(5) Schedule 1, item 58, page 16 (line 15), omit “$44”, substitute “the GST inclusive clearing house price”.

(6) Schedule 1, item 58, page 16 (line 17), omit “$40”, substitute “the clearing house price”.

(7) Schedule 1, item 58, page 17 (line 28), omit “$44”, substitute “the GST inclusive clearing house price”.

(8) Schedule 1, item 58, page 17 (line 31), omit “$40”, substitute “the clearing house price”.

These amendments give effect to the clearing house price. There was some discussion in the Senate committee hearing in relation to the clearing house price. These amendments improve the operation of that clearing house and have regard to a number of the issues raised in the Senate committee report. I am happy to respond to any questions as required.

Senator BIRMINGHAM (South Australia) (1.15 pm)—On behalf of the opposition, I indicate our support for these amendments moved by the government. We recognise that this is an important mechanism being introduced in an attempt to provide some certainty of price, particularly in the early years of the operation of the LRET. We have had numerous representations made to us about some of the issues around banked certificates and how they will be discharged into the market. As a result, we think that it is sensible to find a mechanism to ensure that they are discharged in a tidy manner that ensures some degree of certainty for price. In relation to my own state, I have had representations from companies such as LMS Generation, a landfill gas power generator, who highlighted small future projects that might be delayed or put off in future years should something not be done to ensure that there is not a large flow of banked credits onto the market next year, therefore holding down the LRET price in the early years of the scheme. I understand the manner in which this is being presented ensures that any costs borne by electricity users in the early years will be offset in the latter years of the scheme.
Senator Wong (South Australia—Minister for Climate Change, Energy Efficiency and Water) (1.16 pm)—I was anticipating that Senator Milne would speak but, given that these amendments deal with an issue that a subsequent Greens amendment deals with, I might just outline how the government is dealing with the issue, unless Senator Milne wishes to speak first.

Senator Milne—No.

Senator Wong—Okay. If you turn to amendment (3) and look at 30LA(3), it will be clear from that that the minister has the capacity, after taking into account independent advice, to look to various changes to deal with a situation where the small-scale technology certificates created in 2015 would exceed or be expected to exceed six million megawatt hours. As I said, we believe that this deals with one of the issues raised in the Senate committee report—and, while I am on my feet, I will thank Senator McEwen and other senators for their prompt and sensible consideration of this legislation. These amendments deal with one of the issues that were raised in the context of that report, about whether or not the growth in the Small-scale Renewable Energy Scheme would be substantially more than that anticipated. This provision enables what we think is a sensible and robust decision-making framework to address those issues should they arise.

Senator Xenophon (South Australia) (1.18 pm)—I indicate for my colleagues that I have a number of amendments that I propose to move. There have been some hold-ups. I have had discussions with the government, the opposition and my colleagues in the Greens in relation to them. I hope to be in a position to file amendments very shortly. That should not hold up the progress of the committee stage, but I just want to fore-shadow that there will be some further amendments that will be filed pretty shortly.

Senator Williams (New South Wales) (1.18 pm)—Minister, in relation to the increase in cost of electricity under the proposals of the government in this legislation, have you done any modelling? My concern is with commercial ventures such as abattoirs and those sorts of businesses. With the proposed legislation, have you done any modelling and can you inform the Senate of what expected price rises we may see in electricity? I asked that in all seriousness, as it is one of my concerns. Even though I support renewable energy—the more renewables we can use, the more finite resources we can leave for future generations—I just have some concerns over the actual costs or the projection of increased costs of electricity because of this legislation.

Senator Wong (South Australia—Minister for Climate Change, Energy Efficiency and Water) (1.19 pm)—I understood from Senator Birmingham that the opposition were supporting these amendments. In relation to the question of costs, I have outlined to your colleague Senator Boswell on a number of occasions what we estimate with regard to the current renewable energy target, although it will depend on when you model a price on carbon. The modelling I think I provided publicly and explained to Senator Boswell in the context of the estimates hearing was 4.2 per cent for the current renewable energy target—that is, the legislation that you have already supported. With the enhancements in the government bill—prior to these amendments obviously, because this modelling preceded the amendments—it will be an additional 0.2 per cent. That is a cumulative cost between 2010 and 2014 of 4.4 per cent.

Question agreed to.
Senator MILNE (Tasmania) (1.21 pm)—
I move Australian Greens amendment (2) on sheet 6114:

(2) Schedule 1, page 35 (after line 9), after item 65, insert:

65A After section 40
Insert:

40AA Required GWh of renewable source electricity for 2011 and 2012
(1) The required GWh of renewable source electricity in section 40 for the years 2011 and 2012 must be increased as specified in declarations made under subsection (3) for the relevant year.

(2) The Regulator must, by 10 May 2011, make the following calculations in respect of the large-scale generation certificates on the register of large-scale generation certificates as at 30 April 2011:

(a) the total of the number of registered large-scale generation certificates and the number of large-scale generation certificates that are pending registration in the register (total A);

(b) the number of registered large-scale generation certificates that are pending surrender (total B);

(c) the number of registered large-scale generation certificates that are pending voluntary surrender (total C);

(d) the number of registered large-scale generation certificates that have been created on or after 1 January 2011 under Subdivision A of Division 4 of Part 2 (total D);

(e) the number of registered large-scale generation certificates that are subject to eligible pre-existing contracts for transfer from one party to another party (total E);

(f) the figure (total F) that is the result of:

\[ \text{total } A - (\text{total } B + \text{total } C + \text{total } D) + \text{total } E; \]

(g) the figure (total G) that is the result of:

\[ \text{total } F - 16,200,000; \]

(h) the figure expressed in megawatt hours (total H) that is the result of:

\[ \text{total } G ÷ 2; \]

and publish the results of those calculations on the Internet.

(3) If total G is greater than zero, the Regulator must, within 5 days of complying with subsection (2), make a declaration increasing the required GWh of renewable source electricity in section 40 for 2011 and 2012 by total H (converted in gigawatt hours).

(4) A declaration made under subsection (3) is not a legislative instrument.

This amendment refers to the issue of banking. As we know, each year there is a surplus of renewable energy certificates that are banked or saved for future years. This surplus equals about a year’s worth of demand and it helps the liable parties, the electricity retailers, manage their obligations.

By splitting the renewable energy target into large-scale renewables—that is, essentially wind and small-scale schemes—the bill we are dealing with, the Renewable Energy (Electricity) Amendment Bill 2010, ensures that the RECs from the small systems do not crowd out investment in the large renewable energy systems. But the problem is that between now and the end of this year there will be a lot of renewable energy certificates produced from the small systems and they will be eligible to be used towards the large-scale target. So the real question is: how many of those certificates are going to be generated between now and the end of the year and what will that do to the price of certificates in the large-scale system?

The government modelling suggests there will be 16.2 million renewable energy certificates banked by the beginning of next
year. If that is roughly correct it would be fine; it would provide the liquidity that is required in the large-scale market. But the trouble is that the industry calculates the number of banked renewable energy certificates will more likely be 23 to 25 million, with AGL saying that it could be as high as 32 million certificates. If the number is that high then you will see exactly the same situation as we have now. We will have a collapse in the price, and so there will be a further delay in investment in large-scale renewable energy. We do not want that to occur. This amendment basically says that if the number of banked renewable energy certificates is higher than the government expects as a result of its own modelling—that is, higher than 16.2 million RECs—the target in the subsequent two years will be increased. For example, if 24 million RECs were banked that would be an excess of 8 million RECs, so the target would be increased by 4 million in 2011 and in 2012 to deal with the problem.

I have raised this matter with the government several times. I am really concerned about the modelling. The government modelling got it so wrong last year that we have ended up in the situation of being back here. At the time when this legislation to increase the target to 20 per cent first came in, I pointed out that all of the renewable energy certificates from the small system would crowd the market and collapse the price and that there would be no incentive for large-scale renewables. I moved an amendment to put those on top of the target, and that was voted down by the coalition and by the government. Nobody actually challenged the government’s modelling, and the government got it wrong.

I am really worried that the government’s modelling of 16 million RECs is wrong again, and that is why I have moved this amendment. I am grateful to the minister for the discussions that we have had in this regard. I believe that the baseline here should be the government’s modelling, 16 million, and anything above that should be added on to targets in future years, so I am moving the amendment to that effect.

I am aware that the minister has had some discussions around this and is thinking of maybe 20 million. The question I would like to pose to the minister is: since the government’s modelling is 16.2 million, why is the government thinking of 20 million as the threshold? Is the government’s modelling wrong? Is industry right? Why has the minister settled on that figure, if indeed she has? I wish to foreshadow that if the government does move its own amendment in this regard then it is likely that I will be seeking leave to withdraw mine. I want to give advance warning to the chamber that that is under consideration.

Senator BIRMINGHAM (South Australia) (1.26 pm)—I appreciate the sentiments that Senator Milne is expressing. As I said in relation to the first amendment—perhaps when it was more appropriate for this one and a later government one—the coalition is eager to see some certainty for future price in relation to the LRET, particularly taking into account the number of credits that are currently proposed within the scheme.

However, we do note that the government has proposed amendments, which are to be considered later, dealing with a mechanism to try to clear some of the banked credits. We can only take the government’s modelling and advice at its word. I look forward to hearing Senator Wong respond to Senator Milne’s specific questions around that. However, the opposition is not inclined to support this amendment of the Greens, noting that the government has proposals for different mechanisms to address, at least in part, the issue that is being raised.
Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (1.27 pm)—Firstly, as we have certainly seen in the RSPT debate and the CPRS debate there are always arguments about modelling. There are always a range of assumptions involved in modelling. My recollection, and I could be wrong, is that the price that was assumed in the previous modelling of solar PV was actually higher than it has trended down to. That is not a bad thing, in the sense that making solar panels more cheaply indicates that that market is becoming more mature and the capacity for unit cost to reduce is increasing.

In these amendments we have sought, after quite a lot of discussion, to try and strike a reasonable balance between the different policy objectives which are of importance here. One of those is electricity cost. Another is a proper assessment of a reasonable allocation of risk in terms of different aspects of the modelling altering—who should properly bear the risk of that and to what extent?

The third thing you have to balance, obviously, is the issue of certainty. The government is absolutely committed to providing industry with as much certainty as is possible and reasonable, given that the whole purpose of this legislation is to drive investment in renewables, both large and small. In relation to the business certainty issue, which arises in the context of banked renewable energy certificates, we have held lengthy discussions with industry and with members of the clean energy sector about what a reasonable level of certainty would be in order to facilitate the investments that I think all of us want. In discussions with various stakeholders, the figure of 20 million has been indicated as reasonable to enable various decisions to be made with a degree of certainty whilst ensuring a reasonable balance of risk is borne by both industry and electricity users under the scheme.

We think that the 20 million target is reasonable, given discussions with the stakeholders. It is the case that our modelling suggests 16.2 million by the end of the year. Under this amendment, even if that level of 20 million is not correct, industry knows the way in which government will deal with those additional renewable energy certificates. We understand that if there are a far greater number of renewable energy certificates banked at the conclusion of this year then that may have an impact on investment decisions which we believe are in the national interest. So we think this is a balanced position. It is a position that reflects a substantial amount of consultation with industry. It provides a level of certainty that is appropriate and, for that reason, the government will not be supporting the Greens amendment. I will be moving the government’s amendment, which has already been foreshadowed and circulated, in relation to dealing with this banked RECs issue.

Senator MILNE (Tasmania) (1.30 pm)—I thank the minister for taking on this issue, for giving it the consideration she has and for putting in a threshold, if you like. I do think it is important and industry have indicated very strongly their concern. I would like to know, though, from the minister the assumptions behind the government’s modelling for the 16.2 million so that, by the end of the year, we can understand what is going on with the government’s modelling in relation to these matters. If the assumptions have been so wrong before, don’t we need to know who is feeding assumptions into these models and what level of consultation is going on with industry to ensure the assumptions going into the models bear some resemblance to the reality of the market? The minister may wish to take it on notice, but I would like to know the assumptions behind the 16.2 million RECs. I appreciate the government’s move to 20 million. My amend-
ment states that the figure should be 16.2 million but anything above that should be added on to the target in the two subsequent years. Before I seek leave to withdraw the amendment, though, I would ask the minister to just outline at this time, to save having the debate later, how those additional RECs will be accommodated in the government’s proposal.

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (1.33 pm)—Firstly, in relation to the modelling I have released publicly the modelling report, which includes, from recollection, an iteration of the assumptions contained in it. Secondly, Senator Milne, as I said, we are taking the position we are taking consequent upon a substantial amount of consultation with the industry. The amendment that I will be moving will provide that if the net stock of banked RECs at the end of 2010 exceeds 20 million there will be adjustments to the 2012 and 2013 targets and, as an offsetting adjustment, the annual targets will be reduced over the period 2016 to 2019 by the same amount. So the total number of renewable energy certificates generated over the decade will remain the same.

Senator MILNE (Tasmania) (1.34 pm)—I appreciate the fact that by backending the system, so to speak, hopefully, by the time we get to 2016 we will already have a much higher renewable energy target than we now have and that it ought not matter at that point. As the minister herself has indicated, this sector is moving fast and it is no doubt very difficult for the parliament to even keep acknowledging that. Since this legislation was brought in here only last year, solar systems, for example, have come down in price by 40 per cent. Take us out to 2016, and if we cannot improve substantially on 20 per cent renewable energy by then then we are not doing our job. Frankly, we should be moving to a target of 100 per cent renewables as quickly as possible. I am delighted to say that today a report was released in this parliament by Beyond Zero Emissions, based at Melbourne university, outlining how you may achieve 100 per cent renewables in a decade, by 2020. We have a way to go beyond 20 per cent to get to 100 per cent by 2020. So I am not too concerned about backending the system in the way the minister is suggesting, because we will be reviewing this target much sooner and no doubt we will achieve the level of ambition that I think many people in this country, and the Greens of course, support. Therefore, Madam Chair, since the government is addressing this issue of the banked RECs and putting in a threshold of 20 million—I would have liked it to have been less—nevertheless it is dealing with the issue, I seek leave to withdraw Australian Greens amendment (2) on sheet 6114.

Leave granted.

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (1.36 pm)—I would invite Senator Milne, if we could, for the efficacy of the debate, to possibly defer the next item because I understand there are some discussions going on behind her which may resolve some issues. Perhaps, if she is so minded, we could move to Australian Greens amendments (4), (9) and (1).

Senator MILNE (Tasmania) (1.37 pm)—Yes, that would facilitate the debate considerably. I would like to move on and visit that item a little later in the debate, if we may. I seek leave to move Australian Greens amendments (4), (9) and (1) on sheet 6114 together.

Leave granted.

Senator MILNE—I move:

(1) Clause 3, page 2 (lines 7 to 11), omit the clause, substitute:
3 Schedule(s)

(1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

(2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

(4) Schedule 1, page 61 (after line 22), after item 110, insert:

110A At the end of subsection 17(2) Add:
; (c) biomass from native vegetation of any kind.

(9) Schedule 1, Part 2, page 80 (after line 4), at the end of the Part, add:

Renewable Energy (Electricity) Regulations 2001

137 Paragraph 8(1)(d)
Omit “; and”, substitute “.”.

138 Paragraph 8(1)(e)
Repeal the paragraph.

139 Subregulations 8(2), (3) and (4)
Repeal the subregulations.

140 Subregulation 9(2)
Repeal the subregulation, substitute:

(2) For section 17 of the Act, biomass from native vegetation is not an energy crop.

141 Subregulation 20AA(1)
Omit “subsections 23B (2) and”, substitute “subsection”.

These amendments deal with the issue of biomass from native forest vegetation. The Australian Greens are moving to ensure that biomass from native forest vegetation will no longer be an eligible renewable energy source. This is an absolutely critical issue in the climate change debate, the biodiversity debate and the forest industry future debate, so it has garnered the interest of people around the country.

As a matter of context, I will just indicate that over the last decade the market for native forest woodchips has collapsed totally around the world, such that the native forest logging industry is in complete disarray. It has collapsed in Tasmania; it is on the verge of collapse in Victoria. There is no market for the export of native forest woodchips. This is for two reasons. One is because a wall of plantation timber has come on stream from all around the world and is outcompet-ing native forests into the Japanese pulp and paper market because plantation woodchips are of a higher, more even quality for the purposes of pulping. Also, because they are younger timber, they require less chlorine in the bleaching process, and you can get to a chlorine-free bleaching process if you use plantation timbers. The upshot is that the market for native forest woodchips has collapsed.

The second reason that the Japanese are not buying Australian native forest woodchips is that they recognise that they have to achieve Forest Stewardship Council certification and they are not going to get it for logging primary forests. There is a global focus now on protecting the world’s forests and on protecting biodiversity. We are this year in the United Nations International Year of Biodiversity. Next year is the United Nations International Year of the Forests, and the year after that is Rio plus 20. We are in a global negotiation currently on reducing emissions from deforestation and degradation.

There is a fantastic opportunity in Australia right now with the collapse of the native forest industry to move the industry into downstreaming the existing plantation estate. The benefit of ending native forest logging is
not only because of its biodiversity and carbon benefits but also because every time a government subsidises the logging of native forests it reduces the price that you can get from downstreaming plantation timber, so it is not in the interests of the plantation industry to have governments continuing to subsidise native forest logging. What is the point of subsidising native forest logging, dropping the price and undermining the price of plantations at exactly the same time as you are providing managed investment scheme tax benefits for the planting of those plantations?

Now we have a scenario where the industry has turned up at the parliament saying: ‘Give us another handout. We want the renewable energy target to include burning biomass.’ This is the rescue package for the native forest logging industry. They do not have an industry at the moment. It has collapsed. So what they are trying to do is say, ‘Let us cut down native forests, burn them in furnaces, generate renewable energy certificates and sell them as green energy.’ They are not green energy. They are known colloquially in the market as ‘dead koala certificates’. They are known that way in the market for a reason: it is completely unjustifiable in economic, biodiversity or carbon terms or any kind of decent debate to say, ‘We need a make-work program for cutting down native forests now that we’ve got no market, so we’ll set up furnaces and we’ll burn them instead.’

As it currently stands, the way the legislation is structured, you can only generate a renewable energy certificate from burning native forest residues if they are generated from a higher use, so the debate is now on as to what constitutes ‘a higher use’. The way it is currently structured has been interpreted to be a higher value use, and as a result the industry has not been able to access the renewable energy certificates in the way it would like. But it is now seeking to do so.

I can tell you that there is a proposed native forest furnace in the southern forests of Tasmania at Southwood. There is a proposal for one in north-west Tasmania. Gunns had a proposal for a native-forest-burning furnace at its pulp mill in the Tamar Valley. There is a proposal for one at Orbost, in Victoria. There is one proposed for Eden as well, and the one at Eden is already in the planning process. The promoters of that native-forest-burning furnace are saying that it is critical to them to access the renewable energy certificates as part of the RET.

If there is any suggestion at all that the logging industry can get a lifeline for continuing logging native forests in the absence of a market by achieving access to the RET then it needs to be knocked on the head immediately, and that is why I have moved these amendments. If we are serious about climate change, we need to now say that in the absence of any market we need to transition people out of native forests into working in the plantation estate. That does not mean that people lose their jobs; it means that people transition out of one type of forestry into a different type of forestry.

We have been facilitating that transition with millions and millions of dollars for a very long time. Into the Tasmanian Community Forest Agreement, for example, $72 million was poured, in order to help people get out of the high conservation value forests. We have had millions poured in, right around the country—in fact, $250 million went, as the Community Forest Agreement, to Tasmania. And it is an utter and absolute disgrace that Forestry Tasmania so badly manages the forest estate in Tasmania that they have made a loss. They have no cash at all, and so they have dipped into the Commonwealth funds that were put into the Commu-
nity Forest Agreement. They have dipped into it for cash reserves because they have got none. Their cash at the end of the financial year was something like $3.3 million, and there is no way they have got the money to pay back right now what they have dipped out of their Commonwealth grant. I have reported this to the federal minister. I have reported it to the Auditor-General. And I am very keen to know how it is that Forestry Tasmania can access specific grant money for operating expenses to give them a cash reserve because they cannot, it seems, get an overdraft for themselves.

So this industry is in crisis in Tasmania. It is in crisis in Victoria. It is in crisis right around the country. This is the opportunity to fix the problem, not to throw them yet another subsidy so that they can just keep limping along, because governments cannot continue to run a native forest industry in the absence of a market. And creating a market in renewable energy would be immoral at a time when we need to be protecting the carbon stores and the biodiversity and transitioning to that plantation estate.

That is why this is a crucial amendment—to make sure that this cannot be exploited as a loophole and a make-work program. And it is not a figment of my imagination. Just have a listen to what the industry players had to say on The 7.30 Report last week—that that plant at Eden depends on this. But also, in the pulp and paper strategy that the government released recently, it said that the native forest industry depends on getting native-forest-burning furnaces up. This REC will be part of doing that, and it will be a wreck for biodiversity and for any hope of achieving a solution.

Right now the conservation movement and the timber industry are sitting down and trying to find a way to a 100 per cent solution to this issue, and if this is not removed from the REC now then this will continue to be there as an opportunity to undermine the solution that is within our reach. So this is critical. We need to be doing it right now. And that is why I am moving this critical amendment that takes away any loophole or lack of clarity and removes biomass from native forest vegetation as an eligible renewable energy source.

Senator BOSWELL (Queensland) (1.48 pm)—I was not going to participate in this but I could not resist the opportunity to come down and put an alternative to the view that we do not admit native forest offcuts, sawdust or by-products into renewable energy. What do we do with those? Do we bury them? Do we tip them down the creek? How do we get rid of them? When you have a sawmill, when you saw logs, the by-product is sawdust. You cannot escape it—well, there probably is one way you can escape it: you do not have timber. These propositions that Senator Milne has put up have to be answered, because they are so unreliable and so stupid that someone has to put up some opposition to them.

I can recall that, maybe a year ago, a friend of mine had a sawmill at a place called Allies Creek. It was a beautiful little turnout: 14 or 15 houses, a community hall, and 60 to 70 jobs. He was shut down. Some of the people who worked for him, the saw doctors, were on $60,000 a year. One ended up counting koala bears. No-one worried whether there were any koala bears there, but they had to find him a job, so it was, ‘Go out and count koala bears.’ He was degraded. People who had been very proud of what they did were so degraded that they were put on a job that had no meaning. Their self-confidence was destroyed. Their way of life was destroyed.

The by-product of that—of closing down that 60-job sawmill—was that there were
about five acres, two football fields, which had to be dug up and the sawdust and log shavings had to be buried. That would have run a generator—I forget for how long; for six months or something like that. But, no—it had to be destroyed; it had to be buried. I do not know what the CO2 footprint was for burying that sawdust and those timber offcuts but they covered an area about the size of two football fields.

We have to approach this issue with some balance. There does not seem to have been any consideration by the Labor Party, and certainly not by the Greens, for the jobs of these blue-collar workers. They are completely expendable, according to the Greens. They do not even consider them. ‘Don’t worry, we’ll send the boys out to count kangaroos or koalas,’ or to paint rocks or do something that is meaningless and mentally destroys them. Those are the implications in some of the amendments that Senator Milne is moving. They have to be answered in the Senate. We cannot just let Senator Milne get up and make wild accusations that will lead to the continued loss of jobs without answering them. The answer, Senator Milne, is: what do you do with the by-product of timber? You just do not leave it there; it has to be destroyed or put somewhere. Do you put it in the ground at great extra cost? I would think that pushing tractors and diggers around would increase the level of CO2 emissions. I think these issues have to be ventilated and I hope, as I look to our spokesman on this, we will not be supporting these amendments. Senator Birmingham, can you—

The TEMPORARY CHAIRMAN (Senator Boyce)—Make your comments through the chair, please, Senator Boswell.

Senator BOSWELL—Through you, Madam Temporary Chairman, I ask Senator Birmingham, and he confirms that we will not be stupid enough to support amendments like these.

Senator COLBECK (Tasmania) (1.53 pm)—Like Senator Boswell I need to put on the record some comments in relation to what Senator Milne has said and, most disappointingly, in relation to some of the misinformation that she has put about with regard to the forest industry, where the industry is at, what might be possible and what products should and could be used in the timber coming out of Australia’s forests.

Senator Milne quite frequently gets up in various forums and in this chamber to talk about the volume of plantation wood that exists and its capacity to take the place of native forests. That completely ignores the fact that a lot of Australia’s plantations have not been managed for sawlogs. They have not been managed to provide the high-quality timbers that Australia needs and continues to use for a range of things, such as the veneers that go into making the fine furniture in this place, the timber for our homes, fine flooring and things of that nature. These are high-quality-value products that are only able to be derived from Australia’s native forests. It is important that we get full value out of all the product ranges that come out of our native forests. For Senator Milne to assert that we can just move everybody out of the native forest industry to the plantation industry is just plain dishonest. It is not true; it cannot be done. Our plantations have not been managed for those types of quality timber, and they need to be.

When you look at what else is going on, you need to look at things such as the ongoing biodiversity of Australia’s forests. If we want to convert large areas of Australia’s native forests to plantation, which we will have to do if we are to have the supply, Senator Milne should push on with what she is doing. But that is not what we want to do. In
Tasmania, we have the quite extraordinary situation where Senator Milne and Senator Bob Brown talk about the destruction forever of Tasmania’s native forests, and for that matter the native forests around the rest of the country. They say that these forests have been destroyed forever and that those that are left must be protected. Yet the really confounding thing is that, in Tasmania right now, 28-year-old regrowth forests that have been regrown from clear-fell and burn operations are now being claimed by the Greens and their friends as high conservation value forests that should be protected.

When you really look at that, what you understand is that the quality of the forestry management in Tasmania is of such a high standard that they are regenerating high conservation value forests, or forests that the Greens would like to claim as being of high conservation value. That can give the Australian community real confidence that the management processes of Australia’s forest industries, particularly in Tasmania but those in other states as well, is of such a standard that, when they get to the age of 28 years, the Greens now claim them as being of high conservation value, even though in their own language they were ‘destroyed forever’ by the forest industry when they were clear felled and burned. The inconsistencies in the arguments put forward by the Greens are plain for everybody to see.

If biomass were to come on stream in Australia, the industry estimates that 3,000 gigawatt hours could be generated from the existing waste that exists today, without transferring from any other product—that is, without touching another tree, without touching another single branch or leaf. So there is enormous capacity to generate energy at a reasonable cost, which is one of the issues that we face in this, by utilising the existing waste. We are not talking about conversion from other uses. Senator Milne tries to put this up as a saviour for the native forest industry. That is not what they are looking for. They want to use the existing waste. Yes, there have been proposals around the country for a number of years to generate energy at places like Southwood and the north-west coast of Tasmania, because there is a significant amount of wood waste from forestry operations in those regions. Rather than burning it in the open and creating a smoke problem, which the Greens and their friends all ring the local radio about on a regular basis, why not use it to generate energy at a reasonable rate? It just makes sense.

When you look at that use in comparison to, say, burning coal, you find that coal generates something like 955 grams of CO2 per kilowatt hour. This information comes from the WWF, from a brochure they have been using in Europe. Europe has a 15 per cent of energy target from biomass by 2020; they are talking about generating 15 per cent of their entire energy from biomass by 2020. There are 35 times fewer CO2 emissions over the lifecycle from using biomass rather than coal. Here we have the capacity to use a product that is significantly cleaner and is a renewable energy source, yet the misinformation and the misrepresentation of our forestry industries by the Greens is just outlandish. It is just ridiculous when, having said that these forests were destroyed by forestry operations, they then come back 28 years later and claim them as high conservation value forests. The hypocrisy of this is just extraordinary and it needs to be exposed for what it is.

Progress reported.

QUESTIONS WITHOUT NOTICE

Asylum Seekers

Senator WILLIAMS (2.00 pm)—My question is to the Minister for Immigration and Citizenship, Senator Evans. I refer the minister to an interview on The 7.30 Report
on 8 June with an asylum seeker in Indonesia who said in broken English:

Maybe Labor Party will win. They are accepted asylum seekers. I know about it … The Labor Party will win election. God willing, they will win election because we are prey for Labor Party. Would the minister agree that the Rudd government’s policies have created the perception that Australia now has an open-door policy on boat arrivals?

Senator CHRIS EVANS—No, I reject that entirely. We are dealing with an increase in activity from asylum seekers departing by boat from both Indonesia and Sri Lanka. Both of those movements are largely driven by the dislocation and the internal strife in both Sri Lanka and Afghanistan. The largest refugee-producing country in the world at the moment is Afghanistan. Their people are seeking refuge all round the world. We are getting, I think, in the order of 1½ to two per cent of those seeking refuge.

Senator Brandis—We used to not get any under the Howard government.

Senator CHRIS EVANS—Senator Brandis, you keep saying that but it is actually not true. Repeating an untruth may make you feel comfortable but the reality is that that is not true. The number of boats steadily increased during last years of the Howard government.

The point I make is that Indonesia is a transit country that has been utilised by a lot of people seeking asylum in Australia and elsewhere. We are working very closely with Indonesian authorities. We are getting very good cooperation from Indonesian police. There have been a large number of disruptions and a large number of arrests. The Indonesian government have now committed to making people smuggling a criminal offence. That legislation is vital to the fight against people smugglers. At the moment it is very hard for Indonesian authorities to hold people smugglers because there is no specific people-smuggling charge.

We expect that legislation to be a huge boon for us in the fight against people smuggling in Indonesia. As I say, we are getting good cooperation. There have been a lot of disruptions. There is one man currently on trial in Australia who was extradited and another is about to be extradited. So we are working closely with them to combat this problem. (Time expired)

Senator WILLIAMS—Mr President, I ask a supplementary question. Is the minister aware of a comment made by another asylum seeker as reported in ABC News Online? The asylum seeker, again in broken English, said:

Kevin Rudd—he’s changed everything about refugee. If I go to Australia now, different, different … Maybe accepted but when John Howard, president, Australia, he said come back to Indonesia.

Would the minister agree that the government’s polices are a significant factor in the sales pitch of people smugglers?

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Would the minister agree that the government’s polices are a significant factor in the sales pitch of people smugglers?
those decisions. Those who are owed protection are given it. *(Time expired)*

**Senator WILLIAMS**—Mr President, I ask a further supplementary question. With 6,496 unauthorised arrivals and 139 boats since the Rudd government weakened Australia’s borders, how much more evidence does this government require that its policies, and not push factors, have spurred on this dangerous and unregulated trade in human misery?

**Senator CHRIS EVANS**—The logic of the assertion by Senator Williams is that the Howard government was weak on border security because in 1999 it had 3,700 people arrive, in 2000 it had 2,900 people arrive and in 2001 it had 5,516 people arrive. The logic of the assertion is that if you have people arrive then you are weak on border security. So not only was the Howard government weak on border security but Great Britain is weak on border security, Canada is weak on border security, the United States is weak on border security, France is weak on border security and Italy is weak on border security.

It is a nonsense. It is an argument put forward by the opposition for what they see as political advantage. But they know that the reality of the irregular movement of people around the world is an international problem that is driven by source countries and the internal strife in those countries. That is the problem we have to work with our neighbours to combat. We are doing so. As with all of our neighbours, we are very committed to that. *(Time expired).*

**Distinguished Visitors**

**The PRESIDENT**—Order! I draw the attention of honourable senators to the presence in the gallery of a parliamentary delegation from Indonesia’s Commission 1, the Indonesian House of Representatives Committee for Defence, Foreign and Information Affairs, led by Vice-Chair Mr Hayono Is-
in this place, Senator Cormann claimed that this is not a real agreement—

**Senator Cormann**—It isn’t.

**Senator CONROY**—and, by implication, that Telstra was trying to spin this announcement. That is what you said. This is an outrageous claim, without basis or credibility. The government, Telstra and NBN Co. made it abundantly clear in the announcement that this was a financial heads of agreement and that there was still further work to be done.

*Opposition senators interjecting—*

**The PRESIDENT**—Order! You are chewing up question time with interjections. Interjections are disorderly; you know that. It has been drawn to your attention already, Senator Cormann. If you want to participate in the debate at the end, there is time at the end of question time to debate the answers.

**Senator CONROY**—In its media release yesterday, Telstra indicated that, while there were some outstanding issues to resolve before this progresses to completion, ‘we believe the proposed transaction is in the best interests of shareholders’. That was signed by David Thodey and Catherine Livingstone. Yesterday Telstra CEO David Thodey was quoted as saying, ‘For two institutions like Telstra and the government to enter into a heads of agreement, we do not do that lightly. We do it with the intention of concluding it.’ *(Time expired)*

**Senator FARRELL**—Mr President, I ask a supplementary question. Can the minister further explain why the construction of a wholesale-only national broadband network is such a fundamental shift from the market structure in telecommunications from what we have today and what the competition benefits are that will follow from this?

**Senator CONROY**—Those opposite continue to try to suggest and imply—because it suits their political agenda—that Telstra is engaging in market manipulation. The agreement announced yesterday takes us one step closer to delivering a high-speed broadband platform and the structural reform the sector needs to drive genuine competition. This is what the NBN will deliver. The agreement provides us a clear, more certain pathway to this outcome. As Michael Malone, the CEO of iiNet—one of Telstra’s major competitors in fixed-line broadband markets—has said:

> From our initial examination of yesterday's announcement, the agreement is consistent with the Federal Government’s earlier commitments of an open access network, structural separation and regulatory reform. It also means less unnecessary duplication of infrastructure—something that Senator Joyce yesterday just did not seem to be able to grasp. *(Time expired)*

**Senator FARRELL**—Mr President, I ask a further supplementary question. Given the government’s commitment to proceeding with the National Broadband Network, can the minister advise the Senate of any alternative policies he is aware of in relation to the rollout of broadband in Australia?

**Senator CONROY**—The Rudd government has a clear plan for Australia’s broadband future that now has widespread support across the industry. On the other hand, the opposition has said they will shut down the NBN. Today the *Age* editorial said:

> Building the NBN is a visionary task whose historic significance will outstrip even that of infrastructure projects such as the Snowy Mountains Scheme …

Unfortunately, as the *Age* also notes:

> A grasp of how the NBN might transform Australian life seems, however, to have eluded Opposition Leader Tony Abbott …

Australians, present and future, deserve better from the alternative government. The op-
position's continued failure to understand the importance of broadband would wreak havoc with Australia's economic future. (Time expired)

Migration

Senator BERNARDI (2.13 pm)—Mr President, my question is to the Minister representing the Prime Minister, Senator Evans. Does the government accept that its current migration policy, as projected by Treasury, will lead Australia towards a population of almost 44 million people by 2050?

Senator CHRIS EVANS—I thank the senator for the question, because the link between the migration program and our population is an interesting issue which has not had enough attention in Australia. In recent years we have seen an increase in the net overseas migration—under the Howard government it started growing quite a bit—as a result of the increase in temporary migration programs such as the 457 temporary worker program and, in particular, by the expansion of the student program, which saw tens of thousands of students enter Australia who were added into the net overseas migration figures.

So we have seen an increase in net overseas migration. I think that has created some concern in the community about migration and its impact—not so much on total population but on the pressures on our cities, our water systems et cetera. That is why this government has sought to put our migration programs, both permanent and temporary, within a long-term planning framework. That is a decision we took early in this government. So, rather than having the annual announcement of the program and nothing else, we took a view that we ought to do some long-term planning about the role of the migration program and its influence on population and start some research on the impacts of that increase in population. That work has been undertaken by my department and others, to get a much better handle on planning the role of the migration program and its impact on the wider community. But it is true to say that the annual program was set by the government. The government can move that level of migration up and down annually and therefore adjust the increase or decrease in migration, according to a decision of the government annually.

We think there ought to be a longer planning framework. We are doing that, but clearly the level of permanent migration is a decision for a government and we set that target each year, as did the previous government.

Senator Abetz—Is it yes or no?

Senator CHRIS EVANS—It depends on the target.

Senator BERNARDI—Mr President, I ask a supplementary question. As the Prime Minister was so supportive of earlier Treasury projections that Australia’s 2050 population was going to reach 36 million people, as projected in the Intergenerational report, can the minister confirm that the government and the Prime Minister also support the projection by Treasury that Australia’s population will reach 43.9 million people by 2050?

Senator CHRIS EVANS—I thought the opposition dropped the scare campaign after Mr Morrison so completely botched his one intervention into these issues earlier and had to withdraw from the public debate under pressure from his backbench. The key point is that there is no target for population endorsed by government in this country. There never has been under either government. There is no target. The total population will be determined by the annual migration program as adjusted, by the temporary movement in and out of Australia of people, such as New Zealanders, who are not capped, of course by population growth through the...
birth rate. It is worth noting, now that the opposition seems to have become a small migration, antibusiness lobby, that the size of the migration program under John Howard in his last year was twice the size of the program in Keating’s last year. And some of the largest migration programs in Australia were driven under the Howard government. (Time expired)

Senator BERNARDI—Mr President, I ask a further supplementary question. Given that Labor has us on track for a population of 44 million and yet has endorsed the Intergenerational report’s population target of 36 million, what is this government’s policy? Will we have a 36 million population for Australia in 2050 or will it be 44 million people?

Opposition senators interjecting—

Senator CHRIS EVANS—In an interjection a senator calls for greater control on the migration program. I suggest he might have thought about that when they were in government, when the student program went through the roof, when the 457 program went through the roof and when migration control in this country largely disappeared. There is no population target that this government has endorsed. Annual migration programs will be set by governments as they always have been, but we have tried to put it in a total planning framework. We have started work on what the impacts of that are on our cities, on our water on our built environment and on infrastructure. We take these issues seriously. None of that was considered under the former government. I know businesses are very concerned about the attitude of those on that side on these issues. They are very concerned about the scaremongering and the attempt to create fear rather than to deal with proper public policy issues— (Time expired)

Budget

Senator WORTLEY (2.19 pm)—My question is to the Assistant Treasurer, Senator Sherry. Can the Assistant Treasurer inform the Senate of the projected long-term growth of the resources sector and how much of a return Australians can expect for the resources they own 100 per cent? Is the Assistant Treasurer aware of any new large-scale contracts signed in the resources sector since the government announced its resource super profits tax to give Australians a fairer share of the resources they own and to fund a tax reform package aimed at boosting superannuation savings, helping other sectors of the economy and creating jobs?

Senator SHERRY—Australia is indeed fortunate. We live in resource mining boom times, driven particularly by the fundamental change in the world economy driven by the growth from Asia, from countries such as China and India. That is why the government has acted to ensure that the nation as a whole will receive a proper return during this cycle by proposing a resource super profits tax. The reform of taxing profits rather than production is projected to increase investment in the mining industry by between 4.5 and five per cent. There has been a great deal of misinformation and claims, often spurious and inaccurate, made about investment not going ahead. But yesterday we had in Australia none other than the Vice President of the People’s Republic of China. He was here to sign agreements with Australia’s government as well as with a number of individual mining operations. We saw yesterday the announcement of 10 projects, seven of which were in the mining and energy sector. This is real proof that investments will flow and will continue to flow. We saw a new deal by Mr Palmer. Mr Palmer is a very frantic critic of the resource super profits tax. His own company Resourcehouse Limited signed a major cooperation agreement with several Chinese
companies to establish a $10 billion China First coal project involving the construction of a mine, a 476 kilometre railway to the Port of Abbot Point near Bowen. There has been another critic, Mr Forrest— (Time expired)

Senator WORTLEY—I have a supplementary question, Mr President. Can the Assistant Treasurer inform the Senate of the movements in the price of Australia’s resources over recent years, and how much of these price increases have flowed back to the Australian people who own these non-renewable resources 100 per cent?

Senator SHERRY—I can report to the Senate that there have been very significant price increases of some of our biggest-earning resources—very, very significant in recent years. Let me give you a couple of examples: iron ore prices have risen some 500 per cent since 2004; the price of coal has increased by between 300 and 400 per cent. These are resources owned by the Australian people and it is only fair, when there is a significant increase in prices and super profits flow as a consequence, that the Australian people should see a share of the additional profits that were only dreamed of five or 10 years ago. It is only fair that the owner of those resources—the Australian people—should obtain some benefit through a tax change on these resources. (Time expired)

Senator WORTLEY—I thank the Assistant Treasurer for his answers. Mr President, I have a further supplementary question. Is the Assistant Treasurer aware of any alternative policies that would return a fairer share of resource sector super profits to the owners of the resources—the Australian people?

Senator SHERRY—The opposition has two policies. One is to increase company tax to almost 32 per cent, from 30 per cent to 32 per cent. That is one policy. The other policy is to oppose any of the increase in additional profits—not one cent. The Liberal and National parties oppose any of the additional profits that flow from the increased prices and the additional profits that flow from those increased prices on to the Australian people. They do not want to see one cent, except of course I notice the Western Australian government increased the price—I think it is from 1 July this year. That is all okay, apparently. The Western Australian government can jack up the price of its tax on resources, I think, by $300 million per annum. That is okay. (Time expired)

Council of Australian Governments

Senator PAYNE (2.26 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. How does the government expect the COAG Reform Council to do its job in areas such as health, Indigenous affairs, disability services and housing affordability when it is forced to rely on data from the states and territories that is up to seven years old?

Senator CHRIS EVANS—As Senator Payne I am sure would acknowledge, the COAG process under this government has been highly active and has a broad agenda of work that seeks to build better relations between various levels of government. We are the first government to take local government seriously and we try to build them into that work as well—feedback you would have got if you had spoken to any of the local government representatives who were in Canberra last week. This government does have a large agenda of work for the states through the COAG processes, be it health, education or a whole range of other services. Clearly, the states are required as part of that process to provide information to the Commonwealth to assist it in those negotiations and that work. The senator seems to be making some suggestion that some of the information that the states are providing is dated.
I am not aware of those claims, if that is the claim she is making. The states are responsible for bringing to the table up-to-date information on their programs and how they are administering those and the impacts of those programs that inform debate. If she has a particular concern about a particular piece of information or a concern about whether there is up-to-date data on a particular subject, I am happy to take that up with the Prime Minister on notice and see if I can assist her.

Senator PAYNE—I have a supplementary question, Mr President. My particular concerns are expressed as health, Indigenous affairs, disability services and housing affordability, so let us start there. Secondly, why does the federal government not require the states and territories to provide up-to-date information to the COAG Reform Council in just, for example, these four areas? Is this not just another example of failed so-called ‘cooperative federalism’?

Senator Payne—I am trying to be helpful to the senator, but I am not quite sure what her accusation is or what point she is trying to drive at. She seeks to say that they are not providing up-to-date information. She provides no evidence of that and does not then seek information from me about those matters. As I indicated, if the senator has a particular concern that she wants to draw my attention to, I am happy to get that. But a general concern that she thinks the information may be old—I am sure there is something specific behind this—

Senator Payne—Mr President, I rise on a point of order. My question was very specific to the minister and he is not making any real effort to answer. My question was in relation to the COAG Reform Council’s work in health, Indigenous affairs, disability services and housing affordability, for the second time, and the requirements that have been placed upon the states and territories to provide up-to-date information in that regard. The minister has failed to respond to those matters.

The PRESIDENT—I believe the minister is answering the question. The minister has 16 seconds remaining. The minister is not necessarily going to answer in the form that you like and I cannot instruct the minister to answer a question in a particular way.

Senator CHRIS EVANS—As I said, I am trying to be helpful, but listing four broad areas including health and Indigenous affairs and saying all the information is old does not really take us anywhere, and is not something I am able to respond to. If she has a particular concern, I am happy to see what information I can get for her. (Time expired)

Senator Payne—Mr President, I ask a further supplementary question. I ask that the minister refer to the last report of the COAG Reform Council on those particular areas. Further, can the minister guarantee that the next COAG meeting will be held before, say, the 2010 election or the 2011 election, whichever it turns out to be? Will the great, big new mining tax be on the agenda?

Senator CHRIS EVANS—I do not think it is a serious question. Obviously COAG meetings will be scheduled in accordance with normal practice by the Commonwealth and state governments to pursue those agendas. I am not sure whether mining taxes will be on the agenda. I suspect not, although I am sure they will be keen to hear from Mr Barnett, the Premier of Western Australia, about his tax grab of $300 million extra in mining royalties—his big new tax on mining companies which he has announced. So, yes, we might want to have a chat about that because he has embarrassed Mr Abbott by saying that he thinks mining companies ought to pay $300 million only in Western Australia.
in increased royalties—his big new tax on mining companies.

Honourable senators interjecting—

The PRESIDENT—Order on both sides! Your comments should be addressed to the chair, Senator Evans.

Senator CHRIS EVANS—I think we will be interested in having a discussion with Mr Barnett about his great, big new tax on mining, his increase in mining royalties and why he thinks mining companies can pay more, and perhaps he might have some advice for the opposition on these matters. *(Time expired)*

**Driver Training**

Senator BOB BROWN (2.32 pm)—My question is to the Minister representing the Attorney-General and the Minister for Home Affairs, Senator Wong. At what stage is the federal government at in meeting the priority request from the Police Federation of Australia for a commitment from the government to work with the states and territories to develop national standards for the licensing of and driver training for young drivers, including minimum hours of training with a qualified training instructor and the logging of hours of driving that are required and, most importantly, serious incentives including relaxed restrictions for young drivers undertaking advanced driver training?

Senator WONG—I thank Senator Brown for the question. I think everyone in this chamber would know of the dreadful position on too many roads in Australia in relation to motor vehicle accidents and in relation to—

*Senator Carr interjecting—*

**Senator Ian Macdonald**—If you have to get your help from Kim, you are in trouble.

**Senator WONG**—Are you still here, Senator? Goodness me.

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

**Senator WONG**—Thank you. I know that everyone in this place would be of the view that every death on our roads is a tragedy and that, in many ways, is even more poignant when young people are involved. We know that young drivers are overrepresented in serious crashes. There is a range of strategies which governments at all levels have undertaken over the years to try and improve driver safety, particularly in relation to young people. I am advised that the government is helping to improve the safety of young drivers through the keys2drive national learner driver program. This is a $17 million initiative focused on building a constructive partnership between learner drivers, parents and professional instructors.

The road toll has improved in the last few decades. Certainly since 1970 the number of drivers killed in road crashes has, thankfully, more than halved. Obviously all of us would want those numbers to be even lower, and in fact for there to be no fatalities. Governments have to work to try and continue to make progress. An important element in the improvement of driver safety has been the introduction of graduated licensing arrangements. Those are the responsibilities of state and territory governments. *(Time expired)*

**Senator BOB BROWN**—Mr President, I ask a supplementary question. I thank the minister for her answer. Could the minister say where the Australian government is in working with the states to develop national standards for the licensing and training of young drivers? Is a time line involved? What standardisation measures is the government looking at? Do they, for example, include standard penalties for breach of rules for L- and P-plate drivers, as well as new technologies for speed and alcohol limitations?
Senator WONG—Senator, I will attempt to answer as best I can on the information I have. I understand—and I stand to be corrected—that this matter actually falls within Minister Albanese’s portfolio, and he is represented by Senator Conroy. I understand that options to further strengthen licensing arrangements for young drivers are currently being considered in the development of the new National Road Safety Strategy for 2011 to 2020. I also understand that the minister with lead responsibility for that, to the best of my knowledge, is Minister Albanese.

Senator BOB BROWN—Thank you, and I would be happy to have that question put on notice so that an answer might come through Minister Albanese. Mr President, I ask a further supplementary question. I note that the National Road Safety Strategy 2001-2010 has failed to meet the target of 5.6 fatalities per hundred; in fact, it is way over that. I again ask the minister: is there a national strategy to be implemented during this coming decade—and, if so, when—for standardising the licensing and calibration of performance of young drivers across Australia?

Senator WONG—I will see if I can provide any information in addition to the information I have already provided you. As I said, I understand this to be a matter for Minister Albanese. I have provided the information that I can to date and in as much detail as I am able to but I will see if the government can provide you, through the minister, with any additional information in relation to both your first and your second supplementary questions.

Broadband

Senator BIRMINGHAM (2.38 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I refer the minister—

Senator Wong interjecting—

Senator BIRMINGHAM—Another day, Senator Wong, I am sure. I refer the minister to his statement to the Senate yesterday, which said of his much hyped agreement with Telstra that it:

… paves the way for a faster, cheaper, more efficient rollout of the National Broadband Network …

Will the minister inform the Senate how much faster and how much cheaper?

Senator CONROY—I thank Senator Birmingham for that question particularly, because I am drawn to a comment in today’s papers from John Durie, who was talking about this. He talked about the cost and what was being paid to Telstra. John Durie said:

Payment for Telstra assets was just compensation after previous governments failed to take the chance to restructure the industry before it was too late and the company was fully privatised.

If you are looking for scapegoats on the payout figure, try writing letters to John Howard, Nick Minchin and Peter Costello, because they were the bunnies who wanted to maximise their privatisation booty at the risk of subjecting the country to a dominant incumbent telco.

Senator Brandis—Mr President, I rise on a point of order. You know that there were two amounts sought in the question and that was all: how much faster and how much cheaper? The minister has not addressed the question at all. He has quoted commentary by an economic commentator, who does not address the quantities either, and he has engaged in abuse of the opposition. You should direct him to the question, which was specific to two quantities: how much faster and how much cheaper?

Senator Ludwig—Mr President, on the point of order: the minister has been directly answering the question. The minister has been relevant to the question. There were two parts to the point of order that was taken.
One was, of course, not mentioned but I assume it was on relevance. The second was on the accuracy of the minister’s statement, and I say there is no point of order in respect of that.

The PRESIDENT—I am listening closely to the minister’s response. The minister has a minute and nine seconds to answer the question that was asked.

Senator CONROY—The heads of agreement and policy reforms announced yesterday will deliver clear benefits for Australia over both the short term and the long term. In the short term, I repeat: the agreement paves the way for the National Broadband Network to be built faster, more cheaply and more efficiently and with faster take-up, higher revenues and less use of overhead cabling.

Senator Birmingham—Mr President, I rise on a point of order. I think when it comes to standing orders related to tedious repetition, you might find that during Senator Brandis’s point of order the minister opened the file that he had yesterday and is now reading the exact same words he said yesterday—the ultimate in tedious repetition. Could you please draw his attention to the relevance of the question: how much faster; how much cheaper?

The PRESIDENT—There is no point of order. Senator Conroy, you have 44 seconds remaining.

Senator CONROY—As a result, Australians will more quickly gain access to all the benefits of superfaster broadband. NBN Co.’s CEO, Mike Quigley, confirmed that the agreement will result in significant savings in the overall build cost, but for commercial reasons he indicated that he would not disclose those figures. But if you care to read some of the commentary today, which I know is a painful exercise for you, you will see industry commentators with some experience in the sector, unlike those opposite, who claim that the savings are in the billions—that is, industry experts in the papers today: ‘in the billions’. The agreement with Telstra—(Time expired)

Senator BIRMINGHAM—Mr President, I will try a supplementary question that may not have such commercial sensitivity. I refer the minister to his subsequent statement to the Senate yesterday that under his so-called agreement ‘a greater proportion of the NBN rollout will be underground’. Will the minister inform the Senate what proportion will be underground? How much greater will it be as a result of this so-called agreement?

Senator CONROY—The agreement with Telstra means that the rollout of the NBN, as you have correctly identified from my statements yesterday, can be built on existing infrastructure, including Telstra’s network of ducts and facilities. This clearly means a reduction in civil engineering costs, which are usually a significant proportion of any rollout. NBN Co. will be able to maximise its use of underground cabling. This means there will be less overhead cabling by definition—substantially less. The agreement will also allow an orderly transition for Telstra’s customers—

Senator Brandis—Mr President, I raise a point of order. Once again the question was directed to two quantities: what proportion and how much greater. Nothing the minister has said has been relevant to that question and it certainly has not been directly relevant to it. He was asked about two quantities and he has not approached naming them.

Senator Chris Evans—On the point of order, Mr President, Senator Conroy went directly to the question of the infrastructure and whether it was underground or overhead. He went exactly to that question and was attempting to give the Senate an appropriate answer. I do not know whether the opposi-
tion have run out of questions, because they are wasting their time and question time. But clearly the minister was directly relevant and attempting to answer the senator’s question.

**The President**—The minister is addressing the question. The minister has 22 seconds remaining.

**Senator Conroy**—The NBN Co. will be able to maximise its use of underground cabling. The agreement will also allow an orderly transition for Telstra’s customers onto the new wholesale only network. In the longer term the agreement will fundamentally transform the competitive dynamics. If there is any extra information, I will seek that from NBN Co. and come back to you.

**Senator Birmingham**—I have a second supplementary question, Mr President. If the minister cannot tell us how much faster, how much cheaper or how much more fibre will be rolled out underground, how can we or anyone believe that this so-called agreement has any level of detail at all? Isn’t this just another case of Rudd Labor failing to dot the i’s and cross the t’s and leaving taxpayers exposed to endless costs and great risk?

**Senator Conroy**—The tragedy when you write your question in advance of hearing the answer to the previous two is that it can become completely irrelevant. It can become completely irrelevant following those answers. It is a great pity to see that what was said in the *Age* editorial which I mentioned in an earlier answer is being demonstrated across the chamber. They have no idea whatsoever about how this—

**Senator Ian Macdonald**—How can any President let you get away with this?

**The President**—Order! Interjecting is disorderly, Senator Macdonald. I remind you of that.

**Senator Conroy**—The NBN will be an enabling platform across the economy, critical for small businesses, future health care delivery, the education of our young people and our ability to work cleaner, smarter and faster. The NBN and the digital technologies it will support offer massive opportunities to drive market efficiencies and productivity.

*Senator Abetz interjecting—*

**Senator Conroy**—Just because you do not understand what a smart grid is, Senator Abetz, does not mean everybody else in the country is equally ignorant. *Time expired*

**Indigenous Employment**

**Senator Moore** (2.48 pm)—My question is to the Minister for Employment Participation, Senator Arbib. Given the government’s commitment—

*Opposition senators interjecting—*

**The President**—Order! The interjections are chewing up question time quite unnecessarily.

**Senator Moore**—Given the Rudd government’s commitment to closing the gap on Indigenous disadvantage and more specifically to halve the gap in employment outcomes between Indigenous and non-Indigenous Australians by 2018, can the minister advise the Senate on some of the programs the government has in place to assist Indigenous Australians to obtain employment? What are some of the outcomes that have been achieved as a result of these programs?

**Senator Arbib**—I thank Senator Moore for that question and for the work she has done and her committee has done across the party divide in terms of Indigenous affairs and Indigenous employment. Last week I outlined to the Senate the changes in the ABS data regarding unemployment and that unemployment had decreased in this country to 5.2 per cent, that we had seen 36,000 full-
time jobs created and also a big increase in
the number of hours worked. At the same
time as that, though, I have a great concern
and I know the government has a great con-
cern about the high rates of Indigenous un-
employment. We know that the rate of In-
digenous unemployment is three times—

Honourable senators interjecting—

The PRESIDENT—Order, Senator
Sherry! Senator Cormann, I remind you that
shouting across the chamber is disorderly.
The minister is entitled to be heard.

Senator ARBIB—As I was saying, while
unemployment has been dropping, at the
same time Indigenous unemployment is ob-
viously still concerning. We have seen an
increase in Indigenous unemployment, there
is no doubt about that, during the global fi-
nancial crisis. That is why the government
has been working so hard with the corporate
sector, with Andrew Forrest and the Austra-
lian Employment Covenant in trying to turn
this around. It is also not just with business.
We are working closely with training organi-
sations—

Opposition senators interjecting—

Senator ARBIB—I would have thought
on an issue this important, an issue that I
think has had bipartisan support up until
now, that senators on the other side would
actually listen to this. In fact, they want to
ridicule efforts that are taking place across
the community. In terms of Job Services
Australia, there is a great deal of work—

Opposition senators interjecting—

The PRESIDENT—Senator Arbib, re-
sume your seat. When there is silence, we
will proceed.

Senator ARBIB—Since 1 July 2009 al-
most 29,000 Indigenous Australians have
been placed in jobs by Job Services Austra-
lia—that is, the reformed Job Services Aus-
tralia which got underway on 1 July.

Through the Indigenous Employment Pro-
gram, the $750 million program that has
been reformed, there have been 18,000 train-
ing and employment placements since 1 July.
The government is also working on the other
side to increase the number of Indigenous
businesses. That is why we are working with
organisations such as the Australian Indige-
ous Minority Supplier Council, AIMSC, to
increase—(Time expired)

Senator MOORE—Mr President, I ask a
supplementary question. Minister Arbib, par-
ticularly in the area of the public sector, what
is the government doing to make employ-
ment grow and are there any programs in
place to encourage young Indigenous people
to join the public service?

Senator ARBIB—Thank you for the
question. There has been a big improvement
in the work that is being undertaken by the
private sector, and government needs to do
its bit too. Government across the country
needs to do its bit to lift its level of Indige-
nous employment. We have set a target of
2.7 per cent of the public sector being made
up of Indigenous employees by 2015. As yet,
all governments are far from meeting that
target. To reach this target different depart-
ments and agencies have been working with
the Australian Public Service Commission
and my department to develop strategies to
increase Indigenous employment. Also, de-
partments have been working with Recon-
ciliation Australia, setting up reconciliation
action plans and putting in place targets but
also strategies for cultural change to ensure
that full organisations are getting behind this
important work. We are also working with
training organisations such as the Aboriginal
Employment Strategy, AES, and with people
like Dick Estens and Danny Lester. Real
traineeships for young Indigenous people in
school—(Time expired)
Senator MOORE—Mr President, I ask a further supplementary question. I know that there are over a hundred Indigenous students in Parliament House taking part in a work experience with government program, and I think some of them are now in the gallery. Minister, can you please provide the Senate with some further information about this program? Who is involved, what will the students be doing when they are visiting us and what sorts of things will they learn while they are with us?

Senator ARBIB—Under the Learn Earn Legend! voluntary work experience program, we have a hundred young Indigenous students from across the country working right now in MPs’ and senators’ offices but also in departmental agencies learning about what life is like in the political system and what life is like in government. There are a number of these young work experience students in the gallery right now. I thank them for the work they have done and for the efforts they have taken to get here from across the country. From WA in particular there are 31 trainees. I say to the two work experience students from my office, Dale and Alice: it has been fantastic having you and thank you very much for being here in the Senate today. This is not just about providing a pathway into the public sector—providing access to traineeships, apprenticeships and graduate positions—but also about mentoring and about providing friendships and acquaintances—

(Time expired)

Government Advertising

Senator RONALDSON (2.55 pm)—My question is to the Special Minister of State, Senator Ludwig. I refer to the minister’s decision to exempt the advertising campaign on the great big new tax on mining from Labor’s own regulations. Given that the department had already drafted the ministerial statement 10 days prior to the announcement, why did the minister claim that it took another four days to draft a statement, the timing of which just happened to coincide with the end of estimates?

Senator LUDWIG—Let’s not lose sight of what this is really about. Some companies and the opposition are running a multimillion dollar scare campaign against this government’s tax reform package. This government makes no apology for standing up for the best interests of Australians. But in order to clear up these myths, I reject the assertion of Senator Ronaldson or the Liberal Party that I or any official in the department misled the Senate or any committee. We did not withhold information from Senate estimates. It is outrageous—

Senator Conroy interjecting—

The PRESIDENT—Order! Senator Conroy, I need to hear Senator Ludwig.

Senator LUDWIG—It is outrageous that Senator Ronaldson seeks to smear my reputation and the reputation of the department, as well as that of the members of the Independent Communications Committee. It is a blatant attempt by those opposite to cover up their own gross incompetence on this. If the senators would like a lesson on how the Senate works and on how Senate estimates work, the opposition gets to ask the questions and we get to answer them. It is not a show-and-tell. But, if you want to, we can turn it into a show-and-tell. The proper process is as simple as that.

I do not want to deal with the Liberal’s smear campaign. Let me deal with the facts of this matter. The facts in this case are simple and well documented. I granted the exemption on 24 May 2010, I wrote to the Treasurer setting out my decision and I tabled a statement of reasons on 28 May. At this time the Senate estimates process was not complete. Questions could still be put on notice. There were estimates the following
week and, like all of these things, I agreed to hold another estimates so that you could ask the questions again, which you then—

Senator Ronaldson interjecting—

Senator LUDWIG—That is right. (Time expired)

Senator RONALDSON—Mr President, I ask a supplementary question. Is the minister prepared to release the department’s draft letter and ministerial statement today or are we going to have to pursue the order for return of documents?

Senator LUDWIG—I note that there is an order for production of documents that comes up tomorrow. But let me deal with the facts of this matter. This government, as I have said, makes no apology for standing up for the interests of working Australians. There is a real hunger out there in the community to know more about the reforms and what they do to strengthen our economy. Our tax plan will ensure that a fairer share of the proceeds of the resources boom is invested in a stronger economy for all Australians.

Senator Abetz interjecting—

Senator LUDWIG—Senator Abetz, I will take that interjection because you are now saying falsehoods that you know are not true.

The PRESIDENT—Senator Ludwig, address your comments to the chair. Ignore the interjections.

Senator LUDWIG—My apologies, Mr President. Since coming to office the Rudd government has made significant changes to the government advertising framework to increase transparency and accountability.

Senator Ronaldson—Mr President, I rise on a point of order. I asked the minister a quite specific question: is he or is he not prepared to release these documents?

The PRESIDENT—The minister is answering the question. The minister has eight seconds to continue.

Senator LUDWIG—Thank you, Mr President. Of course, the decision to exempt the tax campaign was made in accordance with the guidelines on government advertising, and the government has been completely open in its actions. (Time expired)

Senator RONALDSON—Mr President, I ask a further supplementary question. Given the minister’s failure to answer any questions today, wasn’t the delay in tabling just a cheap political ploy to avoid Senate scrutiny and aren’t you, the Treasurer and the Prime Minister duly exposed for what you are?

Senator LUDWIG—Last time we were here was at estimates. They had the opportunity of asking questions in relation to it and failed to ask relevant questions. Again, they had the ability to put questions on notice. Let’s see if he has actually put anything on notice or if he just wants to continue to run the smear campaign that he is now running. Under the Liberals there were no checks and balances at all. Under the Liberals in 2007 the Howard government spent $254 million. What the opposition want to do is whinge about our guidelines. They do not have any guidelines. They do not have any policy on this. They cannot walk both sides of the street on this. They have to come clean. Do you have a policy on this at all, or do you just want to continue your smear campaign?

Opposition senators interjecting—

The PRESIDENT—Order! The time to debate this question is at the end of question time, not now.

Senator LUDWIG—Thank you, Mr President. In 2008 we spent just one-third of the money that the Liberals spent in 2007. In 2009 we spent less than half of the money that the Howard government spent in 2007. Let me state from the outset what Senator Abetz— (Time expired)
Senator Chris Evans—Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS
Gulf of Mexico Oil Spill

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (3.03 pm)—I wish to incorporate further information in answer to a question asked by Senator Siewert to Senator Wong.

Leave granted.

The answer read as follows—

Question Time
ANSWERS TO QUESTIONS ON NOTICE
Resources, Energy and Tourism Portfolio 17 June 2010
Topic: Gulf of Mexico Oil Spill and Montara Incident
Hansard Page: 22-24

Supplementary questions from Senator SIEWERT:

Could the Minister confirm whether all the wells in Australia that have been cemented by the company that was responsible for the cementing of the well with regard to Montara, and is reported to be the same company that did the BP well in the Gulf of Mexico, been audited by the relevant authorities?

The Australian Government has implemented a range of measures following the Montara and Gulf of Mexico incidents. The Government:

- Initiated an Inquiry into the uncontrolled hydrocarbon release from the Montara Wellhead Platform that occurred from 21 August—3 November 2009. Commissioner David Borthwick AO PSM, delivered his report arising from the Inquiry to the Minister for Resources and Energy, Martin Ferguson AM MP, on 18 June 2010. The Inquiry was conducted on a “no-blame” basis under the powers of the Offshore Petroleum and Greenhouse Gas Storage Act 2006.
- Requested the Northern Territory Government (as the delegated Designated Authority) to undertake a review of the status of wells suspended by PTTEP at the Montara Wellhead Platform;
- Requested all Designated Authorities to undertake a compliance review of existing well approvals;
- Developed and introduced amendments to the Offshore Petroleum and Greenhouse Gas Storage Act which are currently before the Parliament. These amendments will enhance the safety and integrity regulation for offshore petroleum activities; and
- Commenced an internal government review of the findings and recommendations arising from the US Department of the Interior’s report on increased safety measures for energy development on the outer continental shelf, for relevance for Australian legislation and regulations.

In addition the National Offshore Petroleum Authority (NOPSA) has increased its focus, in safety case assessments and through its inspection of drilling rigs, on issues arising from the Montara incident. NOPSA has urged Australian titleholders and rig operators to learn from the initial key safety recommendations made by US authorities in the wake of the Gulf of Mexico incident, including in relation to well control equipment (both surface and subsea), review all rig drilling/casing/completion practices and review all emergency shutdown and dynamic positioning procedures that interface with emergency well control operations.

Companies operating in Australia are reviewing their operations to ensure that there are no further incidents. A number of them have already implemented actions in relation to their activities in Australia and worldwide. This includes reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

The Montara Commission of inquiry is reporting to the minister for resources tomorrow. When will the government be releasing the report to the public for public review?
Commissioner David Borthwick AO PSM, delivered his report arising from the Montara Commission of Inquiry to the Minister for Resources and Energy, Martin Ferguson AM MP, on 18 June 2010.

The Minister will properly consider the findings and recommendations of the report and act promptly and appropriately on them.

Prior to releasing the report publicly the Minister is bound to take advice to ensure that in the handling of this report he does nothing to prejudice the conduct of further investigations for possible offences including criminal offences, other civil or criminal action, or undermine any natural justice considerations.

**National Indigenous Languages Policy**

**Senator WONG** (South Australia—Minister for Climate Change, Energy Efficiency and Water) (3.03 pm)—I have some further information in relation to a question asked by Senator Bob Brown on 10 March 2010 of me in my capacity as the Minister representing the Minister for the Environment Protection, Heritage and the Arts which I now seek to incorporate.

Leave granted.

*The answer read as follows—*

**MINISTER FOR ENVIRONMENT PROTECTION, HERITAGE AND THE ARTS**

(Senate Question No. 2736)

Senator Brown asked the Minister representing the Minister for Environment Protection, Heritage and the Arts, upon notice, on 10 March 2010:

(1) What is the status of the implementation of the Government’s National Indigenous Languages Policy (the Policy)?

(2) Does the Government plan to undertake a national consultation on the policy; if so, when and how.

Senator Wong—The Minister for Environment Protection, Heritage and the Arts has provided the following answer to the honourable senator’s question:

(1) The Australian Government’s National Indigenous Languages Policy establishes a framework for ongoing national strategic support for Indigenous languages. In consultation with FaHCSIA, DEEWR and AGD the Department of Environment, Water, Heritage and the Arts is currently finalising an Action Plan as a blueprint to implement the Policy.

(2) The Action Plan will involve consultation with state and territory government agencies and Indigenous languages organisations to identify strategic initiatives which align with the objectives of the Policy. Details of this consultation are being finalised as part of the conclusion of the Action Plan, however discussions with key organisations, such as community based Indigenous languages centres, umbrella bodies and AIATSIS, around issues identified in developing the Policy and the Action Plan are already underway.

**PERSONAL EXPLANATIONS**

**Senator CORMANN** (Western Australia) (3.03 pm)—In accordance with standing order 191, I seek to explain my statement yesterday about the so-called deal between Telstra and NBN Co., which has clearly been misquoted or misunderstood by Senator Conroy.

The **DEPUTY PRESIDENT**—Are you seeking leave, Senator Cormann?

Senator CORMANN—I do not think I have to seek leave.

The **DEPUTY PRESIDENT**—I am not sure the issue you are raising is an issue that relates to 191, which I think is the one you quoted, was it?

Senator CORMANN—Yes, 191.

The **DEPUTY PRESIDENT**—Is leave granted for Senator Cormann to make a short statement?

Senator Ian Macdonald—Mr Deputy President—

The **DEPUTY PRESIDENT**—I need to ask Senator Cormann: do you claim to have been misrepresented? If you claim to have
been misrepresented, personal explanations are usually done at the end of taking note.

Senator Ian Macdonald—Mr Deputy President, on a point of order: 191 says 'claims to have been misquoted or misunderstood' and it does not, it seems to me from a reading of the standing order, require leave. Standing order 190 requires leave; 191 does not require leave.

The DEPUTY PRESIDENT—Senator Macdonald, we have actually moved on from that, because I asked Senator Cormann whether he claimed to have been misrepresented or misquoted. But if you are going to use 191 the normal time to do that is at the end of taking note of answers.

Senator CORMANN—My apologies, Mr Deputy President. I was advised that I should do it after question time, but I am happy to do it at the end of taking note.

The DEPUTY PRESIDENT—It should be done at the end of taking note of answers.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Asylum Seekers

Senator BRANDIS (Queensland) (3.05 pm)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Citizenship (Senator Evans) to a question without notice asked by Senator Williams today, relating to asylum seekers.

There is nothing sadder than the sight of a desperate government deeply in denial, and in all the mishaps, the bungling and the incompetence that have characterised the brief tenure of the Rudd government there is no area of policy in which the Rudd government is more deeply in denial than the catastrophic failure of its border protection policy. In no area has there been a more catastrophic failure than the fiasco of the Rudd government’s border protection policy.

Let us go back to where we stood in August 2008 immediately before Senator Evans announced the weakening of the Howard government’s policies that had kept our borders secure for the last six years of that government. Do you know, Mr Deputy President, how many people were detained at the Christmas Island detention centre at that time? There were five. Do you know how many there are now? The Christmas Island detention centre is over capacity. There are more than 2,500, and others have had to be transported to the Australian mainland, because our borders are out of control. And yet, as we saw in his answers to Senator Williams’s question today, Senator Evans continues to deny that there is a cause-and-effect relationship between the weakening of those policies in August 2008 and the tremendous upsurge in the number of unauthorised boat arrivals in the two years since. In the last five years of the Howard government, after tough policies were introduced in 2001, the average number of unauthorised boat arrivals fell from a high number before the coalition government of the day introduced tough policies down to three per year.

Senator Pratt—inhumane policies!

Senator BRANDIS—Three per year! That was the situation the Rudd government inherited. After the tough policies came a phoney humanitarianism, Senator Pratt, which encourages women and children onto hazardous seas and puts them in the hands of people smugglers. After those policies were repealed in the name of a phoney humanitarianism the number of unauthorised boat arrivals skyrocketed. In the 2½-year life of the Rudd government there have now been 139 boat arrivals—an average in this calendar year of more than three per week. In the last five years of the Howard government there were three per year—a 50-fold increase. Senator Evans—no friend or supporter of Mr Kevin Rudd’s, as we all know—
who has to bear the rap for these policies in this chamber, tried to persuade us that there was no cause-and-effect relationship between these two things. For five years the number of boat arrivals had flatlined. The policy was changed and suddenly there was an upward spike.

It is getting worse because of the signals that have been sent to the people smugglers. In the 12 months of calendar year 2009 there were 71 unauthorised boat arrivals. So far—not quite halfway through calendar year 2010—there have been 61 boat arrivals already. It is nothing more than denial for the government to say that there is no relationship between the softening of the policies, as they have done, and the surge in boat arrivals. In fact, the government’s own conduct by postponing the assessment of Sri Lankan and Afghan asylum seekers gives the lie to the argument that pull factors are not relevant. They themselves have sought to adjust their policy belatedly, too late in the piece. It has not worked because, as in so many other things, the Rudd government lacks the policy courage to do tough things. The Howard government was criticised roundly by certain sections of the community because its policies did have a hard edge. They had to have a hard edge, because all effective deterrents do. But those policies worked just as surely as the Rudd government’s policies have failed.

Senator Farrell (South Australia) (3.11 pm)—Senator Brandis indicated that he thought that there was nothing sadder than—

Senator Brandis—A government in denial!

Senator Farrell—a government in denial, yes. Thank you, Senator Brandis. He felt there was nothing sadder than a government in denial. I think there is something sadder.

Senator Cormann—This government is in serious denial.

Senator Farrell—Senator Cormann, I think there is something sadder than a government in denial. What I think is sadder than a government in denial, Senator Brandis, is when a former Liberal prime minister is forced to quit his party because of the policies which that party is adopting. I refer to a brilliant article in the Age—a great Australian newspaper—yesterday.

Senator Humphries—How is this taking note of an answer by a minister?

Senator Farrell—I am taking note of what Senator Brandis had to say. He said that there is nothing sadder than a government in denial.

Senator Brandis—Mr Deputy President, I rise on a point of order. I know relevance is broadly interpreted for the purposes of these debates, but Senator Farrell has told the chamber that he is taking note of my remarks. That is not the question before the chair. The question before the chair is that the Senate take note of the answers of Senator Evans to Senator Williams, not what I may have said earlier in the debate.

The Deputy President—Order! Senator Brandis, you are trying a point of order on a technicality, but the nature of debate is that people on either side respond to the comments that are made by the other side. I think that Senator Farrell is only responding to comments that you may have made as part of the debate to take note of answers.

Senator Farrell—Mr Deputy President, as a fellow South Australian, I thank you for your protection of me from Senator Brandis. What the former—

Opposition senators interjecting—

The Deputy President—Order! Senator Brandis was heard almost in silence.
I suggest you give Senator Farrell a fair hearing on his side of the chamber.

Senator FARRELL—You are perfectly right, Deputy President. Senator Brandis was heard in silence and we would seek the same courtesy.

Senator Hutchins—What did you call John Howard?

Senator FARRELL—I would like to be heard in silence from my side as well. The resignation of former Prime Minister Fraser was very sad. As I do not want to quote him out of context, I will read this from the article in the Age:

… he hopes his resignation will send a message to the party to shape up and stay true to its core values.

When I first came to this chamber I was taught that there was at least one liberal Liberal left, and that was Senator Brandis. That is what I understood from what my colleagues told me. That is what even some of my Liberal colleagues—I have a couple of them—said. I always thought that there was one liberal Liberal left, so I was very disappointed with you, Senator Brandis, when you adopted the comments—

Senator Brandis interjecting—

Senator FARRELL—Senator Brandis, civility is not a sign of weakness in debates. Can you please listen to me in silence—the same courtesy I gave to you?

Let us go back to former Prime Minister Fraser. This is a direct quote from him yesterday, as reported in the Age:

I believe playing politics with the lives of vulnerable people, seeking votes out of their misfortune, is about the worst thing any politician can do in any country in any part of the world …

The article goes on to say:

He later told reporters—

after, I think, he had opened an immigration program—

the coalition’s immigration policy, which includes the resurrection of the so-called Pacific Solution, had played a role in his decision to hand in his Liberal life membership.

So he has not only resigned from the party for which he was Prime Minister from 1975 to 1983; he has handed back his life membership of the Liberal Party. If that is not an indication of a former Prime Minister’s view about the policies of the opposition then I do not know what is.

As I said before, there is something sadder than a government that is in denial, and it is when somebody like former Prime Minister Malcolm Fraser has to resign from his own party to make the point that your policies on immigration are wrong. They are unfair, they are uncompassionate and they need to be changed.

Senator Brandis interjecting—

Senator FARRELL—And it is people like you, Senator Brandis, who ought to be doing the changing. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.18 pm)—Doesn’t it say a lot about the Labor Party’s position on this matter that, when asked to justify its failed border protection policy, it defends itself by quoting the views of a man who was Prime Minister 30 years ago? The fact is that today, in 2010, Australians are losing confidence in your policies and in the approach you are taking to border protection.

Today in question time we heard from the Minister for Immigration and Citizenship, Senator Evans, the old view that the fact that the boats are arriving in such large numbers is just a coincidence. He claims that it has nothing to do with their policies and nothing to do with their announced change of policy in 2008, immediately after which the boats began to arrive in significant numbers. He claims: ‘It has nothing to do with that. We are the victims of international circum-
stances. Those circumstances have conspired to change and to suddenly thrust all of these people onto boats and to cross the sea to Australia’s northern shores.’ I am sorry, but Australians do not believe that.

In recent opinion polls, Australians have demonstrated very clearly that they have lost confidence. They have not lost confidence in international security arrangements or in peacekeeping efforts in different parts of the world, but they have lost confidence in the Rudd government’s border protection policies because those policies are the ones that are now letting Australians down and failing to contain a problem of truly significant proportions to Australia’s border security. The fact is that in 2001, when the Howard government changed the settings on unlawful arrivals, we saw a change in the number of boat arrivals. The number plummeted. As Senator Brandis indicated, we went from hundreds of boat arrivals down to just a trickle—to three or so a year—for the next six years. That, we were told, was a coincidence. International conditions, we were told, had changed sufficiently to allow the boat numbers to reduce. But, in August 2008, the government again changed the policy. It softened the border protection policy in order to, in its own words, make it more compassionate. The boat arrivals began to surge again but, apparently, that was another coincidence. International circumstances had conspired to make people board the boats once again.

Never mind the fact that in 2001 there were more than 12 million refugees classified in the world by the UN High Commissioner for Refugees. In 2008, when this surge began again, there were less than 10½ million refugees around the world and many of the regional conflicts which had characterised previous years, such as in places like East Timor, the Solomon Islands and so on, had ceased to take place. Notwithstanding those facts, somehow the surge has begun again. The point is that we know that the government’s policies have led directly to that surge and so does the government, because the government tried a few weeks ago to change its own policy by announcing a freeze on the processing of Afghan and Sri Lankan asylum seekers—coincidentally, the nationalities from which the most boat arrivals were coming. The signal was: ‘Don’t come here. We are not going to process any Afghan or Sri Lankan arrivals, so there is no point coming to Australia.’ Of course, that policy failed spectacularly within days of being announced. Since April, when that was announced, 33 boats have come and 1,492 arrivals, and counting, have taken place. It is a clear indication that this government has lost control of its policies.

The fact is that the questions asked by Senator Williams in question time today demonstrate very eloquently the attitude of people smugglers and their clients to Australia’s present open-door policy. It is that attitude, it is that perception of what the policy is, which is driving the business of those people smugglers. They can go to people in places like Indonesia and beyond and say, ‘We have something for you. We can get you into Australian waters and you’ll be taken into custody and you will get residency in Australia.’ That is the product they are selling. This government’s policy, to its shame, builds in a role for those people smugglers. They can go to people in places like Indonesia and beyond and say, ‘We have something for you. We can get you into Australian waters and you’ll be taken into custody and you will get residency in Australia.’ That is the product they are selling. This government’s policy, to its shame, builds in a role for those people smugglers, it builds in a role for their product, and that is why we have seen this surge in boat arrivals. Do not insult the intelligence of Australians, senators opposite, by telling us that it is just a coincidence, that international push factors are causing this. Try changing your policy—and you know all about that; you are very good at changing your policy. Do not get too smug and complacent about what you are doing now, Senator Pratt. You could well be facing a backflip on this policy very soon.
You know very well that this policy is what is driving these boat arrivals and that is what needs to change.

Senator PRATT (Western Australia) (3.23 pm)—Senators opposite have argued using simplistic statistics. The peaks and troughs in boat arrivals fail to account for international people movements—movements of refugees driven by international movements of people. Referencing the Leader of the Senate’s answers to the Senate, what is most telling is that we are getting just a tiny fraction of those people who are seeking to flee countries in conflict. A tiny fraction of those people are making their way to our shores. Britain, Germany and France get tens of thousands of refugees. Are you saying they are weak on border protection? Is that what you are arguing? Britain, Germany and France are confronted with a significant problem.

Opposition senators interjecting—

Senator PRATT—I think you are trying to argue that they are weak. But they simple fact is that those countries and Australia recognise that, if those people are refugees, they deserve our protection. If they are vulnerable children who are refugees, they deserve our protection.

Opposition senators interjecting—

Senator PRATT—You want weak? Look at the number of people who arrived under Prime Minister Howard. This is not a rhetorical debate. It is about strong border protection. It is about this government’s proactive agenda on border protection. It has been about the deterrence of people smugglers. It has been about cooperation with our neighbours. It has been about working to resolve and improve the situation on the ground. It is why we have armed forces in Afghanistan and it is why when genuine refugees come to Australia seeking asylum they should be granted it.

Senator Brandis—What’s compassionate about letting women and children drown on the high seas?

Senator PRATT—Let us not talk about how many people have drowned under whose watch—shameful! Since taking office the Rudd government has implemented a big reform agenda, a necessary reform agenda, by dismantling the Pacific solution; abolishing unjust temporary protection visas; introducing fairer work rights and arrangements for asylum seekers in the community; increasing the size of Australia’s humanitarian program; introducing fairer arrangements for asylum seekers on Christmas Island, including independent review of decisions; providing access to migration advice; and abolishing the ineffective system of imposing charges upon immigration detainees.

I am proud of the values that this government has expressed in its immigration policies and its border protection policies—things like assisting Sri Lanka to resolve its conflict on the ground. There is no solution for any of us unless we can resolve the conflict on the ground. As I said, that is why we are in Afghanistan and it is why we are on the ground in Sri Lanka helping it through its period of transition as it rebuilds following two decades of terrible military conflict which we all saw intensify over the previous couple of years. Indeed, that conflict saw a big increase in the number of people seeking to flee Sri Lanka and in turn an increase in the number of people seeking to come to our shores.

I am pleased to say that progress is being made in tackling the challenging task of resettling hundreds of thousands of displaced citizens and rehabilitating their communities. This is important work and it is ultimately at the heart of the kinds of bipartisan solutions that this parliament should be looking for on the question of border protection and asylum...
seekers. I am tired of the politicking by those opposite. They seek to gain at the expense of ordinary people.

Senator CASH (Western Australia) (3.28 pm)—When Labor senators on the other side throw around statistics, they need to be very, very careful because statistics do not lie. Mr McClelland was asked in the parliament on 11 June: ‘How many children does the Labor Party currently have in detention behind bars?’ Do you know what the answer was? Was it higher than the 21 that were in detention when the coalition left office in 2007? Yes, it was. The answer was this: ‘Currently’—because the figure might have changed by the time he got back to his office—‘the Labor Party has 528 children behind bars.’ That is a complete failure of their border protection policies.

Despite its protestations, despite the hysterics coming from the other side and despite what it says are very tough words, the Labor Party does not have the moral ground when it comes to border protection. That is owned by the coalition, let me assure you. Under the soft approach to border protection employed by Mr Rudd, over 6,300 people have now risked their lives trying to get to this country. There is nothing humanitarian about implementing policies that encourage people, including women and children, to risk their lives to come to this country.

This is what the Labor Party does not want to tell the people of Australia and what it is afraid the people of Australia may find out: that under coalition governments Australia has a very strong and proud history of refugee resettlement. When the last coalition government was in power do you know how many refugees we resettled in Australia? We resettled in excess of 100,000 refugees and, when we get back into government shortly, we will continue to be committed to supporting Australia’s generous intake of refugees.

The major difference between us and those on the other side is that, for the betterment of this country and for the safety of women, children and families who may well seek to put their lives at risk, we believe in a fair and orderly immigration process for those coming to this country. What Mr Rudd again forgets to tell the people of Australia is that for every place that is given to a refugee who has come here unlawfully we have to say to those refugees who have done the right thing, ‘I’m sorry, mate, but someone else who did the wrong thing has taken your place in Australia.’

The coalition is very proud to stand by its commitment to priority being given to those who are offshore and who have done the right thing. Those who are in the United Nations refugee camps do not have US$10,000, US$15,000 or US$20,000 to pay to people smugglers, who, let us recall, Mr Rudd called the vilest form of human life. They do not have that money. They have nothing. They seek to do the right thing when coming to this country. Mr Rudd and the Labor Party are only interested in scoring cheap political points to deflect from their gross failure in border protection. There is no doubt that the boats will keep coming unless we elect a coalition government.

Question agreed to.

PERSONAL EXPLANATIONS

Senator CORMANN (Western Australia) (3.33 pm)—As I noted before, in accordance with standing order 191 I seek to explain statements I made yesterday about the so-called deal between NBN Co. and Telstra, as they were misquoted or misunderstood by Senator Conroy. Senator Conroy asserted that, in pointing out that there was no deal to deliver a national broadband network between NBN Co. and Telstra but just a deal to try to do a deal, I had somehow not only accused the government of putting spin above
substance but also by implication accused Telstra of trying to spin this announcement, which is not true at all. This is where I think Senator Conroy has clearly misunderstood or misquoted my statements yesterday. What I did yesterday was point out specific statements in Telstra’s letter—

The DEPUTY PRESIDENT—Senator Cormann, you cannot go on and repeat what you said yesterday; you can only say where you claim to have been misquoted or misunderstood.

Senator CORMANN—I claim that I have been misunderstood or misquoted by Senator Conroy in his assertion that I was accusing Telstra of trying to spin the announcement of a deal between NBN Co. and Telstra. What I did do was point out that Telstra, in its letter to shareholders, pointed out that there were still many complex issues to be resolved and there was no guarantee that it would progress to completion.

The DEPUTY PRESIDENT—You are now debating the issue. You cannot go any further than what you have already done.

NOTICES

Presentation

Senator Chris Evans to move on the next day of sitting:

That the Senate is of the view that the declaration of the opening of Parliament should be preceded by an Indigenous ‘Welcome to Country’ ceremony.

Senator Marshall to move on the next day of sitting:

That the Senate—

(a) notes the opening statement made by the President of Fair Work Australia on 1 June 2010 during his appearance at an estimates hearing of the Employment and Workplace Relations Legislation Committee;

(b) notes, in particular, the request made in that statement that the Senate reconsider its order of 28 October 2009 which requires that, on each occasion on which the Education, Employment and Workplace Relations Legislation Committee meets to consider estimates in relation to Fair Work Australia, the President of Fair Work Australia appear before the committee to answer questions; and

(c) modifies the order of 28 October 2009 by declaring that, while relaxing the requirement that the President of Fair Work Australia attend to answer questions on all occasions when the Education, Employment and Workplace Relations Legislation Committee meets to consider estimates in relation to Fair Work Australia, the Senate expects that the President will appear should his or her presence be requested by the Education, Employment and Workplace Relations Legislation Committee in the future.

Senator Cormann to move on the next day of sitting:

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

Senator Ryan to move on the next day of sitting:

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 26 August 2010:

The Ahead of the Game: Blueprint for the Reform of Australian Government Administration issued by the Advisory Group on Reform of Australian Government Administration in March 2010 and, in particular:

(a) the implementation of recommendations contained in the review, including means and costs of implementation;

(b) possible amendments to the Public Service Act 1999;

(c) identification and consideration of related matters not covered by the review; and

(d) any other related matter.
Senator Trood to move on the next day of sitting:

That, having regard to the report of the Foreign Affairs, Defence and Trade References Committee on parliamentary privilege and a possible interference in the work of the committee, the following matter be referred to the Committee of Privileges for inquiry and report by 2 September 2010:

The adequacy of advice contained in the Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters for officials considering participating in a parliamentary committee whether in a personal capacity or otherwise.

Senator Nash and Colbeck to move on the next day of sitting:

That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 22 November 2010:

(a) the adequacy of current biosecurity and quarantine arrangements, including resourcing;

(b) projected demand and resourcing requirements;

(c) progress toward achievement of reform of Australian Quarantine and Inspection Service export fees and charges;

(d) progress in implementation of the ‘Beale Review’ recommendations and their place in meeting projected biosecurity demand and resourcing; and

(e) any related matters.

Senator Siewert to move on Wednesday 23rd June 2010:

Senator Siewert to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Resources and Energy, by Thursday, 24 June 2010, the report of the Commission of Inquiry into the Montara oil spill.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) acknowledges that Sunday, 4 August 2010 is National Aboriginal and Islander Children’s Day;

(b) recognises that the theme for 2010 is ‘Value My Culture, Value Me’ which emphasises that Aboriginal and Torres Strait Islander children need to know they are loved and valued, and to have every opportunity to nurture and explore a healthy and strong sense of self and community; and

(c) embraces the message of ‘Value My Culture, Value Me’ by undertaking to promote new attitudes and forging a new pathway of understanding for the benefit of all Australians, build and improve relationships based on mutual respect, end disadvantage for Aboriginal and Torres Strait Islander children and families and create equality for all in the broader Australian community.

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

That the Senate—

(a) notes that the incompatibility of chargers for mobile phones is a major environmental problem that unnecessarily generates significant amounts of electronic waste;

(b) acknowledges that it is an inconvenience for Australian consumers to acquire a new charger and dispose of the current one each time they want to acquire a new phone;

(c) recognises that this problem can be fixed by the mobile phone industry working together to harmonise mobile phone chargers; and

(d) calls on the Government to legislate for the harmonisation of mobile phone chargers in agreement with the mobile phone industry, similar to the agreement that has been reached in Europe.
Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) a crisis is looming in the building industry with Vero exiting the last resort builders' home warranty insurance market in New South Wales by 30 September 2010 and in all other states by 30 June 2010 leaving only two providers in the market, QBE Insurance and Calliden,

(ii) this insurance product is mandatory by law in all states except Tasmania and Queensland,

(iii) thousands of Australian builders will be left without this insurance product on 30 June and 30 September 2010, respectively, requiring them to build illegally or to stop building immediately unless QBE Insurance provides insurance or there is government intervention within the next 8 days, and

(iv) small building firms will be disproportionately affected as they will not be as attractive to a virtual monopoly provider as large building firms; and

(b) calls on the Federal Government to act immediately with their state government counterparts to remove the mandatory requirement for this product before this impending crisis in the building industry occurs.

Withdrawal

Senator XENOPHON (South Australia) (3.37 pm)—I seek leave to make a short statement before withdrawing business of the Senate notice of motion No. 1 standing in my name for today.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator XENOPHON—For the information of senators, I gave notice yesterday for the disallowance of the entire set of the Aviation Transport Security Amendment Regulations. I will be moving that motion this afternoon. The new motion supersedes the narrower version I gave notice of last week, so I now withdraw that notice.

NOTICES

Presentation

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

That the Senate—

(a) notes the decline in koala populations around Australia;

(b) calls on the Government to have a public and transparent inquiry into the status, health and sustainability of Australia’s koala population; and

(c) in undertaking the inquiry, calls on the Government to consider the following matters:

(i) the iconic status of the koala and the history of its management,

(ii) knowledge of koala habitat,

(iii) threats to koala habitat such as logging, land clearing, poor management, attacks from feral and domestic animals, disease, roads and urban development,

(iv) the listing of the koala under the Environment Protection and Biodiversity Conservation Act 1999,

(v) the adequacy of the National Koala Conservation and Management Strategy,

(vi) appropriate future regulation for the protection of koala habitat,

(vii) interaction of state and federal laws and regulations, and

(viii) any related matters.

BUSINESS

Rearrangement

Senator PARRY (Tasmania) (3.40 pm)—I seek leave to move a motion relating to the consideration of government documents today.

Leave granted.
Senator PARRY—I move:

That—

(1) Consideration of government documents not be proceeded with today.

(2) The Wild Rivers (Environmental Management) Bill 2010 [No. 2] be considered under a limitation of time.

(3) On Tuesday, 22 June 2010, the bill have precedence over all other business from 6.50 pm.

(4) The time allotted for the remaining stages of the bill be until 7.15 pm on Tuesday, 22 June 2010.

(5) This order operate as an allocation of time under standing order 142.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.40 pm)—I indicated that we would oppose this matter. I still maintain my opposition but recognise that I do not have the numbers in the chamber, so I will not be calling a division in respect of it. I also recognise that it is preferable to losing a Wednesday morning; so it is best I say no more.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.41 pm)—This proposal is new to us. I expect the courtesy of the opposition consulting on an important matter like this at this stage of proceedings.

Senator Parry—I did, Bob.

Senator BOB BROWN—Regardless of what the honourable member has to say, it would have been appropriate for us to be told about this happening tonight. We presumably do not have the numbers to alter it, but I think it would have been more appropriate, if the issue is considered important, if better notice were given to the Senate than this ambush motion that we are facing now.

Senator PARRY (Tasmania) (3.42 pm)—Could I clarify a couple of comments made by Senator Brown and indicate the reasons. This matter was listed for tomorrow, and there was some suggestion that we would be taking up time tomorrow, an hour and a half of government time, although we were giving it back at the end of the week. If we did not debate this tonight or tomorrow, the matter would not have an opportunity to go to the House of Representatives and then be returned to us. There would not be time for the House of Representatives to consider the matter.

In relation to Senator Brown’s specific matters about lack of consultation, we did not realise this course of action was going to be open to us until just after question time. I did phone Senator Siewert. I understood that you were all in the party room. I was directed from Senator Siewert’s office to Senator Ludlam’s office. I spoke to Senator Ludlam’s office and got provisional agreement. I then spoke with Senator Ludlam when he arrived in the chamber a while ago. Senator Ludlam, in fairness, indicated he was not supportive of this taking place in any event but if it was a matter that was going to take place he would wish to speak to the motion. This is the only way we can fit this in this week and that is why we have done this. We gave the Greens as much advance warning as we gave the government and as we had ourselves. You will probably see that I have just hastily written out the notice of motion that I have just read to the chamber. With those words, we are assisting the government to facilitate their business time during the week and we want this to be debated. We understand that the Greens do not want it to be debated, but we gave them as much notice as possible about the intention to debate this matter this evening.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.44 pm)—To save a more complicated—

The DEPUTY PRESIDENT—Senator Brown, you need leave to speak again.
Senator BOB BROWN—Then I claim to be misrepresented.

The DEPUTY PRESIDENT—All right. If you claim to be misrepresented, where do you claim to be misrepresented?

Senator BOB BROWN—I have not said that we did not want this debate. I have opposed the process of ambushing the Senate in this way. Let us just clear the record on that. Senator Parry got it wrong.

Senator PARRY (Tasmania) (3.45 pm)—I seek leave to make a brief statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator PARRY—Senator Brown indicated that he had not been informed; he may not have been. The Greens were notified as soon as we possibly could; it was not an ambush in that sense. Then I had the courtesy to speak to Senator Ludlam about this also. So I wish to place that clearly on the record: it was not a nonconsultation; there was consultation with the Greens.

Senator LUDLAM (Western Australia) (3.45 pm)—I seek leave to make a short statement to clear the record.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDLAM—Senator Brown used the word ‘consultation’. Senator Parry, being told a couple of minutes before the vote is put that you have the numbers and that it is going to go ahead with or without us is not consultation, in my book. Regarding comments about not wanting the debate to be had, I will cover very fully in my comments, if and when this vote is put and the debate occurs, exactly why I believe the debate is occurring at the wrong time and for the wrong reasons. I will save those comments for then. Telling us that you have the numbers and that it is going to go ahead is not consultation, in my view.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Extension of Time

Senator PARRY (Tasmania) (3.47 pm)—by leave—I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on import restrictions on beef be extended to 23 June 2010.

Question agreed to.

NATIONAL INTEGRITY COMMISSIONER BILL 2010

First Reading

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.48 pm)—I move:

That the following bill be introduced: A Bill for an Act to establish the office of the National Integrity Commissioner, and for related purposes.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.48 pm)—I present the bill and move:

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

Leave granted.

The speech read as follows—

The National Integrity Commissioner Bill 2010 creates a national integrity and anti-corruption
commission through the establishment of the National Office of Integrity Commissioner, comprising three elements - the National Integrity Commission, the existing Australian Commission for Law Enforcement Integrity (ACLEI) and a new Office of the Independent Parliamentary Advisor. The National Integrity Commission is established as an independent statutory agency.

This Bill provides in a comprehensive legislative framework, a critical addition to the national integrity system through the establishment of a National Integrity Commission to enable the investigation and prevention of misconduct and corruption in all Commonwealth departments, agencies, federal parliamentarians and their staff. The Bill brings together and co-locates this function with the independent oversight functions of the Law Enforcement Integrity Commission for the investigation and prevention of corruption in the Australian Federal Police and the Australian Crimes Commission, thus creating an integrated federal approach to misconduct and corruption in the parliament and public service. Additionally the Bill establishes the role of the Independent Parliamentary Advisor with the purpose of preventing inadvertent misconduct and impropriety by parliamentarians, thereby promoting informed and ethical conduct.

There is currently no national anti-corruption agency with the powers or the jurisdiction to investigate claims of misconduct and corruption across the Federal Parliament or Commonwealth agencies. This is an essential component for the prevention of corruption and maintenance and promotion of integrity and ethical conduct in the toolkit of all jurisdictions. The argument that the existing agencies and mechanisms are sufficient or appropriate for fighting graft ignores the important role of prevention, the promotion of ethical conduct, and the integration of integrity systems across federal and state jurisdictions.

Prior to the establishment of the Commonwealth Law Enforcement Integrity Commissioner in 2006, there were calls that its role be extended beyond investigating and preventing corruption in federal law enforcement agencies. In particular, the federal police and lower House Independent, the late Peter Andrex, wanted it to be expanded to include politicians and public officials. These calls were not heeded but this Bill addresses that oversight.

The National Integrity Commission will operate in the federal jurisdiction and will not replace or over-ride state legislation. The Bill provides for the ACT and Northern Territory to contract the National Integrity Commission to operate in respect of their territories, in the same way that the Commonwealth Ombudsman acts as the ACT Ombudsman.

The national commission established by this Bill will complement the state-based anti-corruption commissions. The need to address corruption is evident in the fact that all Australian states, with the exception of South Australia, have established, or have committed to establishing, anti-corruption bodies with various powers and jurisdictions. Importantly they all include the power to investigate the activities of politicians. Victoria most recently announced the creation of the Victorian Integrity and Anti-Corruption Commission. In other states, anti-corruption commissions have been operating for decades - The Independent Commission Against Corruption in NSW was established in 1988; The Crime and Misconduct Commission in Queensland was established in 2001; The Corruption and Crime Commission in Western Australia was established in 2004 and The Integrity Commission in Tasmania established in 2009. The Commissions of New South Wales, Queensland and Western Australia have played a pivotal role in uncovering, investigation and prosecuting in landmark cases of corruption in these states. The evidence of the powerful and effective work of these bodies reinforces the necessity for a similar mechanism at the federal level of Australian politics.

The Bill provides a definition of “corrupt conduct" as including any conduct that:

- adversely affects the honest or impartial exercise of functions by the Parliament, a Commonwealth agency or public officials by any person;
- involves the dishonest exercise of functions by a public official;
- involves a breach of public trust by a public official;
- perverts the course of justice;
• involves the misuse of information or material by a public official.

It lists kinds of “corrupt conduct”, such as blackmail, bribery and fraud, for the purposes of adversely affecting the exercise of functions by the Parliament, a Commonwealth agency or public officials, and provides for retrospectivity in that the National Integrity Commissioner can investigate corrupt conduct that occurred before the commencement of the Bill or before a person became a public official or outside Australia. Importantly the Bill provides the capacity to investigate cases where corrupt conduct is foreseeable in the future making the National Integrity Commissioner’s role proactive in addressing corruption. Furthermore, it is clear in this Bill that investigations of corruption can be commenced even if the identity of the public official alleged to be engaging in corrupt conduct is unknown. This ensures that corruption issues cannot be ignored because the person concerned has not been identified at the outset.

The Bill sets out the specific functions and powers of the three component parts of the National Integrity Commission. The first is the National Integrity Commissioner. It is concerned with corruption in relation to public officials and Commonwealth agencies and has full investigative powers, including conducting public and private hearings and summoning any person or agency to produce documents and appear before the Commissioner. The provisions in the Bill in relation to the National Integrity Commissioner - including those dealing with corruption issues, conducting investigations, holding public inquiries, including powers requiring people to give evidence or produce documents, taking evidence at hearings, and applying for and executing search warrants - are based on similar provisions in the Law Enforcement Integrity Commissioner Act 2006.

The second component part deals with the Law Enforcement Integrity Commissioner. It is concerned with corruption in relation to national law enforcement agencies in accordance with the Law Enforcement Integrity Commissioner Act 2006 and has the functions and powers conferred under that Act.

Third component part of the Bill is the Independent Parliamentary Advisor. It is concerned with providing independent confidential written advice to ministers, parliamentarians, and former parliamentarians in relation to conflict of interest, ethics, proprietary and similar matters and providing advice on the development of codes of conduct. There are many instances where the rules or guidelines governing the conduct of federal parliamentarians are not clear or sufficiently detailed. Often the advice from relevant departments leaves it to the discretion of the politician. The lack of clarity and direction in these cases leaves parliamentarians unnecessarily vulnerable to inadvertent misconduct, with consequent serious penalties.

The Bill provides for written advice on such instances where the guidelines are unclear, or where claims of misconduct are made against a parliamentarian who has sought to follow the guidelines. The existence of such a body would help Australian federal parliamentarians to avoid the type of systemic misconduct seen recently in parliaments overseas as well an increase the ethical standing of federal parliamentarians generally.

This Bill provides the legislative framework for a comprehensive proactive and responsive national approach to corruption and misconduct. At a time when the Australian public are increasingly sceptical and mistrustful of its federal politicians and public servants, the National Integrity Commissioner Bill provides a bulwark against its concerns now and into the future.

I therefore commend this Bill to the Senate.

Senator BOB BROWN—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Education, Employment and Workplace Relations References Committee

Senator CORMANN (Western Australia) (3.49 pm) I move:

(1) That the Senate notes that:
(a) the Industry Skills Councils (ISCs) are independent, not for profit companies funded by the Federal Government to
fulfil various skills and training-related policy and program responsibilities;
(b) the Rudd Government has boosted public funding and scope for those ISCs significantly, including a:
(i) $83.2 million funding boost in 2008-09 increasing operational funding for ISCs under the 2008-2011 funding agreement to $118.9 million,
(ii) allocation of several hundred thousands of dollars in 2009 to the Construction and Property Services Industry Skills Council to develop the home insulation training package,
(iii) $40 million funding allocation in 2010-11 for the Enterprise Based Productivity Places Program,
(iv) $19.9 million funding allocation in 2010-11 for the Smarter Apprenticeships Program, and
(v) $2.3 million funding allocation in 2010-11 to revise and rewrite training packages as part of the National Green Skills Agreement;
(c) none of the funding is allocated by open competitive tender, with any competition limited to ISCs between each other for some of the government funding;
(d) it is unclear whether those ISCs are sufficiently representative of respective sectors of Australian industry; and
(e) nearly all the funding for ISCs is provided by the Federal Government, yet as ‘private companies’ they are not subject to the scrutiny of Senate estimates committees.
(2) That the following matters be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 30 September 2010:
(a) the role and effectiveness of Industry Skills Councils (ISCs) in the operation of the national training system particularly as it relates to states and territories and rural and regional Australia;
(b) accountability mechanisms in relation to Commonwealth funding for the general operation and specific projects and programs of each ISC;
(c) corporate governance arrangements of ISCs;
(d) Commonwealth Government processes to prioritise funding allocations across all ISCs;
(e) ISC network arrangements and cooperative mechanisms implemented between relevant boards;
(f) the accrual of accumulated surpluses from public funding over the life of each ISC’s operation and its use and purpose;
(g) the effectiveness of each ISC in implementing specific training initiatives, for example the Skills for Sustainability initiative under the National Green Skills Agreement; and
(h) any related matters.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (3.49 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—The ISCs were established by the previous government, who determined the number, industry coverage and other governance arrangements. Ten ISCs were originally created to cover all industry sectors. They are part of industry advisory arrangements that are independent of the government. They were established as private companies to ensure that they were at arm’s length from the government. This government continues to support this approach, as it sees the value in advice that is independent of government.

ISCs are subject to the same scrutiny as other organisations that are contracted to the Department of Education, Employment and Workplace Relations. The government has expanded the number of ISCs to 11 to improve the industry coverage, expanded their
role to include workforce development to support higher levels of direct engagement with industry and increased the scrutiny of ISCs through reporting arrangements to the department. Forty million dollars in EBPPP is not going to make ISCs; this is funding to upskill existing workers. ISCs are administering the program and receiving only a small facilitation fee. Arrangements for the Smarter Apprenticeships initiative are yet to be determined. ISCs are one of a number of organisations that may be eligible to access funding out of this program—$2.3 million from the National Green Skills Agreement must of course go to ISCs. This is to fund additional training package development, which is the core function of the ISCs. There is no evidence of the need for an inquiry of this nature.

Senator CORMANN (Western Australia) (3.51 pm)—I seek leave to make a brief statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator CORMANN—As the minister said, the Rudd government has significantly expanded the role and funding for these industry skills councils. They are private companies, and as such they are not directly subject to the scrutiny of the Senate—for example, through Senate estimates. As an example, there has been an $83.2 million funding boost in direct operational funding for industry skills councils as well as funding which may be administered and not totally be for industry skills councils, such as the $40 million funding allocation for the Enterprise Based Productivity Places Program; however, it is industry skills councils as private companies that are administering that funding on behalf of the Commonwealth. That is an allocation that is made outside any open, competitive tender, where all that is available by way of competitive attention is competition by several industry skills councils themselves.

Not wanting to pre-empt the finding of this inquiry, and given the lack of ability of Senate estimates to properly scrutinise the performance of these industry skills councils in the very important area of vocational education and training, we think that it is justified for the Senate Education, Employment and Workplace Relations References Committee to properly scrutinise the role and effectiveness of these industry skills councils, the accountability mechanisms that are in place and, of course, the corporate governance arrangements of ISCs. There are a lot of union officials on these industry skills councils and a lot of public funding accumulated by some of these industry skills councils. I think there is a need for some proper scrutiny to be applied by a Senate committee to ensure that the taxpayer is indeed getting proper value for money from the limited training dollars that are being invested by this government in those industry skills councils.

Senator O'BRIEN (Tasmania) (3.54 pm)—I seek leave to make a very brief statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator O'BRIEN—The government opposes this motion. We recognise that a majority in the chamber supports the motion and we will not be calling a division.

Question agreed to.

Community Affairs Legislation Committee Extension of Time

Senator O'BRIEN (Tasmania) (3.54 pm)—At the request of the Chair of the Community Affairs Legislation Committee, Senator Moore, I move:
That the time for the presentation of the report of the Community Affairs Legislation Committee on the Poker Machine (Reduced Losses—Interim Measures) Bill 2009 and the Protecting Problem Gamblers Bill 2009 be extended to 28 October 2010.

Question agreed to.

DOUBLE DISSOLUTION

Senator RONALDSON (Victoria) (3.55 pm)—I move:

That the Senate is of the view that, in the event of a simultaneous dissolution of both Houses under section 57 of the Constitution, the division of senators into two classes for the purposes of rotation should be in accordance with the results of a recount of the Senate vote under section 282 of the Commonwealth Electoral Act 1918 to determine the order of election of senators in each state.

Question agreed to.

MILLENNIUM DEVELOPMENT GOALS

Senator BARNETT (Tasmania) (3.55 pm)—I move:

That the Senate—

(a) welcomes the presence in Parliament House of more than 300 participants in the Micah Challenge Voices for Justice event, representing churches, schools and community groups in more than 80 electorates and from every state and territory;

(b) notes:

(i) the vital progress being made towards the Millennium Development Goals (MDGs), which aim to halve world poverty by 2015, seen through the reduction in child deaths from 12.5 million annually in 1990 to 8.8 million in 2008,

(ii) that while progress is being made, a number of the MDGs are still off track, particularly Goals 4 and 5, which relate to child and maternal health, and

(iii) the growing public support in the Australian community for the MDGs, demonstrated by more than 111,000 people who have signed the Micah call in support of the MDGs as part of the Micah Challenge campaign and an additional 40,000 people who recently signed the ‘Act to End Poverty’ with the Make Poverty History campaign;

(c) reaffirms:

(i) the commitment to the MDGs as important benchmarks for the global community to fight poverty, and

(ii) that all eight MDGs are achievable with the political will of the global community;

(d) recognises the United Nations Secretary-General Ban Ki-moon’s call to world leaders to attend the MDGs Review Summit in New York in September 2010, and the importance of this global meeting to measure progress and develop a clear action plan to achieve these MDGs within the remaining 5 years; and

(e) calls on the Government to make clear at the UN Summit, Australia’s ongoing commitment to the achievement of the MDGs by 2015.

Question agreed to.

TRANSITION TO RENEWABLE ENERGY

Senator MILNE (Tasmania) (3.56 pm)—I move:

That the Senate—

(a) notes that the Zero Carbon Australia Stationary Energy Plan released by Beyond Zero Emissions and the University of Melbourne shows:

(i) that it is technically possible for Australia to achieve 100 per cent renewable energy within a decade, and

(ii) that the technologies to achieve this goal, including baseload solar thermal energy with storage, are commercially available today;

(b) applauds the organisations involved for their vision and efforts; and
(c) calls on the Australian Government to direct the Department of Resources, Energy and Tourism and the Department of Climate Change and Energy Efficiency to undertake a similar study to examine the potential for a swift transition to 100 per cent renewable energy in Australia.

Question put.

The Senate divided. [4.00 pm]

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

A yes…………  6
Noes………… 43
Majority……… 37

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

NOES
Adams, J. Back, C.J.
Barnett, G. Bernardi, C.
Bilyk, C.L. Bishop, T.M.
Boswell, R.L.D. Boyce, S.
Brown, C.L. Bushby, D.C.
Cameron, D.N. Cormann, M.H.P.
Collins, J. Crossin, P.M.
Feeney, D. Farrell, D.E.
Fielding, S. Ferguson, A.B.
Forshaw, M.G. Fifield, M.P.
Humphries, G. Forshaw, M.G.
Hutchins, S.P. Furner, M.L.
Ludwig, J.W. Hurley, A.
Macdonald, I. Kang, G.
McEwen, A. Marshall, G.
Moore, C. McLucas, J.E.
Parry, S. O’Brien, K.W.K.
Pratt, C.C. Polley, H.
Ryan, S. M. Rylance, M.
Troeth, J.M. Sterle, G.
Wortley, D. Williams, J.R. *

* denotes teller

Question negatived.

MANDATORY VEHICLE FUEL EFFICIENCY STANDARDS

Senator MILNE (Tasmania) (4.04 pm)—

I move:

That the Senate—

(a) notes that:

(i) road transport amounts to 12 per cent of Australia’s total carbon dioxide emissions, and the largest source of these emissions was passenger cars,

(ii) more efficient cars would improve Australia’s energy security,

(iii) internationally, a number of states have adopted mandatory standards for vehicle fuel efficiency, for example Europe is in the process of legislating for a target of 130g CO2 per km by 2015,

(iv) the automotive industry accepted a voluntary target of 222g CO2 per kilometre by 2010 and that this target was met ahead of schedule, arguably with ‘business as usual’ improvements,

(v) the 2010-11 Budget cut $200 million from the Green Car Innovation Fund, which provides grants to automobile industries to encourage investment in efficient technology, a cut that was justified on the basis that demand for grants was lower than anticipated, and

(iv) in July 2009, the Council of Australian Governments requested that the Department of Infrastructure, Transport, Regional Development and Local Government produce a regulatory impact statement into a mandatory scheme for vehicle fuel efficiency and that this report was originally to be made public for consultation before the end of March 2010, but has still not been released; and

(b) calls on the Government to release the regulatory impact statement into a mandatory scheme for vehicle fuel efficiency and move to introduce mandatory fuel efficiency standards without further delay.
Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.04 pm)—Mr President, I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—In relation to greenhouse emissions, in 2009 the Council of Australian Governments accepted a joint report from the infrastructure and environment ministers on potential vehicle fuel efficiency measures that aim to improve fuel efficiency and reduce CO2 emissions from new vehicles. Those measures agreed by COAG are set out in the National Strategy on Energy Efficiency. The most significant recommendation relates to the consideration of mandatory CO2 emission standards for the light vehicles, a measure now being implemented in most major vehicle producing countries.

COAG requested the preparation of a regulatory impact statement to assess and compare the merits of introducing voluntary and mandatory CO2 emission standards for light vehicles in Australia. An experienced consultant has been engaged to manage the preparation of the RIS. The draft RIS is expected to be released for public comment when it is finalised shortly. This process will give relevant stakeholders input into the policy process and the RIS will then be finalised. This motion does pre-empt that process and on that basis it will not be supported.

Question put.

The Senate divided. [4.06 pm]

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

Ayes……………  6
Noes……………  42
Majority………  36

Question negatived.

WASTE MANAGEMENT STUDY

Order

Senator LUDLAM (Western Australia) (4.09 pm)—I move:

That there be laid on the table by the Minister representing the Minister for Environment Protection, Heritage and the Arts, no later than 9.30 pm on Thursday, 24 June 2010:

(a) the study by PricewaterhouseCoopers into estimating consumers’ willingness to pay for improvements in packaging and beverage container waste management; and

(b) the Australian Bureau of Agricultural and Resource Economics peer review of the study.

Question agreed to.

Senator O’BRIEN (Tasmania) (4.09 pm)—I seek leave to make a brief statement.
The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator O'BRIEN—The government opposes this motion. We recognise that it has the support of the majority in the chamber. We will not be calling a division.

VISIT OF THE VICE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA

Senator LUDLAM (Western Australia) (4.10 pm)—I move:

(a) welcomes Xi Jinping, Vice President of the Peoples’ Republic of China;
(b) acknowledges the continuing concerns of the Australian people over human rights in China and Tibet; and
(c) expresses its hopes for a productive visit, including a frank and wide-ranging dialogue on matters of concern to both China and Australia.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (4.10 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—The Australian government does not support this motion. As has been stated on previous occasions, the government objects to using formal motions to deal with complex international matters, particularly those involving other governments. The visit of the Vice President is indeed an important event in the Australia-China bilateral relationship. The Vice President has important responsibilities within China’s political structure and is likely to play an even more significant role in China’s leadership after the next congress of the Chinese Communist Party, scheduled for late 2012. The Australia-China bilateral relationship is a comprehensive and important one for both countries. It encompasses a range of mutual interests, which include substantial economic, political and strategic interests. It also encompasses issues where we have concerns.

The government raises those issues where there are differences of view, including those on human rights, and deals with them in a forthright and constructive manner through frank exchange and dialogue. Our concern over human rights issues in China, including in Tibet, were raised with the Vice President on Monday, I am advised, during his visit to Canberra. As the foreign affairs minister said yesterday:

A productive relationship with China, based on mutual interest and mutual respect, is unambiguously in Australia’s national interest.

The government are committed to advancing the full range of Australia’s national interests with China in every dimension, covering trade and investment, political dialogue, cooperation in regional and global affairs, strategic engagement, educational exchanges and cultural ties and including the views held by the Australian government and our community about political and developmental issues in China itself, but we do not support this motion, which is unbalanced in focusing on only one aspect of this important and multifaceted relationship.

Senator LUDLAM (Western Australia) (4.12 pm)—Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDLAM—Having heard those comments by the minister quite a number of times now, I would like to note that we were in quite constructive discussions with the minister’s office over these motions. Minister, it is not that you do not like foreign policy motions going through the chamber; the ones you do not like are the ones you do not like being dealt with in this fashion through the chamber. It is not appropriate to go into the details of why negotiations fell down, but...
suffice to say that had we been able to come to an agreement with the government they would have waved this through. I do not understand why it is that we are continually treated to this lecture about not wanting to deal with matters in this way.

What is it exactly about expressing ‘hopes for a productive visit, including a frank and wide-ranging dialogue on matters of concern to both China and Australia’ that is offensive to all the senators sitting on this side of the chamber? I simply do not understand it and I think in a way it signals the Australian government’s view that Chinese governments are somehow immature and not able to hear these kinds of comments or accept these points of view. Welcoming the Vice President of the People’s Republic of China in a motion is somehow a complex and nuanced foreign-policy position.

Part (b) of the motion ‘acknowledges the continuing concerns of the Australian people over human rights in China and Tibet’, which the minister has just stood up and told the chamber were actually raised with the Vice President when he was here. That is the entire motion, and for some reason we have the entire chamber, apart from the Greens and perhaps the crossbenchers, about to vote against a motion that is no more or less than a statement of the obvious, welcoming the Vice President to Australia. It is somewhat unbelievable that the Australian government does not see fit simply to allow this motion to proceed. I should alert the Senate that I have another, similar motion.

Senator Bob Brown—Mr Deputy President, I seek leave to make a short statement as well.

Leave not granted.

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

The Senate divided. [4.16 pm]
and his work in promoting inter-religious understanding;

(c) acknowledges the Dalai Lama’s Nobel Peace Prize awarded in 1989, his US Congressional Gold Medal in 2007 and the many other awards and honours presented for his wide-ranging work in advocating peace, non-violence, inter-religious understanding, universal responsibility and compassion; and

(d) expresses its hopes for a peacefully negotiated settlement between the Tibetan people and the People’s Republic of China.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.19 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—The Australian government does not support this motion. As has been stated just recently, the government objects to using formal motions to deal with complex international matters, particularly those involving other governments. The Dalai Lama is a significant religious leader and Nobel prize laureate. He has visited Australia in this capacity on several occasions. Successive Australian governments have consistently adhered to a one-China policy. We recognise China’s sovereignty over Tibet and China’s territorial integrity. The Australian government does not recognise the Tibetan government in exile as a government. The government considers that the key to a comprehensive and durable solution to problems in Tibet lies in continued negotiations between representatives of his Holiness and China conducted sincerely and in good faith. We do not believe that either the Australian government’s careful management of the complex and important relationship with China or progress on sensitive Tibetan issues will be materially assisted by this motion.

Senator LUDLAM (Western Australia) (4.20 pm)—I seek leave to make a very brief statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDLAM—The Senate is about to vote on congratulating his Holiness the Dalai Lama on celebrating his 75th birthday. That is a complex foreign policy matter if ever I heard one! I did not hear anything in the minister’s statement that contradicts what is in this motion. Nothing that is in this motion contradicts Australian government foreign policy, as far as I am aware, expressing our hopes for a peacefully negotiated settlement between the Tibetan people and the People’s Republic of China. There is nothing at all in this motion that contradicts my knowledge Australian government foreign policy or indeed the foreign policy of the opposition. So why are senators lined up to vote it down? This has happened three or four times in a row and I am absolutely at a loss to explain why it is.

I take the minister’s point that we do not want to send the wrong signals to the international community by just knocking through motions like this. What kind of signal does it send to vote against a motion expressing hopes for a peacefully negotiated settlement between the Tibetan people and the People’s Republic of China? That to me is rather more awkward than either negotiating with the Australian Greens on the wording of the motion, which we are always happy to do, or simply voting for it. I do not understand quite how it is that senators and members from both of the old parties can stand up and have their photos taken with the Dalai Lama when he comes to Australia and yet sit on this side of the chamber and vote against something like congratulating him on his 75th birthday. I leave it there because I
think senators are well aware of where I am going.

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

The Senate divided. [4.23 pm]

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

Ayes…………. 5
Noes…………. 38
Majority………. 33

AYES

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

NOES

Adams, J. Back, C.J.
Barnett, G. Bernardi, C.
Bilyk, C.L. Bishop, T.M.
Boyce, S. Brown, C.L.
Cameron, D.N. Collins, J.
Cormann, M.H.P. Crossin, P.M.
Farrell, D.E. Feeney, D.
Ferguson, A.B. Fielding, S.
Fifield, M.P. Furner, M.L.
Hurley, A. Hutchins, S.P.
Kroger, H. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
Marshall, G. McEwen, A.
McLucas, J.E. Moore, C.
O’Brien, K.W.K. * Parry, S.
Polley, H. Pratt, L.C.
Ronaldson, M. Ryan, S.M.
Sterle, G. Troughton, J.M.
Williams, J.R. Wortley, D.

* denotes teller

Question negatived.

CONTRIBUTION OF REFUGEES TO AUSTRALIAN SOCIETY

Senator HANSON-YOUNG (South Australia) (4.26 pm)—I seek leave to amend general business notice of motion No. 830 standing in my name.

Leave granted.

Senator HANSON-YOUNG—I move the motion as amended:
That the Senate—

(a) notes:
(i) the recent survey conducted by the Australian Red Cross on community attitudes towards asylum seekers and refugees, and
(ii) that this survey found that 67 per cent agreed that refugees have made a positive contribution to Australian society, while 83 per cent agreed that people fleeing persecution should be able to seek protection in another country;

(b) recognises that an overwhelming majority of asylum seekers that arrive by boat have historically been found to be genuine refugees; and

(c) calls on all sides of politics to recognise the positive contribution that refugees have made and continue to make to the diversity of our nation.

Senator O’BRIEN (Tasmania) (4.26 pm)—by leave—The government will support this motion provided that paragraph (b) reads: ‘recognises that an overwhelming majority of asylum seekers that arrive by boat have historically been found to be genuine refugees’. I have not seen the motion as circulated.

Senator HANSON-YOUNG (South Australia) (4.26 pm)—Yes, the terms read out by Senator O’Brien are correct. My understanding is that it was given to the whip’s office.

Senator O’Brien—Yes, it was, but it was not circulated in the chamber.

Question agreed to.

WATER SUPPLY FOR ADELAIDE

Senator HANSON-YOUNG (South Australia) (4.27 pm)—I move:
That the Senate—

(a) notes that:
(i) there is significant opportunity for investment in stormwater harvesting and
water efficiency, yet Adelaide remains reliant on the Murray River for its water supply; and

(ii) the Minister for Climate Change, Energy Efficiency and Water (Senator Wong) has demanded an environmental dividend to reduce Adelaide’s reliance on the Murray River, in exchange for Federal Government funding for a range of urban water projects; and

(b) calls on the Federal Government to work with the South Australian Government to wean Adelaide off the Murray River for the long-term sustainability of the river system.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.27 pm)—by leave—The Australian government does not support this motion. For the interest of Senator Hanson-Young, the Australian government has to date committed over $123 million in funding in support of 35 individual stormwater harvesting projects in South Australia with the capacity to offset over 33 billion litres of Adelaide’s annual drinking water needs. The Australian government is working very closely with the South Australian government to reduce Adelaide’s reliance on the River Murray through investments in desalination, recycling and stormwater harvesting. All up, the Australian government is investing over $554 million for a range of urban water security projects in South Australia, projects that will provide over 150 billion litres in new water supplies whilst also helping to take pressure off the River Murray and deliver benefits to the river and Lower Lakes. I thank the Senate.

Senator HANSON-YOUNG (South Australia) (4.29 pm)—Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator HANSON-YOUNG—I thank the minister for giving an explanation. It is a pity the Minister for Climate Change, Energy Efficiency and Water was not able to be here, because this motion is directly based on comments that she has made publicly, and they have been published on the front page of Adelaide’s Sunday Mail. I am surprised that she can tell the South Australian media one thing but the Australian Senate another. I am very disappointed that the Labor Party are not supporting this motion.

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

The Senate divided. [4.30 pm]

(AB Ferguson)

Ayes............. 5
Noes............. 35
Majority........ 30

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

NOES

* denotes teller

Question negatived.
Senator Birmingham—I seek leave of the chamber to make a brief statement.

Leave not granted.

COMMITTEES
Community Affairs References Committee
Extension of Time
Senator SIEWERT (Western Australia) (4.33 pm)—I move:
That the time for the presentation of the report of the Community Affairs References Committee on new therapeutic groups under the Pharmaceutical Benefits Scheme be extended to 26 August 2010.

Question agreed to.

GOVERNMENT ADVERTISING
Order
Senator RONALDSON (Victoria) (4.34 pm)—I move:
That there be laid on the table by the Special Minister of State and Cabinet Secretary, no later than 2 pm on 23 June 2010, a copy of the draft:
(a) letter to the Treasurer; and (b) statement to Parliament, both of which were prepared by the Department of Finance and Deregulation, and provided to the Minister on 14 May 2010, and which relate to the request from the Treasurer, of 10 May 2010, for an exemption from the Guidelines on Information and Advertising Campaigns by Australian Government Departments and Agencies for the proposed advertising campaign relating to the Government’s tax reforms.

Senator O’BRIEN (Tasmania) (4.34 pm)—by leave—The government opposes this motion. We recognise that it has a majority in the chamber. We will not be calling a division.

Question agreed to.

MOTOR NEURONE DISEASE
Senator BARNETT (Tasmania) (4.34 pm)—I move:
That the Senate—

(a) notes that:
(i) motor neurone disease (MND) Global Day on 21 June 2010 represents an important opportunity to acknowledge those around the world affected by MND,
(ii) in Australia alone, more than 1,400 people have MND and the disease takes the life of more than 10 Australians every week,
(iii) there is no known cause in 90 per cent of cases, no cure and no effective treatment for MND, and
(iv) the most pressing need for those affected by MND and their families includes easy and timely access to appropriate care and support, including access to aids, equipment and assistance with basic daily living such as mobility, communication, feeding and breathing to maintain independence and quality of life; and
(b) calls on the Government to continue its funding for MND research and improving health and disability services for all those affected.

Question agreed to.

COMMITTEES
Environment, Communications and the Arts References Committee
Extension of Time
Senator PARRY (Tasmania) (4.35 pm)—At the request of Senator Fisher, I move:
That the time for the presentation of the final report of the Environment, Communications and the Arts References Committee on the Energy Efficient Homes Package be extended to 24 June 2010.

Question agreed to.

Reform of the Australian Federation Committee
Extension of Time
Senator PARRY (Tasmania) (4.35 pm)—At the request of Senator Trood, I move:
That the time for the presentation of the report of the Select Committee on the Reform of the Australian Federation be extended to 17 November 2010.

Question agreed to.

**Agricultural and Related Industries Committee**

**Extension of Time**

_Senator PARRY_ (Tasmania) (4.36 pm)—At the request of Senator Heffernan, I move:

That the time for the presentation of the report of the Select Committee on Agricultural and Related Industries on the incidence and severity of bushfires across Australia be extended to 13 August 2010.

Question agreed to.

**ENERGY EFFICIENT HOMES PACKAGE**

**Order**

_Senator PARRY_ (Tasmania) (4.36 pm)—At the request of Senator Birmingham, I move:

That there be laid on the table by the Minister representing the Prime Minister, no later than noon on 23 June 2010, a copy of the report prepared by the Energy Efficiency task force and provided to the Prime Minister in September 2008, as confirmed by the Department of the Prime Minister and Cabinet in response to a question taken on notice on 25 March 2010 and received on 19 April 2010 by the Environment, Communications and the Arts References Committee’s as the answer to Question 3 in its inquiry into the Energy Efficient Homes Package.

_Senator O'BRIEN_ (Tasmania) (4.37 pm)—by leave—The government opposes this motion. We recognise the motion has a majority in the chamber and we will not be calling a division.

Question agreed to.

**NOTICES**

**Withdrawal**

_Senator PARRY_ (Tasmania) (4.37 pm)—Mr Deputy President, I withdraw general business notice of motion No. 840 standing in my name.

**MATTERS OF PUBLIC IMPORTANCE**

**Government Advertising**

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

The Labor government’s decision to spend $38 million on advertising their proposed new Super Tax.

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

_More than the number of senators required by the standing orders having risen in their places—_

_The DEPUTY PRESIDENT_—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

_Senator RONALDSON_ (Victoria) (4.38 pm)—To put this debate in some context I will read two quotes. In 2007, prior to the federal election, Kevin Rudd said that government advertising was:

… a sick cancer within our system. It’s a cancer on democracy.

Another quote from the Prime Minister, in November 2007 at a doorstop press conference, was:

I can guarantee that we will have a process in place, run by the Auditor-General ... In terms of establishing the office of the Auditor-General, with clear cut guidelines to whom every television campaign is submitted for approval before that television campaign is implemented, you have my absolute 100 per cent guarantee that that will occur—100 per cent guarantee. And each one of you here can hold me accountable for that.
This is a broken pre-election promise from a man who described advertising as ‘a sick cancer within our system’ and ‘a cancer on democracy’.

In the time available to me I want to very quickly talk about the legacy of this government in the context of the resource super profits tax advertising campaign. If you look through this government’s 2½-year legacy you will see that it simply does not deserve to be re-elected. Let us go through some of these matters. There are the obvious ones, such as: $100 million a day borrowed to fund poor economic management; a budget deficit of $60 billion; house fires and tragic deaths from its failed Home Insulation Program; the Building the Education Revolution debacle—$1.5 billion over budget and $5 billion wasted; and an illegal immigrant program in tatters with illegal immigrants arriving in their thousands and no slowdown in the activities of people smugglers. They are the obvious, in-your-face matters for this government. Under the surface bubbles a lack of transparency and a lack of openness that will define this government and in my view will ultimately lead to its quite rightful downfall.

I want to go on to the question of government advertising. I want to talk about the changes that were made by this government. I remind honourable senators of the context that I gave this debate and the context of the Prime Minister’s comments. I want to reacquaint honourable senators with the changes that were made in relation to exemptions to advertising campaigns. Under the Auditor-General, as we know, the guidelines for the use of this exemption by the minister were for ‘national emergency, extreme urgency or other extraordinary reasons’. After having reinforced and put in place proposals in relation to government advertising and the Auditor-General in 2008, this government changed those rules this year. They put in place weakened guidelines, according to the Auditor-General and also, interestingly, the man who reviewed these guidelines, recommended the changes and—remarkably—is ultimately making the decisions. But that is another matter. In his testimony to the Joint Committee of Public Accounts and Audit last week, Mr Allan Hawke noted that when he was reviewing the 2008 guidelines he felt that the ‘extraordinary reasons’ in the exemption provision did not take into account the historical position of the Australian Electoral Commission. Historically, although it is an FMA Act agency, the Australian Electoral Commission has traditionally been exempted from having to go through external vetting processes. So rather than creating another specific exemption, Mr Hawke recommended a change in the general exemption provision. That was replicated in the new guidelines—the 2010 guidelines—which then changed the reasons for an exemption to ‘national emergency, extreme urgency or other compelling reasons’.

That there was a change from ‘extraordinary reasons’ to ‘compelling reasons’ was not in any way justified by the government. There is no definition of ‘compelling reasons’. As I said, the Auditor-General has constantly stated that these changes represented a softening of the guidelines and, notably, Dr Hawke has subsequently stated that it was not his intention to have such advertising as the mining tax campaign encapsulated in the compelling reasons rule. The man himself who recommended these changes was only assuming that they would be changed to allow the continuation of the AEC’s previous exemption from external review.

I just want to give an exchange during that committee meeting:
Mr GEORGIOU—… Did you envisage that an advertising campaign on mining and promoting the government’s position on mining was of the same order or the same quality?
Dr Hawke—I did not, no.

... ... ...

Mr GEORGIOU—... Did you anticipate that your notion of ‘compelling’ would be as elastic as to embrace an advertising campaign designed to combat the so-called misinformation by the mining lobby?

Dr Hawke—... I did not anticipate that this might be used in the way it has ...

That is from the mouth of the man who was responsible for changing these rules. He has said that this duplicitous government has actually bent his expectations of the change in the rule.

In the time left open to me, I will turn to the very interesting part—the events of two weeks ago. As we know, the government’s new committee looked at this so-called mining tax advertising campaign once—on 21 April. They met once in relation to this and there was no mention at all of the likelihood of the ministerial intervention by way of an exemption. Two days before the Treasurer wrote a letter to Senator Ludwig, there had been two advertisements in the West Australian. There was no other paid advertising from anyone in relation to the mining tax. But, despite that, the Treasurer wrote to the minister on the back of urgency or compelling reasons. So we got evidence at the Senate Standing Committee on Finance and Public Administration last week, not evidence given during Senate estimates, that indeed the minister had signed a letter on 24 May granting the exemption that the minister had received from his department on 14 May—a brief containing draft letters to the Treasurer and a draft statement of reasons to accompany it which should have been tabled with the parliament. That was Monday, 24 May.

The Senate Standing Committee on Finance and Public Administration made a decision to hold the question of government advertising over to the Thursday morning. The minister was sitting at the table with these officials for at least 1½ days, and one presumably would have thought that at that stage he had advised them. We then learnt that the department themselves were only advised on the Thursday afternoon that the minister had made this decision and parliament was only advised on the 28th. Now there is only one reason for this. There is only one reason why this minister would have failed to tell his departmental officials. There is only one reason why this minister would have failed to tell the parliament and those who were attending Senate estimates: it was a complete and utter cover-up. The fix in relation to this exemption was on from 14 May. The fix was on on 24 May when the letter was signed, and the fix was really on when there was no mention of it until the following Friday—after Senate estimates in relation to this matter had finished. This is a government that no longer deserves government. It is a government where Operation Sunlight has been completely and utterly thrown out the window—where there is no accountability for the minister, the Prime Minister or the Treasurer, and no accountability whatsoever in relation to the activities of a government that does not deserve re-election. (Time expired)

Senator JACINTA COLLINS (Victoria) (4.49 pm)—There is no question that the issues associated with political advertising are very important, but it is about time that the opposition, and in particular Senator Ronaldson, put away its confected outrage. Today’s contribution, verballing Dr Hawke as referring to ‘this duplicitous government’, is starting to get quite ridiculous. After about three minutes he did get to the substance of the motion but, in his reference in his introduction to Mr Rudd’s comments, he again faded well away from the truth. Yes, what occurred under the Howard government—which I will elaborate on later if I have suffi-
cient time—was a sick cancer on democracy and, yes, we honoured our election commitments, but it is about time this opposition stopped hiding behind the independent review that occurred to try to claim we have not met our commitments on transparency and on political advertising.

Let us look at what Senator Ronaldson does not say. He does not say that in Senate estimates the Auditor-General, Ian McPhee, indicated very clearly that, in his view, the framework we have in place under the current guidelines—despite his concerns with those revised guidelines undertaken as a result of an independent review by Dr Hawke—is a significant improvement. There is no qualification and no moving away from it; it is a significant improvement. So what seems to be happening here is that, where the Rudd government acts and then responds to changed circumstances, this opposition continues to try to argue that original commitments have not been met. And let us just deal with the issue about changed circumstances, because that was also referred to in the opposition’s dissenting report into the Greens bill that we have also dealt with on this matter. In fact, quite a bit of attention was paid to the issue of the role of the Auditor-General in the advertising guidelines and, in fact, the change that occurred was your policy.

So on the one hand the opposition have one of very few limited positions or policies—and we have accommodated the concerns that have been raised not only by the opposition but by the independent review—and now they try to claim that we are not meeting our election commitments! I am sorry, Senator Ronaldson, but you cannot have it both ways. Senator Abetz will be following me with his contribution. We will hear him too try to have it both ways as we look at some of the detail about what did not occur under the Howard government and what he will try to justify now. Again, when I looked at the coalition senators’ response to the report of our Senate committee inquiry into the Greens bill on political advertising, it had a very interesting historical discussion. Senator Ronaldson talked about the fact that he wanted to reacquaint the Senate with this. Well, I think he ought to reacquaint some of his own senators with what happened under the 11½ years of the Howard government in this area.

The introduction to the coalition senators’ report refers to the fact that in 1998 the Auditor-General issued a set of draft guidelines for government advertising. This was not in response to the Howard government—and the Howard government continued to ignore them; they were ignored for the full period of the Howard government. However, the coalition senators seem to think that in this little historical discussion they can avoid addressing what they ignored for so many years. They go on to say that these guidelines were the subject of a review of the Joint Committee of Public Accounts and Audit in 2000—but still no action by the Howard government—and that they were further revised in 2008 as government policy and revised again in March 2010. Well, that is the whole point: it took until 2008 until there was any government policy. Before that time, there was an enormous level of government expenditure on advertising—and it was completely unjustified, completely unreported and hidden.

One of the first things the Rudd government did was to abolish the Ministerial Committee for Government Communications and the Government Communications Unit in the Department of the Prime Minister and Cabinet. This, of course, was the body that Senator Abetz chaired when he was the Special Minister of State, when government politicians and staff ran the government’s advertising. So it will be very interesting to hear how he justifies his activities during that
period and indeed the present lack of any policy from the coalition on this matter.

I want to try and capture a brief summary of what occurred in the Howard government years. I need to pay tribute to Jason Koutsoukis, who in a piece on 2 September 2007 elaborated on the Howard government’s record on political advertising. He said:

Prime Minister John Howard has spent nearly $2 billion on government advertising and information campaigns since coming to power 11 years ago—

And this is possibly why Senator Joyce is confused about ‘millions’ and ‘billions’—

A Sunday Age investigation has found that just weeks from calling an election—

Remember, this is 2007—

the government has 18 advertising campaigns on the air …

Eighteen campaigns! He continued:

The Sunday Age investigation has also shown that since the last election in 2004, Mr Howard has spent a record $854 million of taxpayers’ money on government advertising.

The record spending comes despite Mr Howard being elected on a pledge to cut it back.

In 1995, Mr Howard promised that if elected he would instruct the Commonwealth Auditor-General to draw up guidelines on appropriate use of taxpayers’ money for advertising. “There is clearly a massive difference between necessary government information for the community and blatant government electoral propaganda,” Mr Howard said at the time. “Propaganda should be paid for by political parties.”

Despite 11½ years in power, Mr Howard never instructed the Australian National Audit Office to inquire into government advertising. According to Melbourne University academic Sally Young, the author of Government Communication in Australia, the Howard Government’s spending on advertising is among the highest per head in the world. “It’s up there with only a few other countries,” she said.

This puts some broader context around the comments made by Senator Ludwig in question time today. The Rudd government’s expenditure in this area last year was one-third of the Howard government’s expenditure in 2007, and in 2009 it was one-half. The comparison is very stark and speaks for itself.

In my remaining time let me address the RSPT issues and the exemption matters. As Senator Ludwig highlighted, we make no apology whatsoever for defending the national economic interest against the scare campaign from some companies and from those opposite. This scare campaign could damage the economy and hurt working families, whom we strove so desperately to protect against the global financial crisis with a stimulus package. Do not forget that every government that has substantially reformed the tax system has engaged in a public information campaign, including those opposite—look at their advertising expenditure on the GST.

But let us go to the facts of this particular matter. We announced our tax package on 2 May and this campaign was funded in the budget on 11 May. Let us have a look at what happened, though, between those dates. One miner said his company was in trouble, but then he bought a million shares in it with his own money. Of course, we need to remind ourselves about Mr Peter Dutton’s own investments contrary to the complaints of the opposition. At the same time, Rio Tinto put a story in the paper about closing down all their projects and then rushed out a correcting statement before markets opened. And Mr Palmer claimed that he cancelled a South Australian project that did not even exist. This is why Mr Swan asked Senator Ludwig to allow us to bring the planned campaign forward—not to exempt it from scrutiny—

(Time expired)
Senator ABETZ (Tasmania) (4.59 pm)—
Federal Labor has reached a new low. Having promised so much and delivered so little, its backflip to run an unconscionable taxpayer-funded misinformation campaign is another example in the long list of broken Labor promises. To add insult to injury and like with so much else they do, Labor has not only embarked on a $38 million taxpayer-funded propaganda campaign but also rushed it and not consulted. Remember throughout all this that Mr Rudd gave this solemn commitment: government advertising was a cancer on the body politic of Australia that needed surgical removal.

So rushed was its desire for a taxpayer-funded campaign, Labor—through its Special Minister of State—crashed through and ignored its very own pathetically weak guidelines by invoking emergency powers. That is bad enough in itself. But—oh, what a tangled web we weave—having disingenuously claimed urgency and emergency, Labor then withheld this decision wilfully and deliberately from the parliament in an attempt to avoid the scrutiny of Senate estimates process.

Under Labor’s own weak rules, any decision by the Special Minister of State to bypass due process for advertising campaigns needs to be explained by a tabling statement to the parliament. Mr Swan asked for the exemption on 10 May. By 14 May the Special Minister of State had prepared for him a draft letter and a tabling statement. Yet the tabling statement was not tabled until 28 May, the very day after Senate estimates for the Special Minister of State had finished. It was just a coincidence, just serendipitous, according to Labor. In fact, the Treasurer was told a full four days earlier in an extensive two-page letter. Why not just table the letter to the Treasurer as the Special Minister of State’s reasons? It would have been pretty simple.

According to Senator Ludwig at the reconvened Senate estimates hearing forced upon him by the Senate, the letter was not tabled because he was ‘preparing the tabling statement’. When asked later whether he had been provided with a draft tabling statement, the minister said, ‘No, my office and I prepared the tabling statement.’ The minister was asked again, ‘There was no draft from the department?’ The department then intervened and exposed the attempted cover-up by confirming that there was a draft. So the minister did not prepare the statement—he may have finalised it but he did not draft it from scratch. Even more devastating for the hapless minister was when he said to the committee:

… I wanted to not just simply rubber-stamp the department’s draft statement but read it, reflect on it and then decide on what I should say in it. After all, it is my signature at the bottom of the page.

Let us examine this excuse and thereby expose it. Firstly, we were told the minister could not prepare the tabling statement because ‘it was estimates’, but that was before we found out he got the draft on 14 May. Estimates started on 24 May, so the minister had a full 10 days before estimates to consider his tabling statement. Secondly, when listening to the minister you would have thought his tabling statement was a like a High Court decision where the judge says how he has decided the case and will publish reasons later. The only problem was that his tabling statement was even shorter and contained even less information than his letter to the Treasurer. Thirdly, the copy of the tabling statement does not even bear the signature of the minister, which he said he had signed. So on top of his brief is this minister—oh, what a tangled web we weave.

The minister has got himself into a terrible mess. We are to believe that it took all of the minister’s mental acuity and unbridled intellect over 10 days to condense his own letter
to the Treasurer into the statement to the parliament from 459 words and nine paragraphs into 180 words and seven paragraphs. Step aside, members of Mensa, and let Senator Ludwig through so we can give full acknowledgement to this unparalleled intellectual giant. This nation should be oh so thankful that we have such a gifted minister who can distil nine paragraphs into seven paragraphs in only 10 days. What wonderful intellectual prowess!

Just look at paragraph 2 of both the letter and the statement to get the full import of this expenditure of intellectual gravitas. First of all, in paragraph 2 of the letter the minister said:

In my capacity as Cabinet Secretary responsible for the guidelines, I can exempt advertising campaigns on the basis of national emergency, extreme urgency or other compelling reasons.

In just 10 days, and after harnessing all his intellectual fortitude, the minister was able to distil that paragraph into this:

As Cabinet Secretary, the campaign framework provides that I may exempt a campaign from compliance with the guidelines on the basis of a national emergency, extreme urgency or other compelling reason.

Can you imagine the mental anguish the minister went through to reflect and decide on how to make those wonderful changes? This is just sheer brilliance personified in none other than the Special Minister of State himself. This minister has a choice: he has either an intellectual deficit or an integrity deficit. I suspect no-one believes the minister’s explanation on pages 17 and 18 of the Hansard:

As I said in answer to your question, having written a letter to the Treasurer on 24 May and provided the reasons therein, I wanted to not just simply rubber-stamp the department’s draft statement but read it, reflect on it and then decide on what I should say in it. After all, it is my signature at the bottom of the page.

The tabled statement is shorter and provides even less explanation than the letter to the Treasurer. If it genuinely is the case that the minister needed 10 days from the draft, or even four days from the letter to the draft, he should not be the minister.

The reason for the delay in tabling was very simply a cynical attempt to avoid the scrutiny of this parliament. If you analyse this excuse that the minister needed to read, reflect and decide on what he should say, and then compare the letter to the Treasurer and his tabling statement, you will see that the statement is word for word but just a condensation of it. No extra reasons, no extra rationale, and no extra thought power went into this, and that is why the minister’s explanation falls so very, very hollow. And it provides the explanation to this parliament and to the Australian people why the tabling of this statement was deliberately withheld until the Senate estimates for the Special Minister of State were over. There was no reason that the minister needed four days—or, indeed 10 days—to redraft this statement. A junior in his office could have undertaken the task.

As I said before, this minister either has a huge intellectual deficit, if he claims that it did take him 10 days and a lot of thought and intellectual grunt to come to this statement, or there is a deficit in his explanation to this parliament; I fear the latter. The Labor Party, the Prime Minister and this Special Minister of State stand condemned.

Senator FURNER (Queensland) (5.09 pm)—I rise today to again defend the state of Queensland and the $2 million worth of infrastructure funding that the resource super profits tax will bring to Queensland’s roads, rails and ports and to dispel the myth of Senator Parry’s MPI about ‘the Labor government’s decision to spend $38 million advertising their proposed new super tax’.
I find it entertaining that the opposition have the nerve to stand up in this chamber and make comments about the government’s consultation processes. On the one hand, if we do not make the public aware of our policies they say there is a lack of consultation. On the other hand, when we do share our information with our valued constituents, they say we are wasting taxpayer funds. I find that amazing, coming from a Liberal Party which spent $254 million in 2007 alone on their election campaign and an amazing $420 million to explain the GST in 2000. To put that into perspective, that is $420 million spent on explaining their GST as opposed to $38 million the government has approved for explaining our RSPT. The Howard government also spent $121 million of taxpayer funds to advertise Work Choices, a policy which hurt our working families and enabled employers to dismiss employees without a valid reason, to strip conditions from the award system, to place employees on woeful individual contracts, and the list goes on.

The Rudd government cares about our working families and how taxpayer funds are spent, and that is why we have cut expenditure on government advertising. In fact, in 2008 we spent a third of the amount that the Howard government spent in 2007. In 2009 we spent less than half the amount that the Howard government spent in 2007. We introduced guidelines on how taxpayer funds should be spent and principles as to how materials can be presented. These guidelines make sure that government advertising is authorised, properly targeted and non-political. This initiative is a far cry from the Howard government’s handling of their campaign funds, which did not have this type of scrutiny. When the opposition were in government they were able to produce campaign material which unashamedly endorsed the Liberal Party, and the ministers themselves approved campaigns.

This government makes no apologies for defending the future prosperity of this nation against a massive scare campaign funded by some companies and mining magnates like LNP funder Clive Palmer. By bringing this up in the chamber today, it shows that the opposition’s puppet strings are being pulled by Mr Palmer. It shows that they care more about their next campaign funding than the national economic interest. The opposition do not care that the RSPT will help working Australians increase the amount of money they will be retiring with, that it will provide vital infrastructure for our mining states and that it will provide a tax break for small businesses and an instant write-off on assets worth less than $5,000. In fact, representatives from the mining industry have acknowledged that they can pay more tax. On 3 June the Minister for Resources and Energy, Martin Ferguson said:

A number of major mining company CEOs have said to me, not just over the last couple of weeks, they all knew a tax reform package was coming, that they’ve had a good decade and they’re in a position to actually pay more tax. The opposition has also pushed that the RSPT will hurt the mining industry and shares. This misinformation is clearly just that: misinformation. Just yesterday, Chinese Vice-President Xi Jinping and Prime Minister Kevin Rudd signed agreements worth $10 billion, covering resources and energy.

The Australian today reported that Vice-President Xi acknowledged ‘huge potential for growth’ in energy and resources and went on to pay tribute to Australia’s ‘sound investment market’ whilst encouraging close partnerships on energy, metals and environmental protection. Mr Xi also encouraged parties to ‘oppose trade and investment protectionism’. Fortescue Metals Chief Executive Officer Andrew Forrest, who has been
vocal about his opposition to the RSPT, was also present at the signing of the agreement and was given the opportunity to meet Mr Xi. Incidentally, I note that Andrew Forrest’s own shares in his company rose by 20c to $4.57 per share. The Minister for Trade, Simon Crean, said that the RSPT would ‘encourage further investment’ and that the signing of these agreements ‘put paid to the exaggerated claims by some mining executives’. Mr Crean also stated that ‘There has never been any suggestion by the Chinese that it would harm investment in Australia’. The article also stated that Rio Tinto Executive Doug Ritchie said that as long as security and stability were provided by government policies, companies would invest.

The opposition’s claims that share prices would drop because of the RSPT is more scaremongering. In fact, Rio Tinto’s share price is now higher than what it was when the RSPT was announced. It is clear the opposition does not really support its own claims when one of their frontbenchers, the member for Dickson, purchased $2,000 worth of shares in BHP. This government is passionate about giving our Australian families a share in the profits of the mining industry. Australian citizens own 100 percent of this nation’s natural resources and, with mining companies making massive profits of up to $80 billion in the last decade, is it not time our nation shared in this success?

We are being targeted for our spending on this campaign, but what is the government to do when the opposition and the mining industry, which is more focused on rein in profits, is spending millions on misinforming the public about the RSPT? It is up to the government to clear up these myths and to rightfully inform the public of what our policies are and what they mean to our nation. Australians want to know what the impact of the government’s RSPT will be and what it will do to strengthen our economy. The Rudd government is passionate about standing up for our citizens and, even though we are faced with a multimillion dollar scare campaign, we will continue to stand up for working Australians and small businesses, to protect them from the misinformation and scaremongering and to ensure they receive the right information.

Our public campaign, which has already featured on TV, radio and print, provides actual facts to the community about the RSPT and provides them with a contact base where they are able to seek more information. We have held meetings with representatives from the mining industry and we have been nothing but upfront with Australians about the RSPT. We have established the Resource Tax Consultation Panel and have been open at every step—a practice which demonstrates our government’s willingness to discuss this very important tax reform and a practice which is completely different to the previous government’s.

Because of the grubby scaremongering and misinformation being put out by some of the mining industry, the Treasurer applied to the Cabinet Secretary, Senator Ludwig, to allow the government to defend itself and inform the public of the real facts. According to the campaign advertising guidelines,the Cabinet Secretary can exempt campaigns on ‘the basis of a national emergency, extreme urgency or other compelling reason’. This secretary granted his exemption on 24 May, and on 28 May this was tabled in parliament. The reason for the exemption was that:

… there is an active campaign of misinformation about the proposed changes to our tax system … Australians are concerned about how these changes will affect them.

… as the tax reforms involve changes to the value of some capital assets, they impact on financial markets …

The exemption was granted on two grounds: firstly, the extreme urgency, the need, to ad-
dress misinformation that is being distributed about the reforms; and, secondly, the compelling reason that these reforms impact on financial markets. For the sake of our nation’s prosperity, it is time for those opposite to stop the scaremongering and enable the public to hear the real facts on how the resource super profits tax will provide important infrastructure for our mining states, boost the economy, increase the superannuation of our working Australians from nine per cent to 12 per cent, keep people in jobs and help build sustainable growth. The RSPT is a sensible tax reform which will benefit the Australian economy.

Previous speakers from this side of the chamber referred to the legacy of the Howard government. Senator Collins pointed out that the previous government spent $2 billion during that reign on this type of advertising—in stark comparison to this government. I do not think there are any parallels to be drawn or issues to be made about who is outspending whom. So, once again, I think the opposition need to cease their scaremongering campaign and come back on track in terms of delivering the true facts on what this RSPT is essentially about.

Senator RYAN (Victoria) (5.19 pm)—I may have only been here for a little under two years, but every so often I see a new low reached. It seems that, no matter what the issue, those opposite seek to throw around the words ‘Work Choices’. Representatives of the Australian Labor Party come into this place—many of them having come from trade union backgrounds—and talk about ‘advertising scare campaigns not based on fact’, and they do it with a straight face. That requires a level of gumption that I do not have. The newspaper tells me that the ad campaigns being run by the miners have some of the same people involved in them as the Kevin 07 advertising campaign did. That was a real scare campaign. That is the campaign that is scaring Australians today as they remember what happened 2½ years ago. I assume the Labor Party will start to disown that.

It was the Prime Minister who described advertising as a ‘sick cancer’ on our democracy. I suppose it goes with the ‘great moral challenge’. I suppose it becomes yet another piece of flowery rhetoric that is being discarded by this government that cannot live up to the words of the Prime Minister as he seeks to moralise rather than govern. They claim, after only two years, that the Auditor-General effectively made it too difficult for them to run the advertising campaigns they wished to run. Their advertising campaign today could best be summed up as a PowerPoint presentation—a person in front of a PowerPoint slide. I cannot imagine a better summary of this Prime Minister than something out of The Hollowmen: an advertising campaign that will put people to sleep, as even government members will acknowledge.

We heard from Senator Ronaldson earlier that once ‘extraordinary’ reasons are now ‘compelling’ reasons. The only thing that was compelling in this campaign was the desperation of the Australian Labor Party as it realised that the tax it blindsided Australians with was in no way going to save it from the debacle of its mismanagement of pink batts, green loans and myriad other issues. That became the compelling reason for this campaign.

The Hawke review used the Australian Electoral Commission’s unique status as the veil under which the ALP thought it could dance away from its commitments. The Prime Minister thought: ‘Here we go. The Australian Electoral Commission is a bit unique. We will use this excuse to dance away from our commitment about describing something as a sick cancer.’ But this veil has
been lifted, and the Australian people quite frankly do not like what they are seeing. What they are seeing is the underbelly of the Australian Labor Party using taxpayer funds to campaign for a policy thought-bubble that has no draft legislation and has not been brought before this parliament. We see no indication of it coming any time soon. This is nothing short of a series of campaign ads—bad though they are—for the Labor Party to try to dig itself out of a political hole.

This brings me to the time line. Just prior to me speaking, Senator Furner spoke about the four days between 24 May and 28 May as if it was December. These were not four average days; these were the days when the Finance and Public Administration Committee of this Senate was holding estimates hearings. The committee rearranged its timetable to accommodate Senator Ludwig’s personal timetable to discuss government advertising on the Thursday morning, the 27th, at the request of the minister. These were not four average days—four quiet days; this was an issue in these estimates hearings. The estimates committee changed its schedule to accommodate the minister. Despite having the draft statement for four days, he did not see any reason to inform the estimates committee, nor did he find any reason to table out of session the statement outlining that he had exempted this advertising campaign from his own guidelines. He could have done so but he chose not to.

This government are now learning the lesson of Nixon: it is not the action that gets you into trouble; it is the cover-up. What we have here is an attempt by the government to avoid scrutiny, and they have been caught out. They have been caught out by tabling this statement after Senate estimates hearings had concluded. Then they acquiesced in this chamber to allow those estimates hearings to be reconvened last week. I cannot think of another example where something like that has been slipped out at 9.30 the next day—as a number of us were at the airport leaving after estimates hearings—in order to specifically avoid scrutiny.

No-one believes that to delete two paragraphs of a statement and turn it from a nine-paragraph statement to a seven-paragraph statement takes four working days—four working days in this building while this was an issue discussed in those hearings. This delay was not due to the decision Senator Ludwig took; it was due to this government trying to craft the language to justify the decision they took. The decision to exempt and declare this partisan advertising campaign a ‘compelling reason’, albeit one for the Labor Party, had already been taken. What the minister was trying to do was avoid scrutiny and come up with language that would not make the government look bad, and he has been caught out.

Why will the minister not show us the draft? The minister is not keen for us to see those extra two paragraphs, those extra couple of hundred words. He says he took four days to delete those two paragraphs and table it in the Senate. No-one believes that. The minister should table in this Senate and make public the draft statement so that we know what took four days. I am certain that those four days were only used to try to craft the language to make this government look a little better. But it cannot because this decision stands very clearly in contradiction to the language they used themselves.

This government is simply trying to claim credit for a policy it implemented and junked. You do not get to claim political credit saying, ‘We were being all good two years ago but we have decided to be bad now.’ That is its only defence. Just like everything else about this Labor Party, this government only wants to speak about the opposition. It does not want to be tested against
its own record. It avoids being tested against its own words. It wants to talk about the opposition—and it always brings up Work Choices whenever it can. The only thing I would say to that is that the Penrith by-election made clear that—with the little stunt with T-shirts—that did not have the traction that the Labor Party thought it might. According to this government, a small cancer is okay. We can have a small cancer on our democracy because its only defence is that it is smaller than it once was.

I would like briefly to turn to the tax itself which is the subject of this advertising campaign. Contrary to specific government commitments, there was no consultation with industry about this tax. They were blindsided like everyone else was on 2 May. It is a flawed tax based on flawed assumptions. Former finance minister and senator in this place, Peter Walsh, made the comment that the only barrier to a resolution of this was the current Prime Minister. Another comment that is of particular interest is that in his own memoirs, where he says that ‘there is rarely if ever any economic rent in iron ore’. He said that in his memoirs. He said it was different to oil, petroleum and gold, but this government sees it differently. Then again, I suppose this Labor Party has spent the last 2½ years running away from the Hawke years back into the arms of the Whitlam years and now, as it attempts to take national stakes in key industries, it is in some ways running back to the Chifley years.

The motives of this government with respect to this tax are betrayed by its attempt to apply it to existing projects. Those existing projects do not get the alleged benefit of the 40 per cent allowance for capital. It is simply a grab for money to try to fill the government’s budget black hole, which has been created by its unprecedented spending—spending which it did not flag in any way before the last election when, on the hills of Nambour, the Prime Minister was describing himself as an economic conservative.

There are myriad issues with this tax that this government is trying to hide with its advertising campaign. Royalties are the property of the states. The Commonwealth cannot seek to take those unconstitutionally. The royalties are the property of the states. They do not belong to all Australians in a legal sense. We also have the Commonwealth Grants Commission, which quite effectively redistributes income from those states which have a resource bounty compared to those that do not—and that is nearly a century-old tradition.

I will conclude with this: the key flaw in this tax—which this government is trying to hoodwink the Australian people into with its advertising campaign—is that, unlike petroleum, gold and other precious metals, iron ore and some of our key mineral exports are not rare. What is rare is the investment required to take them to market—to get them out of the ground, to get them on ships, or however they are to be transported, and to get them to market. This government is making a fundamental miscalculation in assuming that this tax can be introduced without impacting future investment levels in Australia—and this advertising campaign will not save it.
the Senate, Senator Abetz from Tasmania, lecture the Special Minister of State about ‘decency in dealings’ and the other words he used, I found what he was saying absolutely disgraceful. It is absolutely incredible because that senator was caught colluding with a witness to train that witness how to answer questions at a Senate hearing. I am dying for someone from the other side to challenge me on this, because no senator in this chamber would dare think that they could get away with that sort of corrupt behaviour.

Senator Bushby—Mr Acting Deputy President, I rise on a point of order.

Senator STERLE—Thank you!

Senator Bushby—I think that Senator Sterle is casting aspersions on the motivations of another senator. He is also misquoting the findings of the Privileges Committee.

The ACTING DEPUTY PRESIDENT (Senator Ryan)—Senator Sterle, I ask you to be very careful with your words and to reflect on what you said. I ask you to withdraw the imputation against Senator Abetz.

Senator STERLE—Yes, I hear what you say, Mr Acting Deputy President. I withdraw.

The ACTING DEPUTY PRESIDENT—Your withdrawal is noted.

Senator STERLE—We have cleared that up, but I just want to put on the record that the minister, Senator Ludwig, has never attracted that attention. I do not think anyone could argue with me on that.

I want to remind those outside the parliament who may be listening about the Howard government’s spending on advertising. On this side, we all know that the Howard government actually took some $420 million of taxpayers’ money to promote the GST. Remember the ‘Unchain my heart’ ads and whatnot? Let us not forget what was said in this chamber earlier: in 2007, the Howard government put their hands into taxpayers’ pockets and took out $254 million to use in their election campaign. I will mention Work Choices; I cannot help but mention Work Choices. Let us not forget that $121 million of taxpayers’ money was used to promote that failed policy that poisoned the Howard government’s last three years in office.

As a senator from Western Australia, a resource state, it is good to stand in here and talk about the advertising against the resource super profits tax. I do not disregard any senator from any other part of Australia, but I come from a state where the mining industry is a very, very important industry. Unlike others in this chamber, particularly those with the bigger mouths, I actually made my living off the back of the mining industry—not sitting in a courtroom with my hands in other people’s pockets. The mining industry is important and it was a fantastic way of making a living. It is still important. But what we have here is the mother of all scare campaigns. Let’s face it and tell it as it is: there is a massive scare campaign being driven by the Minerals Council of Australia and a certain few.

In the West Australian a couple of weeks ago, before the rally and all that stuff, it was reported that Western Australian Liberals were writing to all the mining companies saying, ‘Please fund our campaign and we will get rid of this tax.’ Let us not lose sight of the fact that this is political comfort for the Libs. They are thinking: ‘We’re broke. We need some money. Let’s get it off the mining companies. Let’s be part of this massive scare campaign.’ What is this scare campaign saying? It is not saying so in as many words but it is coming across as this: if a resource super profits tax was implemented in the great state of Western Australia, all of a sudden, overnight, every individual employed in mining or in servicing the mining industry would find their employment at risk; that the work of every small business
that relies on the mining industry or supplies the mining industry would come to a sudden end the very day the tax was implemented.

This could not be further from the truth. It has suited those opposite to encourage a campaign of some mistruths. That is what it is all about. There is no argument about that. Look at a gathering of concerned people on the esplanade in Perth recently, where the front row was the Liberal members of parliament. They were shaking their jewellery in disgust. Ms Gina Rinehart’s pearls were glowing in front of the camera and she was saying, ‘It is so bad that the mining companies have to pay extra tax.’ Senator Ryan said that it is disgusting that existing mining projects should come under the umbrella of a resources tax. I want to know what Senator Ryan and others on that side think of the agreement obtained by the Western Australian Premier, Colin Barnett, for Rio Tinto and BHP mining in Western Australia to obtain $1 billion extra in royalties.

All the time in this chamber we hear the cliche thrown about that you cannot have it both ways, so why is it great for Mr Barnett, the Premier, to achieve that—and quite rightly so; it is fantastic, as long as it delivers to Western Australia along the lines of our Regional Infrastructure Fund, and I would like to know where that money is going—but bad for the federal government to want to get a bit of the profit being made by these super-companies to deliver it back to Western Australians in the form of $2 billion in the Regional Infrastructure Fund? Why is it bad for the federal government to do something that would put important infrastructure projects into mining communities—communities affected by mining and communities that supply to the mining industry? For the life of me, I cannot understand how that could be any different.

I would also encourage senators over there who want to make contributions about the evil of a fair and equitable tax on the mining industry to take the time to visit some of these mining communities. I will talk about the mining communities in Western Australia. Two that come to mind are Port Hedland and Karratha. I remember Karratha in 1979. I took up a load of door jams for the brand new second suburb. There are now nine or 10 suburbs. If one wants to know the effects of the lack of infrastructure in these mining communities one should visit Karratha and Port Hedland—let alone Tom Price, Paraburdoo, Newman, Pannawonica, Wickham or wherever.

When I was on the road delivering furniture up there through the seventies and eighties, I went into these mining towns and it was clear the mining companies ran them. They built the infrastructure—they built the homes; they built the roads; they built the community facilities; they built the playgrounds; and they built and maintained the sporting venues, whether it was tennis, whether it was bowling or whether it was football, netball or soccer. Then, in the eighties, the mining companies decided that that was not their core business; they did not want to do that anymore. As I said, I made my living moving them in and out. It was a fantastic way to make a living, running through the great state of Western Australia.

That is no longer there. It is mainly fly-in fly-out.

I encourage you, Mr Acting Deputy President, to pop into Port Hedland. Go and meet the mayor; go and meet the councillors. Ask them what their thoughts are on seeing some of the hard-earned dollars from their region actually coming back into their communities, because I have to tell you there is not a lot to be seen. It is quite irksome to have a major mining company tell you what a wonderful job they have done in Port Hedland because
they put some sails over a playground. They said that to me, and I thought, ‘Well, that is wonderful, but where is the rest of the contribution back to that region, which they have successfully worked?’ They have employed a heck of a lot of people and they have paid some good wages. It is time to bring it back.

The ACTING DEPUTY PRESIDENT (Senator Ryan)—Order! The time for the discussion has expired.

MINISTERIAL STATEMENTS

World War II: Papua New Guinea Campaign

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (5.40 pm)—I table a ministerial statement relating to the loss of the Montevideo Maru.

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2010-2011

APPROPRIATION BILL (No. 1) 2010-2011

APPROPRIATION BILL (No. 2) 2010-2011

CORPORATIONS AMENDMENT (CORPORATE REPORTING REFORM) BILL 2010

FINANCIAL SECTOR LEGISLATION AMENDMENT (PRUDENTIAL REFINEMENTS AND OTHER MEASURES) BILL 2010

NATIONAL HEALTH AMENDMENT (CONTINENCE AIDS PAYMENT SCHEME) BILL 2010

TAX LAWS AMENDMENT (2010 GST ADMINISTRATION MEASURES No. 3) BILL 2010

TERRITORIES LAW REFORM BILL 2010

First Reading

Bills received from the House of Representatives.

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (5.41 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 will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (5.41 pm)—I table a revised explanatory memorandum relating to the Corporations Amendment (Corporate Reporting Reform) Bill 2010 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011

The total appropriation sought through Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011 is $222.1 million.

An additional appropriation of $46.8 million is proposed to fund asset replacement in 2010-11 and an additional $18.3 million is provided to improve the security of Parliament House, including changes to the main public car park.

Details of the proposed appropriations are set out in the Schedule to the Bill.

I commend the Bill to the Senate.

—

Appropriation Bill (No. 1) 2010-2011

Appropriation Bill (No. 1) 2010-2011, together with Appropriation Bill (No. 2) 2010-2011, is one
of the principal pieces of legislation underpinning the Government’s Budget.

Appropriation Bill (No. 1) 2010-2011 seeks authority for meeting the expenses of the ordinary annual services of Government.

This Bill seeks approval for appropriations from the Consolidated Revenue Fund totalling $71.9 billion.

Details of the proposed appropriations are set out in Schedule 1 to the Bill, the main features of which were outlined in the Treasurer’s Budget speech on 11 May 2010.

I commend the Bill to the Senate.

———

Appropriation Bill (No. 2) 2010-2011

Appropriation Bill (No. 2) 2010-2011 seeks approval for appropriations from the Consolidated Revenue Fund totalling $9.54 billion.

The Budget appropriation Bills reflect changes to the appropriations framework introduced by the Government under Operation Sunlight. These changes are outlined in the Introduction to Budget Paper No. 4 and the Explanatory Memoranda.

Details of the proposed appropriations are set out in Schedule 2 to the Bill, the main features of which were outlined in the Budget Speech delivered by my colleague, the Treasurer, earlier this evening.

I commend the Bill to the Senate.

———

Corporations Amendment (Corporate Reporting Reform) Bill 2010

Today I introduce a bill which will amend the Corporations Act 2001 to improve Australia’s corporate reporting framework by reducing unnecessary red-tape and regulatory burden on companies, improving disclosure requirements and implementing a number of other important refinements to the corporate regulatory framework.

Australia has a robust and generally well-regarded financial reporting framework; however, opportunities do exist to cut red-tape in several areas. The reforms contained in this bill will ensure that Australia’s financial reporting framework remains strong and in line with world’s best practice.

The bill will establish a tailored financial reporting regime for small companies limited by guarantee. These entities predominantly serve a not-for-profit purpose and include sports and recreation organisations, community service organisations and education related institutions.

The proposed amendments introduce a three-tiered differential reporting framework exempting small companies limited by guarantee from reporting and auditing requirements, and providing other companies limited by guarantee with streamlined assurance requirements and simplified disclosures in the directors’ report. This will significantly reduce the regulatory burden on small companies limited by guarantee.

Some types of companies limited by guarantee will have a higher level of public interest due to the nature of their activities. Charities, for instance, generally fall within this category because of their public fundraising activities and the significant amount of community involvement. Such factors need to be considered when differentiating between companies limited by guarantee for reporting purposes. That is why companies that are deductible gift recipients will continue to prepare a financial report, irrespective of whether they fall above or below the threshold.

These measures will ensure that larger companies, or those that seek tax deductible donations from the public, are still subject to appropriate levels of transparency and accountability.

This, in turn, will ensure that appropriate governance standards are maintained, particularly in cases where there is a need for greater public accountability due to the size or nature of the company limited by guarantee.

The process for companies limited by guarantee to distribute annual reports to their members will also be streamlined. Companies will only be required to provide copies of their financial reports if a member elects to receive a copy.

Companies limited by guarantee will also be prohibited from paying a dividend, as their corporate structure means that they are not suited for conducting for-profit activities which could legitimately warrant the payment of dividends to
members. This prohibition from paying a dividend applies only to companies limited by guarantee incorporated on or after commencement of the Bill. This avoids prejudicing any existing arrangements such companies may have in place.

The bill will also streamline parent-entity reporting. Parent entities will be relieved of the requirement to prepare financial statements for both the parent entity and the consolidated group. Instead the bill will allow companies to disclose summary parent-entity financial information. The Corporations Regulations will specify the supplementary information about the parent entity that is to be included in a note to the consolidated financial statements.

In addition, the bill relaxes the statutory requirement that companies may only pay dividends from profits, replacing the profits test with a more flexible solvency based requirement. This test will allow a company to pay a dividend if:

- the company’s assets exceed its liabilities and the excess is sufficient for the payment of the dividend;
- it is fair and reasonable to the company’s shareholders as a whole; and
- it does not materially prejudice the company’s ability to pay its creditors.

The new test is designed to ensure that creditors and shareholders who are not entitled to dividends are sufficiently protected. Consequently the bill contains amendments to the income tax law to ensure there is no change to taxation arrangements as a result of the reform.

In addition the bill facilitates an easier change of a company’s balance date by allowing a financial year subsequent to the first year to last for a period less than 12 months.

In order to enhance the transparency and utility of disclosures contained in the directors’ report, the bill extends the requirement to disclose a review of operations and financial conditions to all listed entities. This follows the recommendation of the Corporations and Markets Advisory Committee’s report The social responsibility of corporations and will provide stakeholders with an overview which would enable users to understand the performance of a business and the factors underlying its results and financial position.

The bill also refines the statement of compliance with International Financial Reporting Standards (IFRS) contained in the directors’ declaration. This will enhance international recognition of Australia’s IFRS adoption and allow Australia to realise the full benefits to foreign investment that IFRS provides.

Other amendments contained in the bill include:

- clarifying the circumstances in which a company can cancel its share capital;
- removing obsolete provisions in the Australian Securities and Investments Commission Act 2001 relating to certain functions of the Financial Reporting Council; and
- improving the Companies Auditors and Liquidators Disciplinary Board processes, including by extending immunities for pre-conference hearings and improving the appointments process.

In summary, these reforms will reduce unnecessary red tape and regulatory burden on companies, improve disclosure requirements and implement a number of other important refinements to Australia’s corporate reporting framework.

The Ministerial Council for Corporations was consulted in relation to the amendments to the laws in the national corporate regulation scheme, and has approved them as required under the Corporations Agreement.

Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Bill 2010

The Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Bill 2010 continues the legislative amendments made by the Government to improve the efficiency and operation of a range of financial sector legislation.

The Bill contains amendments to 17 Acts and repeals 5 redundant Acts.

Financial sector legislation plays a critical role in protecting the financial well-being of the Australian community. The legislation is administered by several regulators including the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Re-
serve Bank of Australia, and the Australian Taxation Office.

The Bill is largely the result of a review of the prudential regulatory framework by APRA and Treasury. This review identified amendments necessary to strengthen APRA’s ability to effectively fulfil its mandate. This is consistent with developments overseas where countries such as the UK and the US, have sought to review and strengthen their financial regulatory frameworks.

APRA is the prudential regulator of the Australian financial services industry. It oversees banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies, and most members of the superannuation industry. These institutions hold approximately $3.6 trillion in assets for 22 million Australian depositors, policyholders and superannuation fund members.

APRA is also responsible for the administration of the Financial Claims Scheme and acts as the national statistical agency for the financial sector.

APRA is funded largely by the industries that it supervises through annual levies imposed on regulated entities.

Outline of measures in the Bill

The Bill covers five key areas of reform.

Firstly, it amends the prudential regime by strengthening APRA’s powers to prevent prudential concerns arising and to address them should they arise.

Secondly, it amends the Financial Claims Scheme to facilitate APRA’s administration of the scheme and improve the scheme’s operation.

Thirdly, it amends the Financial Sector (Collection of Data) Act 2001 to promote the harmonisation and flexibility of the data collection and publishing regime, and APRA’s role as the central repository for the collection of financial data.

Fourthly, it amends the financial sector levies framework to improve the methodologies governing the determination of levies.

Finally, the Bill repeals 5 redundant Acts as part of the Government’s commitment to continuously clean up red tape.

Preventive Powers

Powers to engage in early preventive action are essential to maintaining confidence and stability in the financial sector.

This is recognised internationally and by the Government.

The ability for APRA to actively supervise financial sector institutions is a critical factor to successfully preventing prudential concerns arising. Likewise, it is crucial that APRA is able to effectively set minimum standards for entry into financial markets and that only fit and proper people fulfil key roles within institutions.

The Bill enhances all these aspects of the prudential regime.

The Bill ensures that APRA can better supervise financial sector institutions by addressing potential gaps and uncertainty in the present legislation.

These gaps may presently prevent prudential standards from applying to general insurance groups, incorporating documents by reference, and from providing for important matters relating to the protection of depositors and policyholders.

They may also prevent regulators from investigating financial institutions during winding up, from being able to access key records held by institutions, and from continuing an authorisation in effect upon revocation.

These gaps need to be closed in order to ensure that APRA can fulfil its mandate in relation to prudential regulation and financial system stability.

Equally, Australians deserve to be confident that financial institutions have met the minimum standards set by APRA and that they are run by ‘fit and proper’ persons.

At present, APRA may only set minimum criteria for entry into regulated markets by guidelines. The Bill will enable APRA to set such standards by legislative instruments, which provide legal certainty.

The Bill also assists regulators in ensuring that key persons within financial institutions are fit and proper to hold their positions by responding to the High Court’s decision in Rich v ASIC. The amendments prevent these persons from refusing to provide information to the regulator or Court.
on the grounds that doing so may expose them to disqualification under prudential laws.

Persons subject to disqualification under these laws are in a position of considerable responsibility with respect to the assets of others and the stability of Australia’s financial system. It is therefore appropriate that the Court’s decision be responded to in a manner similar to that which has already been enacted in the corporations and trade practices contexts.

It is also appropriate that the regulatory regime applying to auditors and actuaries be harmonised. At present, the regime is unjustifiably inconsistent between APRA administered Acts and other laws. The Bill addresses these inconsistencies by amending the various laws to adopt a more coherent approach. It also ensures that key provisions relating to interference with audits exist in the prudential context as they presently do under the Corporations Act.

Corrections power

It cannot be assumed, however, that the prudential regime can prevent prudential concerns from ever arising. As such, it is also necessary to ensure that APRA has effective powers to correct concerns should they arise.

Directions powers are a key tool at APRA’s disposal for doing so. They enable APRA to specify how an entity should address prudential concerns where less direct means have failed.

At present, however, there is uncertainty as to several aspects of APRA’s directions powers. For example, it is uncertain whether the powers enable APRA to direct a foreign bank branch to address concerns about inappropriate intra-entity transactions. There is also the possibility that the provision of external support to an authorised deposit-taking institution, such as Government assistance, might prevent some direction powers from being able to be used.

The Bill addresses these and other uncertainties. By doing so, it strengthens APRA’s ability to act quickly and decisively to protect depositors, policyholders and the financial system.

Failure management powers

Prudential regulation in a market economy cannot have a ‘no failure’ objective. Recognising this, APRA currently has a range of powers to manage and resolve failure should it occur. The importance of these powers in protecting depositors and policyholders and maintaining confidence in the financial system is self evident. It is therefore of the upmost importance to ensure that they are effective and sufficient for the task.

To this end, the Bill strengthens APRA’s failure management powers.

The amendments increase the effectiveness of the statutory and judicial management regime. In particular, they ensure that APRA can obtain necessary information and assistance from a judicial manager and enhance APRA’s information gathering powers during statutory management. They also clarify provisions relating to the appointment of statutory and judicial managers and their powers.

The Bill also enhances APRA’s compulsory transfer powers. APRA currently has powers to compulsorily transfer any aspect of the business of an ADI and the regulated business of a life insurer in appropriate circumstances. The amendments enable the powers to operate in relation to both life and general insurers in a similar way to which they presently apply to ADIs.

Another important reform ensures that APRA has power to direct a distressed ADI or insurer to recapitalise. It is not currently clear whether a power to require recapitalisation exists outside of statutory or judicial management. The amendments ensure that APRA can issue a recapitalisation direction in circumstances where it is not desirable to first place the entity into statutory or judicial management. For example, where doing so would undermine confidence in the financial system or the ability of the entity to raise the necessary capital.

Financial Claims Scheme

The Bill amends the Financial Claims Scheme provided for in the Banking and Insurance Acts. The Scheme provides depositors in Australian-incorporated ADIs with a guarantee of their deposits to a threshold prescribed by regulations. In addition, it provides compensation to eligible policyholders with claims against a failed general insurer.
It is important that the Scheme’s operation is clear, consistent and able to be effectively administered by APRA. This Bill ensures this.

The amendments enable APRA to settle claims and issue forms with respect to common administrative matters under the Insurance Act. They also ensure that all relevant policyholders are covered by the Scheme and clarify its operation in particular circumstances.

In addition, the amendments ensure that APRA can obtain the information and assistance it requires to administer the Scheme from liquidators and judicial managers.

Data collection regime
The Bill amends the Financial Sector (Collection of Data) Act to promote the harmonisation and flexibility of the data collection regime and APRA’s role as the central repository for the collection of financial data.

The Bill includes five key reforms in this respect. First, it ensures that APRA can collect data under the Act to assist it administer the Financial Claims Scheme and to assist the Minister and other agencies perform their functions.

Second, it enables APRA to collect data from an expanded class of financial sector entities on direction from the Minister to ensure all relevant data can be collected.

Third, it ensures that APRA does not have to consult when preparing reporting standards where the resulting delay may have a detrimental effect on financial system stability.

Fourth, it protects confidential information in reporting standards from disclosure in circumstances where disclosure may detrimentally affect the stability of the financial system or institutions, and the requested data is required urgently by APRA.

Finally, it ensures that APRA can require all data collected under the Act to be audited.

Amendments to the financial sector levies framework
The Bill improves the methodologies governing the determination of financial sector levies.

The 2009 Report of the Review of Financial Sector Levies made several recommendations to improve the levies regime. In particular, it recommended that the regime be amended so that a levies base other than assets may be used in appropriate circumstances. It also recommended that the date for determining the levy payable by a new superannuation entity should be the date it became regulated rather than as at 30 June of the previous financial year.

The amendments give effect to these recommendations and related matters.

Repeal of Acts
The Bill repeals 5 redundant Acts relating to the validation of past financial sector levy determinations.

The Government is committed to better regulation and reducing red-tape.

Leaving redundant legislation on the books increases the cost for business by making it harder to identify which rules apply. It also increases the probability of inconsistent or overlapping rules.

Consultation
An exposure draft of the Bill was released for public consultation on 19 January 2010. In response, a number of submissions relating to the Bill were received. The majority of these submissions either supported or had no major concerns with the Bill.

[As required by the Corporations Agreement 2002, the Ministerial Council for Corporations was also consulted on, and has approved the amendments in the Bill to the national corporate regulation scheme.]

Conclusion
This Bill improves the overall effectiveness of Australia’s prudential regulatory regime. Importantly, it makes amendments to the regime to enhance APRA’s ability to prevent prudential concerns arising and to respond to them should they arise. It provides APRA with the tools it needs to protect the wellbeing of Australians from distress in the financial system.

It also enhances the Financial Claims Scheme and the data collection and financial sector levies regimes.
National Health Amendment (Continence Aids Payment Scheme) Bill 2010

I am pleased to introduce the National Health Amendment (Continence Aids Payment Scheme) Bill 2010.

The Bill delivers on the 2009-10 Budget commitment to introduce the Continence Aids Payment Scheme.

The CAPS will assist people who have permanent and severe incontinence to meet some of the costs of their continence products through a direct payment.

It replaces the current Continence Aids Assistance Scheme which provides continence products through a Government agreement with a sole supplier.

The Bill will enable the formulation of a legislative Scheme under which the Commonwealth will make direct cash payments as a contribution towards the cost of buying products that manage incontinence.

Medicare Australia will transact the payments on behalf of the Department of Health and Ageing, the Department will retain policy authority for the new Scheme.

Importantly, the Bill includes transition arrangements for clients of the current Scheme to the new Scheme from 1 July 2010.

The Bill also ensures adequate transparency and accountability by enabling the review of decisions made under the Scheme, including via the Administrative Appeals Tribunal, as well as by allowing the Secretary of the Department of Health and Ageing, or the Medicare Australia CEO, to audit payment arrangements by requesting information about CAPS eligibility or payment(s).

This power will enable prompt investigation into any claims of ineligibility or improper use of funds.

Failure to comply with a request for information will be an offence under the National Health Act 1953, which provides a deterrent to behaviour which may be contrary to the intent of the new Scheme.

Consistent with the Government’s 2009-10 Budget announcements, the program will be funded by a special (standing) appropriation enabled under section 137 (1) of the National Health Act 1953.

This is particularly important in the context of an eligibility based, demand driven program.

Subject to the passage of the Bill through Parliament, the new Continence Aids Payment Scheme arrangements will take effect from 1 July 2010.

Conclusion

As I mentioned, I am very pleased to be able to introduce this Bill and the change to the continence product supplier market that the introduction of the new Scheme represents.

I am also pleased to deliver on an important Budget Measure.

The Continence Aids Payment Scheme promotes consumer choice and control which is consistent with the Government’s Consumer Rights and Responsibilities Charter for Community Care, released in 2009.

And which is also promoted in the Commonwealth’s aged care programs through the Aged Care Act 1997.

As a result of the successful passage of the Bill, recipients under the scheme will have greater flexibility and choice in where they purchase their continence products.

Product suppliers and service providers will have equitable access to the client base, in an open and competitive market.

The Department of Health and Ageing will continue to work closely with the sector and recipients of the scheme over the coming months to ensure a smooth transition to the new arrangements.

Tax Laws Amendment (2010 GST Administration Measures No. 3) Bill 2010

The Bill amends the A New Tax System (Goods and Services Tax) Act 1999 to progress GST reforms announced in the 2008-09 and 2009-10 Budgets aimed at simplifying and streamlining the administration of the GST.

The amendments in Schedule 1 provide that the transport of goods by subcontractors within Australia that forms part of the international transport of those goods by another entity from or to Aus-
Australia is taxable, unless the supply of transport is made to a non-resident that is not in Australia.

The amendments reduce compliance costs and address the inconsistent treatment of international transport applying to postal and non-postal goods under the existing GST law. These amendments apply from 1 July 2010.

The amendments in Schedule 2 ensure that supplies of global roaming services provided to visitors to Australia remain not subject to GST, consistent with Australia’s treaty obligations under the International Telecommunication Regulations also known as the Melbourne Agreement.

Until December 2005 these international telecommunication supplies were not considered to be taxable under the Australian GST law. However, the Commissioner of Taxation then determined that these supplies were taxable. Therefore it is necessary to amend the GST law to ensure that the treatment of these supplies remains consistent with the Melbourne Agreement.

These amendments apply from 1 July 2000, the commencement date of the GST. This retrospective application benefits suppliers, as the change is consistent with the existing industry practice of not applying GST to the relevant supplies.

The amendments in Schedule 3 ensure that the appropriate GST outcome is achieved in situations where there are payments between parties in a supply chain which indirectly alter the price received or paid for the thing that is supplied but where certain parties in the supply chain are members of the same GST group, GST religious group or GST joint venture.

This measure arose from recent changes to the GST law which take effect on 1 July 2010. The effect of these changes is to create adjustments to apply in situations where a taxpayer supplying things for resale makes a monetary payment to a third party in the supply chain in connection with the third party's acquisition of the thing.

The amendments will apply to third party payments made on or after 1 July 2010.

Full details of the measures in this Bill are contained in the explanatory memorandum.

Territories Law Reform Bill 2010
The Territories Law Reform Bill implements significant reforms to improve the governance of Norfolk Island and strengthen the accountability of the Norfolk Island Government.

The Bill does this by amending the Norfolk Island Act 1979 to reform the electoral system and establish a contemporary financial management framework to assist the Norfolk Island Government to meet the expectations of its community and to plan for the future.

The Bill also amends administrative law legislation to strengthen the transparency and accountability of the Norfolk Island Government and public sector. The amendments will extend the application of the Administrative Appeals Tribunal Act 1975, the Freedom of Information Act 1982 and the Privacy Act 1988 to Norfolk Island. In addition, amendments to the Ombudsman Act 1976 and the Norfolk Island Act will make the Commonwealth Ombudsman the Ombudsman for Norfolk Island.

Finally, the Bill will amend the Christmas Island Act 1958 and the Cocos (Keeling) Islands Act 1955 to provide a vesting mechanism for powers and functions under Western Australian laws applied in the Territories.

Background to the Norfolk Island Reforms
The Norfolk Island reforms were announced by the Australian Government in May 2009. They follow in the wake of a large number of Commonwealth Parliamentary and other reports recommending amendments to Norfolk Island’s governance system.

Notably, the reforms implement a number of recommendations from the Joint Standing Committee on the National Capital and External Territories 2003 Report: Quis custodiet ipsos custodes?: Inquiry into Governance on Norfolk Island.

The report identified key features of good governance which have been adopted through the development of formal mechanisms by the Australian Government and other Western democracies. These include:

- ensuring public accountability through finance and performance audits, annual reporting and access to an Ombudsman
• regulating accuracy and disclosure of personal information and providing access to public policies and guidelines of public sector agencies, and

• availability of merits review of decisions which affect rights and entitlements (para 3.16).

There are already informal mechanisms on Norfolk Island aimed to facilitate good governance. The Report concluded, however, that ‘the absence of formal and effective mechanisms of accountability and transparency, seriously undermine the quality of governance on the Island’ (para 3.18).

The Report recommended a wide range of reforms, many of which have been adapted and incorporated into the reforms package implemented by this Bill, including:

• reforms to the Norfolk Island electoral system

• incorporation of designations of Chief Minister and Ministers, and additional powers of dismissal

• adoption of a comprehensive financial accountability framework, including auditing and reporting requirements, and

• the extension to Norfolk Island of the benefits of a comprehensive system of administrative law, commensurate to that available to other Australians.

Machinery of Government and Electoral Reforms

Parts 1 and 2 of Schedule 1 of the Territories Law Reform Bill make general governance and electoral amendments to the Norfolk Island Act.

The Bill proposes key governance reforms including:

• prescribing a process for selecting and dismissing a Chief Minister and Ministers, as well as determining their roles and responsibilities

• establishing a no-confidence motion process for the Chief Minister

• allowing the Norfolk Island Administrator to access a greater range of advice when presented with Bills for assent under Schedule 2 of the Norfolk Island Act, and

• allowing the Governor-General and the Minister responsible for Territories to take a more active role in the introduction and passage of Norfolk Island legislation.

The Bill also establishes the framework for the reform of the voting system for the Norfolk Island Legislative Assembly. These amendments will allow the Norfolk Island Chief Minister to enter into an arrangement with the Australian Electoral Commission in relation to general elections of members of the Legislative Assembly and the filling of a casual vacancy in the office of a member of the Legislative Assembly.

The amendments will also provide Norfolk Island residents with greater transparency in electoral processes and certainty about when elections are held. The Bill establishes the foundations for such a process, which will be supplemented by regulations to be developed in consultation with Norfolk Island.

Financial Frameworks

Part 3 of Schedule 1, makes further amendments to the Norfolk Island Act to enable the implementation of a contemporary financial management framework.

The Bill establishes a customised and proportionate financial framework which provides for the responsible management of public money and public property, preparation of budgets, financial reporting, annual reports and procurement. The framework provided by the Bill will be supplemented by subordinate legislation which will ensure that the financial scheme is adapted to the unique requirements of Norfolk Island and can be effectively implemented.

The Commonwealth Government is committed to assisting Norfolk Island in implementing this framework effectively and to this end the amendments also provide for the appointment by the Commonwealth of a Commonwealth Financial Officer for Norfolk Island should this be required.

Additionally, the Bill amends the Norfolk Island Act to provide for the appointment of the Commonwealth Auditor-General to conduct audits of the Norfolk Island Administration’s financial statements.
Administrative Law Reforms
The last key part of the Norfolk Island reform package implemented by the Bill is the application of Commonwealth administrative law accountability and oversight mechanisms to Norfolk Island.

Part 4 of the Bill proposes amendments to the Administrative Appeals Tribunal Act which will confer on the Administrative Appeals Tribunal merits review jurisdiction for specified decisions under Norfolk Island legislation. In essence the reforms will mean that where specified under regulations, administrative decisions which are made under Norfolk Island laws can be reviewed by the Administrative Appeals Tribunal on request by an affected party.

The amendments in the reform Bill will be supplemented by regulations. The regulations will specify which Norfolk Island laws may be subject to Administrative Appeals Tribunal merits review. This will enable a staged implementation of the reforms to be undertaken in consultation with the Administrative Appeals Tribunal and Norfolk Island.

Part 5 of the Bill proposes amendments to the Freedom of Information Act to apply that Act to Norfolk Island. The scope of the application of the Act to Norfolk Island will be consistent with its application to Commonwealth Government agencies. The amendments will give individuals on Norfolk Island the right to:

- seek access to documents held by the public sector and to official documents of Norfolk Island government Ministers, and
- to ask for their personal information in such documents to be changed if it is incomplete, incorrect, out of date or misleading.

Part 6 of the Bill proposes minor amendments to the Norfolk Island Act and the Ombudsman Act. The amendments will enable the Commonwealth Ombudsman to assume the function of the Norfolk Island Ombudsman under Norfolk Island legislation.

Part 7 of the Bill proposes amendments to the Privacy Act to apply that Act to the Norfolk Island public sector. The Bill will provide that the Norfolk Island public sector will be required to adhere to the Information Privacy Principles in the same manner as Australian Government public sector agencies.

It is expected that relevant Australian Government agencies will play a significant and ongoing educative role about the rights and obligations established by the administrative law amendments in relation to the community of Norfolk Island and its public sector.

Christmas and Cocos (Keeling) Islands Reforms
In addition to the Norfolk Island reforms, the Territories Law Reform Bill amends the Christmas Island Act and the Cocos (Keeling) Islands Act. These amendments provide a vesting mechanism for powers and functions under Western Australian laws applied in the Territories. Powers and functions are automatically vested in Western Australian officers and authorities where an agreement with the Australian Government exists for those officers and authorities to act in the Territories.

Conclusion
The Norfolk Island reforms included in the Territories Law Reform Bill is a first step towards ensuring high levels of transparency and accountability in Norfolk Island governance and financial frameworks, and in administrative decision making. This is an important part of providing Norfolk Island with the tools necessary to ensure ongoing stability and to sustain strong and effective self-government under the Norfolk Island Act.

These reforms, together with the amendments to the Christmas Island Act and the Cocos (Keeling) Islands Act represent the Government’s ongoing commitment to fulfilling its obligations to provide the legislative frameworks for the future growth and sustainability of Australia’s territories.

Debate (on motion by Senator Carr) adjourned.

Ordered that the Appropriation (Parliamentary Departments) Bill 2010-2011, the Appropriation Bill (No. 1) 2010-2011 and the Appropriation Bill (No. 2) 2010-2011 be listed on the Notice Paper as one order of the day, and the remaining bills be listed as separate orders of the day.
AUDITOR-GENERAL’S REPORTS
Report No. 46 of 2009-10


COMMITTEES
Reports: Government Responses

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (5.43 pm)—I present the following government responses to committee reports:

• Parliamentary Joint Committee on the Australian Crime Commission – Examination of the annual report for 2007-08 of the Australian Crime Commission
• Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity – Inquiry into law enforcement integrity models
• Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity – Examination of the annual report for 2007-08 of the Integrity Commissioner
• Community Affairs References Committee – Beyond petrol sniffing: Renewing hope for Indigenous communities
• Community Affairs Committee – Grasping the opportunity of Opal: Assessing the impact of the petrol sniffing strategy

In accordance with the usual practice, I seek leave to have the documents incorporated in Hansard.

Leave granted.

The documents read as follows—

GOVERNMENT RESPONSE
PARLIAMENTARY JOINT COMMITTEE ON THE AUSTRALIAN CRIME COMMISSION EXAMINATION OF THE

AUSTRALIAN CRIME COMMISSION
ANNUAL REPORT 2007-2008
JUNE 2010

GOVERNMENT RESPONSE

Recommendation 1

2.56 The committee recommends that the Australian Government amend the Australian Crime Commission Act 2002 to include a statutory definition of contempt, the statutory power of referral, plus ancillary provisions and/or expedite the judicial process for Australian Crime Commission contempt matters.

Accepted.

The Government has introduced legislative amendments into Parliament that will provide a contempt regime for the Australian Crime Commission (ACC) to deal with witnesses who refuse to cooperate with the ACC. These amendments are contained in the Crimes Legislation Amendment (Serious and Organised Crime) Bill No.2 2009.

As the ACC Act already contains offences for dealing with uncooperative witnesses, the regime will ensure that a person can be dealt with for contempt or charged with an offence but not both.

Recommendation 2

2.112 The committee recommends that the Australian Government expedite the process to include the Commissioner of Taxation as a full member of the Australian Crime Commission Board.

Accepted.

The ACC and the ACC Board support the appointment of the Commissioner of Taxation to the ACC Board.

The Government has introduced an amendment into Parliament to have the Commissioner of Taxation included as a member of the ACC Board. This amendment is contained in the Crimes Legislation Amendments (Serious and Organised Crime) Bill No.2 2009. Pending these legislative changes being passed by Parliament, the ACC Board has invited the Commissioner of Taxation to attend ACC Board meetings as an observer.
Recommendation 3

2.133 The committee recommends that the Australian Crime Commission and the Australian Commission for Law Enforcement Integrity develop a practice to ensure publication of corruption or possible corruption matters in an appendix of Australian Crime Commission annual reports is done in a manner which will neither compromise current investigations nor the reputations of individuals facing allegations.

Accepted.

The ACC and Australian Commission for Law Enforcement Integrity (ACLEI) will work together to develop an appropriate reporting template for the next annual report that neither compromises current investigations nor the reputation of individuals facing allegations.

Recommendation 4

2.145 The committee recommends that the Australian Government review existing arrangements for the suspension and dismissal of Commonwealth law enforcement agency employees believed on reasonable grounds to have engaged in serious misconduct or corruption, and that the Government take action as appropriate, bearing in mind the need to respect the rights of employees.

Accepted in principle.

The Government recognises the need for the Australian Federal Police (AFP) and the ACC to have appropriate arrangements in place to address serious misconduct or corruption.

The AFP has a strong regime under the Australian Federal Police Act 1979 (AFP Act) and the Australian Federal Police Regulations 1979 (AFP Regulations) to suspend and dismiss officers who the AFP Commissioner reasonably believes have engaged in serious misconduct or corruption.

Regulation 5 of the AFP Regulations allows the AFP Commissioner to suspend an AFP employee where he or she suspects on reasonable grounds that:

• the employee has, or may have, breached the Code of Conduct, and
• the employee’s suspension is in the public’s, or the Agency’s, interest.

The CEO may at any time, by notice in writing, terminate the employment of an APS employee in the ACC (PS Act s29). Termination of employment is subject to rules and entitlements laid out in the Fair Work Act 2009. A notice of termination for an ongoing APS employee must specify the ground or grounds that are relied on for the termination. The grounds include non-performance, or unsatisfactory performance, of duties; breach of the Code of Conduct and any other ground prescribed by the regulations.
The regulations may prescribe grounds or procedures applicable to the termination of the engagement of non-ongoing APS employees but this does not, by implication, limit the grounds for termination for a non-ongoing APS employee.

The Attorney-General’s Department has reviewed existing arrangements for the suspension and dismissal of ACC employees believed, on reasonable grounds, to have engaged in serious misconduct or corruption and is developing options to strengthen the powers of the CEO of the ACC. This review has involved extensive consultations, taking into account the views of the Committee.

GOVERNMENT RESPONSE
PARLIAMENTARY JOINT COMMITTEE ON THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY INQUIRY INTO LAW ENFORCEMENT INTEGRITY MODELS
JUNE 2010
GOVERNMENT RESPONSE
Introduction
On 23 February 2009, the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity tabled the report from its Inquiry into Law Enforcement Integrity Models.

The Committee made a comparative analysis of the Australian Commission for Law Enforcement Integrity (ACLEI) to its state-based counterparts to inform possible changes to the governance structure and operation process of ACLEI, to enhance its current operation and support the potential extension of ACLEI oversight to other Commonwealth agencies with a law enforcement function.

The Committee made eight recommendations to which the Australian Government is pleased to respond. The recommendations consider ACLEI’s resourcing levels, capabilities, external relationships and the misconduct reporting arrangements in the agencies it oversees. Of the eight recommendations, the Government has agreed to two recommendations and agreed in principle to three recommendations. The remaining three recommendations are noted.

Recommendation 1
5.12 The committee recommends that the Australian Government undertake a review of the Australian Commission for Law Enforcement Integrity’s funding levels, as a matter of urgency.

Agreed
The Australian Government reviewed the funding arrangements for the Australian Commission for Law Enforcement Integrity (ACLEI) prior to the 2008-09 Budget. As a result, the Australian Government committed an additional $7.5 million over four years (including a one-off $750,000 capital injection) to ACLEI in the 2008-09 Budget to improve its investigative capacity. This measure effectively doubled ACLEI’s appropriation in 2009-10 to $4.1 million.

The Attorney-General’s Department (AGD) will continue to work closely with ACLEI on resourcing issues, including assisting ACLEI during the development of new policy proposals for Government consideration.

The Government acknowledges that the volume and complexity of ACLEI’s investigative caseload has increased over the two and half years of its operation. As a result, AGD has committed to working with ACLEI to review its business practices and funding structure. This will draw on the outcomes of the three-year review of the Law Enforcement Integrity Commissioner Act 2006.

Any changes to ACLEI’s funding arrangements will be considered by Government through normal budget processes.

Recommendation 2
5.18 The committee recommends that, as a matter of priority, the Australian Government fund the establishment of a prevention and education unit in the Australian Commission for Law Enforcement Integrity. Further, the committee recommends that the prevention and education unit undertakes, but is not limited to, the following activities:

- education of law enforcement personnel
- public education and awareness-raising
Recommendation 3
5.19 The committee recommends that the corruption prevention and education function be strengthened in the Law Enforcement Integrity Commissioner Act 2006 following the review of the operation of the Act, which is due to report no later than 30 June 2010. Specifically, it is recommended that a corruption prevention and education function be included under section 15 (Functions of the Integrity Commissioner) of the Act.

Agreed in principle
The Government agrees that there is value in an appropriate forum for state and federal law enforcement integrity agencies to discuss matters of mutual interest. The Government notes that the biennial Australian Public Sector Anti-Corruption Conference is a forum established for this purpose, and that state and federal integrity agencies, including ACLEI, participate.

Recommendation 5
5.41 The committee recommends that the Australian Government consider in the longer term the establishment of an integrity inspector to assist in the oversight of the Australian Commission for Law Enforcement Integrity.

Agreed in principle
The Government considers that the existing accountability arrangements are sufficient for the current scrutiny of ACLEI. This includes the capacity for the Minister to refer ‘ACLEI corruption issues’ to a special investigator under the Law Enforcement Integrity Commissioner Act 2006.

The Government notes that supplementary arrangements—including the appointment of an integrity inspector or some other model—could be considered in the future. This consideration should occur when ACLEI’s size and the complexity of its workload justifies a review of accountability measures, and/or when other new considerations arise.

Recommendation 6
5.44 The committee recommends that as a priority the Australian Government fund the establishment and ongoing maintenance of a secure hearing room, associated technical infrastructure and personnel support.
Noted
The Government considers that it is important that ACLEI has access to appropriate facilities. However, in view of the relatively small number of hearings currently conducted each year by ACLEI, and based on advice from the Attorney-General’s Department, it is not evident that the current arrangements—that is, utilising the facilities of other agencies as required—are inadequate.

Any funding proposal for the establishment and maintenance of a secure hearing room must be considered within the Government’s normal budget processes.

Recommendation 7
5.50 The committee recommends that the Australian Government review existing obligations on employees of Commonwealth law enforcement agencies to report misconduct. The review should consider whether these arrangements need to be strengthened, including by legislative means, and whether there are sufficient measures in place to support and protect whistleblowers.

Agreed
The Government recognises that the mandatory reporting of misconduct is an important element of the professional standards frameworks of the ACC and the AFP. Currently, this obligation arises under management arrangements implemented by the ACC and the AFP. The Government considers that the present arrangements are appropriate and likely to encourage reporting of misconduct as part of the professional standards frameworks of the ACC and the AFP.

The Law Enforcement Integrity Commissioner Act 2006 allows for people to refer corruption issues—as opposed to misconduct issues—directly to the Integrity Commissioner. Other complaints about employees of Commonwealth law enforcement agencies may be made to the Commonwealth Ombudsman.

More broadly, the Government has made a commitment to introduce legislation strengthening whistleblower protections in the Australian Government public sector, which includes employees of Commonwealth law enforcement agencies.

The Government will consider whether any amendments to misconduct reporting arrangements in the ACC and the AFP are required in the context of the Government response made on 17 March 2010 to the House of Representatives Standing Committee on Legal and Constitutional Affairs Report: “Whistleblower Protection: A Comprehensive Scheme for the Commonwealth Public Sector”.

Recommendation 8
5.53 The committee recommends that the Australian Government review existing arrangements for the suspension and dismissal of Commonwealth law enforcement agency employees believed on reasonable grounds to have engaged in serious misconduct or corruption, and that the Government take action as appropriate, bearing in mind the need to respect the rights of employees.

Agreed in principle
The Government recognises the need for the AFP and the ACC to have appropriate arrangements in place to address serious misconduct or corruption. The AFP has a strong regime under the Australian Federal Police Act 1979 (AFP Act) and the Australian Federal Police Regulations 1979 (AFP Regulations) to suspend and dismiss officers who the AFP Commissioner reasonably believes have engaged in serious misconduct or corruption.

Regulation 5 of the AFP Regulations allows the AFP Commissioner to suspend an AFP employee where he or she suspects on reasonable grounds that the employee has, or may have, engaged in corrupt conduct or conduct that contravenes the AFP professional standards.

Under s 28 of the AFP Act, the AFP Commissioner may at any time, by notice in writing, terminate the employment of an AFP employee. Where the termination was made because the AFP Commissioner believed on reasonable grounds that the employee’s behaviour or conduct constituted serious misconduct or corruption, the AFP Commissioner may make a declaration to this effect (s 40J). Where a declaration is made, it is likely that the decision to terminate will not be subject to workplace relations laws but may be judicially reviewed.
The Government is confident that these arrangements are well adapted to the needs of the AFP and will consider any amendments should the need arise.

Employees of the ACC are engaged under the Public Service Act 1999 (PS Act) and are required to uphold the Australian Public Service Values and the Code of Conduct and, under section 15 to the Act, the agency head may impose sanctions on an employee who is found to have breached the Code of Conduct.

The power of the Chief Executive Officer (CEO) of the ACC to suspend and dismiss employees for suspected misconduct or corruption arises from his or her status as an ‘Agency Head’ for the purposes of the PS Act and the Public Service Regulations 1999 (PS Regulations). The ACC operates under the same legislative regime as the majority of the public service.

The CEO may suspend an employee in compliance with regulation 3.10 of the PS Regulations (s 28 PS Act). Suspension (with or without pay) is possible where the Agency Head believes on reasonable grounds that:

• the employee has, or may have, breached the Code of Conduct, and
• the employee’s suspension is in the public’s, or the Agency’s, interest.

The CEO may at any time, by notice in writing, terminate the employment of an APS employee in the ACC (PS Act s29). Termination of employment is subject to rules and entitlements laid out in the Fair Work Act 2009. A notice of termination for an ongoing APS employee must specify the ground or grounds that are relied on for the termination. The grounds include non-performance, or unsatisfactory performance, of duties; breach of the Code of Conduct and any other ground prescribed by the regulations.

AGD has reviewed existing arrangements for the suspension and dismissal of ACC employees believed, on reasonable grounds, to have engaged in serious misconduct or corruption and is developing options to strengthen the powers of the CEO of the ACC. This review has involved extensive consultations, taking into account the views of the Committee.

GOVERNMENT RESPONSE
PARLIAMENTARY JOINT COMMITTEE ON THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY
JUNE 2010
GOVERNMENT RESPONSE

Introduction
On 1 June 2009, the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity tabled its Examination of the Annual Report of the Integrity Commissioner 2007-08.

The Committee assessed the work of the Australian Commission for Law Enforcement Integrity and concluded that the 2007-08 year was a period of learning and consolidation.

The Committee made one recommendation to which the Australian Government is pleased to respond. The Government agrees to this recommendation.

Recommendation 1

2.93 The committee recommends that the Australian Government undertake a review of the funding levels of the Australian Commission for Law Enforcement Integrity as a matter of urgency.

Agreed

The Australian Government reviewed the funding arrangements for the Australian Commission for Law Enforcement Integrity (ACLEI) prior to the 2008-09 Budget. As a result, the Australian Government committed an additional $7.5 million over four years (including a one-off $750,000 capital injection) to ACLEI in the 2008-09 Budget to improve its investigative capacity. This measure effectively doubled ACLEI's appropriation in 2009-10 to $4.1 million.
The Attorney-General’s Department will continue to work closely with ACLEI on resourcing issues, including assisting ACLEI during the development of new policy proposals for Government consideration.

The Government acknowledges that the volume and complexity of ACLEI’s investigative caseload has increased over the two and half years of its operation. As a result, the Attorney-General’s Department has committed to working with ACLEI to review its business practices and funding structure. This will draw on the outcomes of the three-year review of the Law Enforcement Integrity Commissioner Act 2006.

Any changes to ACLEI’s funding arrangements will be considered by Government through normal budget processes.

COMBINED AUSTRALIAN GOVERNMENT RESPONSE TO TWO SENATE COMMUNITY AFFAIRS REFERENCES COMMITTEE REPORTS ON PETROL SNIFFING IN INDIGENOUS COMMUNITIES


Introduction to combined response

The Australian Government welcomes the Senate Community Affairs References Committee reports on Petrol Sniffing in Indigenous Communities: Grasping the opportunity of Opal: Assessing the impact of the Petrol Sniffing Strategy, and its companion 2006 report, Beyond petrol sniffing: Renewing hope for Indigenous communities. This document combines the government’s response to both reports.

The Petrol Sniffing Strategy forms the Australian Government’s response to the devastating effects of petrol sniffing in Indigenous communities. Funding for this Strategy is now ongoing and this year’s Budget has provided $38.5 million over four years to further strengthen the roll-out of Opal fuel. This proposal has been developed in the context of findings that Opal significantly reduces the incidence of petrol sniffing in communities where it has been made available.

The government understands the importance of providing significant lead time to fully address the complex issues surrounding petrol sniffing and other forms of substance abuse in remote Indigenous communities. In this context, it is pleasing to note the Senate Committee’s acknowledgement of the good work that has been achieved to date, as well as its proposals for moving forward that build on many of these successes. Together, the Committee’s reports suggest an approach for undertaking further work in this significant policy area, clearly identifying a number of important strategic and program options for the government’s consideration.

Responsibility for the government’s Petrol Sniffing Strategy is shared across four departments, including the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), the Department of Health and Ageing (DoHA), the Attorney-General’s Department (AGD) and the Department of Education, Employment and Workplace Relations (DEEWR). FaHCSIA is the lead agency for overall coordination of this strategy. As partners in the Petrol Sniffing Strategy, these departments work closely together to ensure a collaborative, integrated and complementary approach to delivering key initiatives across the Eight Point Plan (see Attachment A at the end of Part A of this document), drawing on the strengths of each portfolio area.

The success of the Petrol Sniffing Strategy, however, is not solely dependent on the government’s efforts. It is important to recognise the assistance and support that is provided by a wide range of stakeholders, including State and Territory governments, local councils and shires, non-government providers such as the Central Australian Youth Link-Up Service and NPY Women’s Council and Indigenous communities themselves. Collectively, these groups ensure a multifaceted response is in place that works across a broad front, to achieve effective and sustainable results within a complex and ever-changing policy environment.

Since September 2005, the Australian Government has contributed a total of $86.3 million to
combat the effects of petrol and other substances on individuals, families and communities in the remote central Australian tri-state zone of Western Australia, South Australia and the Northern Territory, the East Kimberley region in Western Australia, and Mornington Island and Doomadgee in Queensland.

This funding has supported a wide range of initiatives, including:

- the rollout of Opal fuel, as a highly effective supply reduction measure;
- a crackdown on the trafficking of petrol and other substances through improved intelligence gathering and policing activities; and
- the strengthening of vulnerable communities through the provision of targeted youth diversion activities, treatment and rehabilitation support, family and community development services and local infrastructure projects.

This funding is in addition to other complementary programs that have also been implemented by the government to strengthen and build the capacity of remote Indigenous communities, particularly in the Northern Territory.

The government’s investment to date has achieved a number of notable successes in the battle against petrol sniffing and other forms of substance abuse:

- as at 30 April 2010, there were 129 sites receiving or registered to receive Opal fuel across regional and remote Australia. This includes 80 communities, 37 service stations/roadhouses, seven supporting organisations and five pastoral properties;
- a demonstrated decrease in petrol sniffing in regional and remote communities. The Evaluation of the Impact of Opal Fuel, completed in 2008-09, measured a 70 per cent reduction in petrol sniffing across the sample communities between baseline and follow up data collections;
- eleven new houses and three temporary accommodation complexes have been provided to support the employment of youth workers in the high need priority communities of Finke, Docker River and Imanpa in the Northern Territory, and Wanarn, Jameson, Warburton, Warakurna and Blackstone in the Ngaanyatjarra Lands;
- a new recreation hall has been built in Finke, at a cost of just under $2 million, and two existing halls in Docker River and Imanpa refurbished;
- a new major substance misuse treatment facility in Amata, South Australia, has also been constructed, with the Australian Government contributing just over $3 million and the remaining funds provided by the South Australian Government together with ongoing operating costs of $1.4 million a year;
- there has been a significant expansion in youth services and activities across the Petrol Sniffing Strategy zones, including the employment of two senior youth workers and local Anangu trainee youth workers in each of the central Australian communities of Finke, Docker River, Imanpa and Mutitjula, 17 youth workers in the Ngaanyatjarra Lands and East Kimberley in Western Australia., a range of sporting and recreational activities being provided by these workers, and other initiatives such as the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Regional Partnership Agreement in South Australia; and
- there have also been substantial reductions in the trafficking of petrol, illicit drugs and alcohol across the Petrol Sniffing Strategy zones, following successful operations by the Alice Springs and Katherine Substance Abuse Intelligence Desks.

However, more work is needed to achieve fully effective, long-term and sustainable solutions to the inter-generational cycle of substance abuse that continues to prevail in many remote Indigenous communities.

The Australian Government will continue to identify opportunities to consolidate and expand development and implementation of programs that address the debilitating effects of petrol sniffing and other substance abuse amongst young Indigenous Australians living in communities of high need, particularly in remote locations. These opportunities will be developed in the context of important reforms the government is currently
putting in place to improve the way governments work with Indigenous people, through strengthening local service planning processes and fostering more effective working relations with State and Territory governments.

PART A: Australian Government response to *Beyond petrol sniffing: Renewing hope for Indigenous communities*

Report of the Senate Community Affairs References Committee (2006)

June 2010

Background

On 5 October 2005 the Senate referred the following matters relating to petrol sniffing in remote Aboriginal communities for inquiry and report:

- the effectiveness of existing laws and policing with respect to petrol sniffing in affected Indigenous communities;
- the effectiveness of diversionary initiatives and community level activities; and
- lessons that can be learned from the success some communities have had in reducing petrol sniffing, including the impact of non-sniffable Opal petrol.

The Committee’s report on the inquiry was tabled in Parliament on 20 June 2006. Part A of this document contains the government’s response to the recommendations of the 2006 report.

A second Senate Inquiry was announced on 17 June 2008. The Senate referred the following matters to the Community Affairs References Committee for inquiry and report:

- the ongoing effectiveness of the eight-point plan in combating petrol sniffing in Central Australia;
- the extent of the roll-out of Opal fuel;
- the delivery of youth services in affected areas;
- the effectiveness and adequacy of resources provided to address petrol sniffing and substance abuse in Central Australia; and
- what more needs to be done to effectively address petrol sniffing.

The Committee’s report, *Grasping the opportunity of Opal: Assessing the impact of the Petrol Sniffing Strategy* was tabled in Parliament on 19 March 2009. The report reaffirms a number of the recommendations made in the 2006 Report and the response is contained in Part B of this document.

A number of the recommendations contained in this combined report have led to significant policy development, review and evaluation activity on the part of the agencies involved. These include a cost-benefit analysis of a proposal to mandate the supply of Opal fuel, published online at the following Department of Health and Ageing website:


FaHCSIA also commissioned an independent review of the Central Australian Petrol Sniffing Strategy Unit (CAPSSU) which was completed at the end of 2009, an independent review of inconsistent legislation (completed in March 2010), and exploratory work in the context of PSS communications issues which was finalised in February 2010. These three reports have been published at:


The outcomes of this activity, and of significant policy work associated with a strengthened roll-out of Opal fuel to begin later in 2010, have informed the content of this combined report.

As the lead agency, FaHCSIA has coordinated the combined response to the two Senate Committee Enquiries. The Department of Health and Ageing (DoHA), the Department of Education, Employment and Workplace Relations (DEEWR) and the Attorney-General’s Department (AGD) have provided input to responses in cases where recommendations relate to their respective portfolio areas.

Recommendation 1

That the Council of Australian Governments (COAG), as a matter of urgency, revisit the recommendations of the Royal Commission into Aboriginal Deaths in Custody in order to:

- prioritise the recommendations that have not been implemented; and
establish as a standard item on the COAG agenda the implementation of these recommendations.

Response
The government notes this recommendation.

The government believes that the current measures to address petrol sniffing, as detailed throughout this response and the government’s response to the 2009 Senate Community Affairs References Committee report Grasping the opportunity of Opal: Assessing the impact of the Petrol Sniffing Strategy, are meeting those recommendations of the RCIADIC that relate to this issue.

In 2007-08 COAG agreed to a number of ambitious targets to close the gap in Indigenous disadvantage.

The Closing the Gap agenda was developed in response to concerns raised with governments by Indigenous and non-Indigenous people, including through the Close The Gap Campaign and the National Indigenous Health Equity Summits.

The COAG National Indigenous Reform Agreement, agreed in November 2008:

- commits all jurisdictions to achieving the Closing the Gap targets;
- defines responsibilities and promotes accountability among governments;
- provides a roadmap for future action;
- notes the significant funding provided through Indigenous-specific National Partnerships to assist in meeting the targets; and
- links to other National Agreements and National Partnerships which include elements that will address the targets.

In 2008, COAG committed $4.6 billion in Indigenous specific funding over 10 years to drive fundamental reforms in remote housing, health, early childhood development, jobs and improvements in remote service delivery.

The Commonwealth, State and Territory Governments are committed through COAG to the Closing the Gap agenda and this partnership, underpinned by effective engagement with Indigenous Australians, establishes a genuinely national approach.

Recommendation 2
That COAG, as a matter of urgency:

- reaffirm petrol sniffing as a priority area under the National Framework of Principles for Delivering Services to Indigenous Australians; and
- establish a Standing Committee of COAG to monitor and evaluate programs addressing petrol sniffing and to report annually to COAG on progress.

Response
The government notes this recommendation.

The government considers that the existing PSS governance arrangements and PSS Eight Point Plan adequately allow for periodic review and refinement of monitoring and evaluation mechanisms. A coordinated approach to updating the existing PSS Evaluation Framework, and further refinement of evaluation and data collection methodologies across the Eight Point Plan, including the roll-out of Opal Fuel, continues to be overseen and strengthened by the PSS SES Steering Committee in collaboration with FaHCSIA’s Office of Indigenous Policy Coordination. The 2010-11 Budget has provided funding to establish an ongoing annual surveillance system to monitor the incidence and prevalence of petrol sniffing and transference to other substances. This annual data collection will also assist to evaluate the effectiveness of the Opal fuel program and other...
interventions that affect petrol sniffing prevalence.

Reducing the incidence and impact of petrol sniffing and other substance abuse in Indigenous communities is a significant priority for the government. Between the launch of the Petrol Sniffing Strategy in September 2005 and April 2010 the Australian Government contributed $86.3 million to this strategy.

The rollout of Opal fuel is the only element of the Petrol Sniffing Strategy Eight Point Plan (see Attachment A) that is specific to petrol sniffing. All other elements of the strategy are fundamental to reducing not only petrol sniffing but also broader substance abuse issues. COAG has specifically acknowledged the importance of tackling the effects of substance abuse on Indigenous Australians and the impact this will have on closing the life expectancy gap.

COAG has therefore provided funding through a number of complementary measures to address substance abuse. Consistent with the comprehensive approach taken under the PSS Eight Point Plan, this includes funding for drug and alcohol treatment and rehabilitation services in regional and remote areas through the following initiatives:

- 2006 Council of Australian Governments – Addressing Violence and Child Abuse in Indigenous Communities – Drug and Alcohol Treatment and Rehabilitation Services for Indigenous Australians in Remote and Regional Communities; and

Youth diversionary activities have also been funded in the Northern Territory through a range of measures. As part of the Northern Territory Emergency Response, the government has spent some $18 million over two years on FaHCSIA’s Youth Alcohol Diversion measure to support projects across targeted Northern Territory communities.

Further funding of $28.4 million over three years was announced in the 2009-10 Budget as part of FaHCSIA’s Youth in Communities measure, to enhance the quantity, quality and cohesion of youth services in Northern Territory Indigenous communities.

This funding will continue the important work commenced under the Youth Alcohol Diversion measure, with just under $9 million allocated in 2009-10 to improve recreational infrastructure, fund more youth workers and provide diversionary programs targeting young people aged between 10 and 20 years.

The government has also invested considerable funding in a range of sporting activities that promote healthy lifestyle choices and provide positive role models and mentoring support to Indigenous youth. Examples include:

- a funding contribution towards the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Multi-Sports Activities Regional Partnership Agreement (RPA). The RPA provides for structured inter-community sports competitions across APY communities including a very successful and popular inter-community Australian Football League (AFL) competition, regular multi-sports activities for young people throughout the year, and recreation activities such as horse riding, BMX and motocross;
- joint funding of an AFL Club Fostership Program and AFL Ambassadors for Life Mentoring Program with the Australian Football League in 2007, to promote healthy, active lifestyles and increased school attendance for youth in selected Indigenous communities (mainly in the Northern Territory), and to provide mentoring from Indigenous Australian Rules players, as positive role models to over 100 Indigenous youth from around Australia; and
- funding to expand AFL activities in the East Kimberley region of Western Australia, through the employment of a Community Development Officer, an administrator to manage football activities in the region, and two AFL Indigenous trainees to help deliver schools-based programs.

Recommendation 3

That the Aboriginal and Torres Strait Islander Social Justice Commissioner be funded to conduct a review of the implementation of the Royal
Commission and Coroners’ Recommendations in twelve months time and every twelve months following until the Commissioner can report that the recommendations have been sufficiently addressed.

Response

The government notes this recommendation.

The Aboriginal and Torres Strait Islander Social Justice Commissioner’s independent statutory functions include reviewing the impact of laws and policies on Indigenous peoples, reporting on Indigenous social justice and native title issues and promoting an Indigenous perspective on issues. In addition, the Commissioner monitors the enjoyment and exercise of human rights for Indigenous Australians.

The Commissioner is already required by law to produce an annual Social Justice and a Native Title Report regarding the exercise and enjoyment of human rights by Australia’s Indigenous peoples. This allows the Commissioner to make recommendations as to action that should be taken to safeguard such enjoyment.

Recommendation 4

That the Australian Health Ministers’ Advisory Council through the Standing Committee on Aboriginal and Torres Strait Islander Health and the National Advisory Group on Aboriginal and Torres Strait Islander Health Information and Data work to improve data collection on substance abuse, including petrol, by Indigenous people as a matter of priority.

Response

The government accepts this recommendation, noting that improved data collection on Indigenous health including substance abuse is a long-term national priority.

The Standing Committee on Aboriginal and Torres Strait Islander Health no longer exists. Work around Indigenous health data, including substance abuse, is being progressed through the National Advisory Group on Aboriginal and Torres Strait Islander Health Information and Data. This committee provides broad strategic advice on the improvement of the quality and availability of data and information on Aboriginal and Torres Strait Islander health and service delivery.

The government has undertaken considerable work to improve the quality and consistency of data being collected on petrol sniffing and other substance abuse. A coordinated approach to updating the PSS Evaluation Framework, and further refinement of evaluation and data collection methodologies across the Eight Point Plan, including the roll-out of Opal Fuel, continues to be overseen and strengthened by the PSS SES Steering Committee. The $38.5 million funding provided in this year’s Budget to strengthen the delivery of Opal fuel will also cover establishment of an ongoing annual surveillance system to monitor the incidence and prevalence of petrol sniffing and transference to other substances. This annual data collection will also assist to evaluate the effectiveness of the Opal fuel program and other interventions that affect petrol sniffing prevalence.

Recommendation 5

That State and Territory Registrars of Births, Deaths and Marriages require that, where abuse of petrol or other inhalant is a contributing factor to a death, the inclusion of inhalant abuse and the type of inhalant used be recorded on death certificates as recommended by the Northern Territory Coroner in 1998.

Response

The government accepts this recommendation in principle, noting that information recorded on death certificates is a matter for State and Territory governments to consider. The recording of inhalants as a contributing factor to death would provide important data which could be used to more fully assess the health impacts of petrol sniffing. The government will write to State and Territory governments, bringing this matter to their attention.

Recommendation 6

That the Commonwealth evaluate, as a matter of urgency, the effectiveness of Indigenous Coordination Centres’ implementation of the whole-of-government policy with a view to improving coordination of government programs.

Response
The government accepts this recommendation. The government is committed to improving the coordination of programs and services to Indigenous Australians and notes the new model of service delivery associated with the National Partnership Agreement on Remote Service Delivery and the role of the Regional Operations Centres and Boards of Management in coordinating activity across governments.

The National Partnership Agreement on Remote Service Delivery is one of six Indigenous National Partnership Agreements. It commits the Australian Government and the relevant States and Territories to investing $291.2 million over six years in the 29 priority communities to build community capacity, test new service delivery models and harness the benefits of funds and initiatives provided through the other National Partnerships. In identifying where to concentrate initial investment, the Remote Service Delivery investment principles were considered, including the following criteria:

- significant concentration of population;
- anticipated demographic trends and pressures;
- the potential for economic development and employment;
- the extent of pre-existing shortfalls in government investment in infrastructure and services; and
- where possible, investment will also build on other significant investment already in progress.

To implement the new Remote Service Delivery arrangements in each jurisdiction, the Commonwealth and State/Northern Territory Governments have established Regional Operations Centres. Working in these centres are officials from the Commonwealth and the relevant State and Territory governments.

Each Regional Operations Centre provides support to locally-based government staff, who live in and work with the community. One of their main functions is to work across government with local Indigenous people and other stakeholders to develop the Local Implementation Plans and ensure they are implemented in a timely way.

Recommendation 7

The Committee notes that the Eight Point Plan is being developed for a designated area of Central Australia and considers that this is an important step in addressing petrol sniffing. The Committee considers that, as a matter of urgency, the plan must be implemented more widely and that effective community consultation must be part of the implementation process. The Committee recommends that:

- the Commonwealth and State and Territory Governments, as a matter of urgency, commit to the implementation of the Eight Point Plan in all areas across Australia that have a substantial petrol sniffing problem;
- a transparent strategy be developed for the plan’s further implementation including timing, evaluation and adaptive management processes; and
- effective consultation be undertaken with Indigenous communities before the plan is implemented.

Response

The government accepts this recommendation, noting that the Petrol Sniffing Strategy Eight Point Plan (see Attachment A to Part A of this document) has been implemented in four priority zones including:

- the remote cross border region of Central Australia covering the Ngaanyatjarra Lands in Western Australia, the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in South Australia and the
communities of Docker River, Imanpa, Mutitjulu and Finke in the Northern Territory;

- an extended region of Central Australia in the Northern Territory covering the communities to the west and north of Alice Springs;
- Doomadgee and Mornington Island in the southern gulf area of Queensland; and
- the East Kimberley in Western Australia.

Responses to petrol sniffing outbreaks outside these priority zones are carried out through tailored solutions developed in consultation with community leaders, local police and service providers.

Implementation of the PSS Eight Point Plan is carried out through the PSS Senior Executive Service (SES) Steering Committee attended by each agency with an interest in the PSS, guided by a comprehensive workplan (including timelines) which is currently being updated.

A comprehensive PSS Evaluation Framework, including extensive consultation with Indigenous stakeholders, forms one of the elements of the PSS Eight Point Plan, and is overseen by the Office of Indigenous Policy Coordination (OIPC) in FaHCSIA. OIPC is also represented on the PSS SES Steering Committee. Under this Framework, a review of the first 12 months of the Plan’s operation was completed in July 2008. Component evaluations of the Eight Point Plan were carried out in 2009-10, and a coordinated approach to updating the PSS Evaluation Framework, and further refinement of evaluation and data collection methodologies across the Eight Point Plan, including the roll-out of Opal Fuel, continues to be one of the key focuses of the PSS SES Steering Committee.

The government recognises that successful implementation of the strategy requires ongoing collaboration and coordination with all levels of government, service providers and communities. Local implementation plans have been agreed across all of the Petrol Sniffing Strategy zones, which have been developed in close consultation with a range of stakeholders including State and Territory governments, local service providers and Indigenous communities.

In line with Recommendation 4 of the Senate Committee’s 2009 report Grasping the opportunity of Opal: Assessing the impact of the Petrol Sniffing Strategy an independent review of the Central Australian Petrol Sniffing Strategy Unit was commissioned in mid-2009. The CAPSSU Review Report, which was finalised at the end of 2009, and an internal response to that Report, developed between partner agencies (including CAPSSU) and overseen by the PSS SES Steering Committee, is now in the implementation phase. This Report has been published on the following site:

**Recommendation 8**

That the Commonwealth and State and Territory Governments address the sporadic nature of funding and disruption of successful programs by:

- committing to longer term funding models;
- actively assisting communities to access government programs and meet the governance requirements; and
- providing long term support to successful programs in Indigenous communities.

**Response**

The government accepts this recommendation in principle, noting that long-term funding is already being provided up to 2014 under the Petrol Sniffing Strategy and through complementary programs.

The Northern Territory Integrated Youth Services Project, for example, was funded over three years (April 2007 – March 2010) through a single funding agreement with FaHCSIA, the Attorney-General’s Department and DEEWR. It was the primary youth diversion and community development project under phase one of the Petrol Sniffing Strategy. The provision of three year funding allowed these departments to work with the provider, Mission Australia, to put in place a coordinated and complementary response to the problems of petrol sniffing in Finke, Imanpa, Docker River and Mutitjulu. The services provided under this contract were transitioned to the NPY Women’s Council in April 2010, with funding provided until 2012 under the Youth in Communities (YIC) measure.
The YIC measure is an investment of $28.4 million over the next three years (2009-10 to 2011-12) to develop a comprehensive youth strategy in the Northern Territory. This builds on the $18 million that has already been provided under the Northern Territory Emergency Response Youth Alcohol Diversion measure. As a complementary program to the Petrol Sniffing Strategy, YIC funding will provide longer term planning certainty in seeding the development of a sustainable network of youth services in the Northern Territory. It will also enable the government to work in closer partnership with the Northern Territory Government in establishing the broad directions, service principles and type of projects to be funded under this strategy.

The government is also implementing flexible funding arrangements to make it easier for communities to respond to emerging priorities, flowing from local planning processes. The Indigenous Capability and Development Program administered by FaHCSIA, for example, provides a mechanism for developing flexible solutions and opportunities through better coordination and targeting of funding to locally identified priorities. A number of service streams under this program, such as the Indigenous Communities Strategic Investment (ICSI) Fund, also fund projects that extend beyond a single year. Indigenous Coordination Centre Managers can also approve the release of funding from ICSI locally.

**Recommendation 9**

The Committee, in concluding that the importance of consistent policing strategies in the effective regulation of volatile substance abuse in Indigenous communities cannot be understated, recommends that each State and Territory Government ensure that legislation is in place that empowers police and justice officials to intervene and prevent petrol sniffing.

**Response**

The government notes this recommendation.

The government recognises that inconsistent legislation and policing practices across jurisdictions can be an impediment to the effective regulation of volatile substance abuse in Indigenous communities, particularly in the Central Australian tri-state area. Some community stakeholders have reported a concern that legislative variations between jurisdictions may give rise to inconsistent treatment of the same behaviour and to different treatment protocols depending on where the behaviour takes place.

While policing and criminal justice issues are primarily the responsibility of State and Territory governments, the Commonwealth continues to play an important research and coordination role in identifying and assisting to address any difficulties caused by inconsistent legislation and policing practices, as evident in the response to Recommendation 10 below.

**Cross-border justice agreement**

As an example of a successful cross-jurisdictional initiative to counter the effects of inconsistent legislation and policing practices, the Cross-border Justice Scheme (a cooperative arrangement between the Australian, Northern Territory, South Australian and Western Australian governments) allows officials to deal with offenders from any one of the participating jurisdictions where the offender has a connection to the cross-border region. This will streamline the delivery of justice services and improve public safety in the cross-border region.

State and Territory legislation relating to this agreement has been passed by all three jurisdictions. The government amended the Service and Execution of Process Act 1992 (Cth) in 2009 to support the effective operation of the cross-border justice scheme.

**Substance Abuse Intelligence Desks**

In support of better-aligned policing practices across jurisdictions, the government has also provided funding for three Substance Abuse Intelligence Desks (SAID) in Marla, Alice Springs and Katherine targeting drug trafficking, including the trafficking of petrol and kava. These Intelligence Desks are staffed by Northern Territory Police (and, in the case of Marla, South Australian Police) and work collaboratively with Western Australian police to gather intelligence, to educate communities, roadhouse operators and local police and to conduct joint enforcement activities.

For example, the Australian Government is supporting the Western Australian Police’s efforts to disrupt trafficking and use of illicit substances.
throughout Western Australia’s goldfields district, including Esperance, Kimberley and Pilbara, providing $300,000 over two years to enable Western Australian officers to further target abuse of drugs, alcohol, petrol, kava and other licit and illicit substances in remote communities.

As part of the strategy, the Crime Intelligence and Coordination Units in each Western Australian Police District will specifically target substance abuse in remote communities, working with the existing Substance Abuse Intelligence Desk and Dog Operations Units located in the Northern Territory and South Australia. Information sharing that currently exists across Western Australia, the Northern Territory and South Australia will culminate in a series of targeted multi-jurisdictional operations and patrols.

Cross-jurisdictional initiatives allow officials to deal with offenders from any one of the participating jurisdictions where the offender has a connection to the cross-border region. This will streamline the delivery of justice services and improve public safety.

Recommendation 10
That the Attorney-General’s Department, with the cooperation of the State and Territory Governments, conduct an audit of current legislation used to police and combat petrol sniffing with a view to ensuring a consistent and cooperative approach in legislation across all jurisdictions by 2008.

Response
The government accepts this recommendation.

The government commissioned an independent report (the Shaw Report) which involved community consultation and was finalised in March 2010. The Shaw Report found that the range of legislative approaches adopted in various jurisdictions, while different, were not necessarily inconsistent; and that this did not impact significantly on service delivery or policing. The need for consistent legislation was not identified as a key priority by stakeholders, who were more urgently concerned with the need for better coordinated service delivery. The Shaw Report has been published at http://www.fahcsia.gov.au/sa/indigenous/pubs/evaluation/Pages/default.aspx

Recommendation 11
The Committee recognises that the violent acts of petrol sniffers are at times being directed towards vulnerable community members and considers that community safety and personal protection are the right of all people. The Committee therefore recommends that Commonwealth, State and Territory Governments commit to:

- continuing to implement strategies as a matter of priority to achieve a permanent police presence in all Indigenous communities;
- recruiting Aboriginal Liaison and Community Officers;
- establishing and supporting community night patrols; and
- considering multi-functional police centres as a best practice strategy.

Response
The government notes this recommendation.

The government agrees that all Australians have a right to community safety and personal protection. Community safety is a State and Territory responsibility, and the Australian government has provided significant support to State and Territory initiatives aimed at achieving this objective.

On 14 July 2006, COAG announced a $130 million package of initiatives including $47 million over four years for a policing review, audit of the number of police officers in remote Australia, and improved policing infrastructure including:

- Northern Territory - a permanent police station and multifunction facilities including officer accommodation at Galiwinku
- Queensland - construction of police housing at Hope Vale, Aurukun, Woorabinda, Lockhart, Pormpuraaw, Doomadgee and Mornington Island
- South Australia - construction of permanent police station and multifunction facilities at Amata and Pukatja on the APY Lands; and
- Western Australia - construction of multifunction police facilities, staff housing and visiting officers’ quarters at Burringurrah, Looma and Blackstone, and additional visiting officers’ quarters at Bidyadanga.
The independent review into policing levels in remote Indigenous communities in Queensland, Western Australia, South Australia and the Northern Territory was used to assist in identifying priority locations for the construction of police infrastructure under this COAG initiative.

In response to the South Australia Commission of Inquiry report, Children on the APY Lands (Mullighan Inquiry) report, the Australian Government provided an additional $15 million to provide police facilities to Mimili on the APY Lands and additional accommodation for police officers and child protection workers in the three communities with new police stations.

Through the Northern Territory Emergency Response, the government has also provided significant funding to increase the police presence in Indigenous communities in the Northern Territory. In 2007-08 and 2008-09, a total of $36 million was provided for the establishment of 18 temporary Task Force Themis police stations, the deployment of additional police, and the construction of infrastructure including visiting officers’ accommodation, upgrades to police stations and the Northern Territory Police College.

In 2009-10 under the Closing the Gap in the Northern Territory National Partnership Agreement (NPA), the government will provide $156.6 million over three years to continue the remote policing and substance abuse initiatives implemented under the Northern Territory Emergency Response. Funding will be used to maintain the increased police presence, replace five temporary police facilities with permanent stations and continue substance abuse activities including the SAIDs and Dog Operation Units, alcohol management plans, licensing inspectors and signage.

In the 2009-10 Budget the government announced further funding of $34.6 million over three years as part of the Closing the Gap in the Northern Territory measure, to promote ongoing engagement with Indigenous communities, with a particular focus on Northern Territory Emergency Response prescribed communities.

In November 2009, all Australian Governments endorsed the National Indigenous Law and Justice Framework (the Framework). One of the issues that mark the interaction between Indigenous Australians and the justice systems is the strong link between substance abuse, including petrol sniffing, and offending. In recognition of this, Goal 4 of the Framework outlines strategies and actions to increase safety and reduce offending by addressing alcohol and substance abuse.

Night patrols have been established in 72 of the 73 prescribed communities identified by the Northern Territory Emergency Response. Consultations are continuing with the remaining community. Night patrols are funded under the Closing the Gap in the Northern Territory budget measure, which provides $80.2 million over three years from 2009-10 for law and order initiatives.

Other activities under this measure include interpreter services, legal assistance providers and the Welfare Rights Outreach Project.

State and Territory initiatives aimed at improving community engagement include the establishment of Aboriginal Community Police Officer positions within the Northern Territory Police, Community Constables and Police Aboriginal Liaison Officer positions within the South Australian Police, and Police Liaison Officer positions in Queensland.

Recommendation 12

Community safe houses provide an appropriate place to temporarily house users of volatile substances and other drugs who threaten the safety of other community members. The Committee recommends that the Commonwealth conduct an audit of existing safe houses, identify Indigenous communities in need of safe houses and, as a priority, provide additional funding to establish safe houses in these communities.

Response

The government notes this recommendation.

Community safe houses are a State and Territory responsibility. The Northern Territory, Queensland, Victoria and Western Australia have legislation in place which enables a police officer or, in some cases, another authorised person, to temporarily place an intoxicated person in protective custody if they pose a danger to themselves or others. Persons apprehended are not under arrest and no criminal charges are laid. The purpose of apprehension and detention is to protect that person or to protect other people from the risk of harm, while the person is intoxicated. An impor-
tant safeguard is that in no jurisdiction can a child be detained in a police lock-up or cell, except in exceptional circumstances.

Since 2007, the government, in partnership with the Northern Territory Government, has provided funding to establish safe houses under the Northern Territory Emergency Response Family Support Package. This Package has supported the establishment or expansion of 22 Safe Places in 15 remote communities as well as Alice Springs and Darwin; the formation of a Mobile Child Protection Team; and the recruitment of Remote Aboriginal Family and Community Workers.

Of the 22 safe places, 13 are safe houses for women and children, and nine are cooling off shelters for men. Safe houses provide an essential refuge for women and children away from family violence, while men’s cooling off shelters provide a safe place for men offering family violence education and programs on dealing with alcohol. Safe places also act as a link to other services including counselling, legal and support services such as well-being programs and cultural healing programs.

Sobering up shelters are also available in communities, as a safe place for people to sleep off the effects of acute intoxication. Whilst the government does not provide dedicated program funding for sobering-up shelters, it is providing capital works funding to support improvements to sobering-up shelters in Tennant Creek and Katherine in the Northern Territory under the COAG drug and alcohol measures.

The government, through DOHA, also funds a range of Indigenous-specific substance use services nationally, delivered through residential and non-residential rehabilitation services and primary health care services.

**Recommendation 13**

Women and children who are at risk of harm from intoxicated adults and sniffers need safe places to protect them from violence, hurt and abuse. The Committee recommends that the Commonwealth provide additional funding to establish safe houses, in addition to the safe houses in the previous recommendation, for women and children at risk in Indigenous communities.

**Response**

The government accepts this recommendation, noting that safe houses are a State and Territory responsibility. Protecting children and families and helping to build stronger and safer communities are key COAG priorities fundamental to Closing the Gap between Indigenous and non-Indigenous Australians.

The government has a national leadership role to stop the abuse and neglect of women and their children, and is working in collaboration with State and Territory governments, community service providers and Indigenous people to tackle this problem. In May 2008 an 11-member National Council was appointed to advise on strategies for reducing violence against women and their children. The National Council has conducted a number of consultations with members of Indigenous communities across Australia and held an Indigenous Forum at Parliament House. After consulting with more than 2,000 Australians the Council presented to the Australian Government a comprehensive report, Time for Action to Reduce Violence against Women and their Children.

The government has committed to immediately progressing 18 out of the 20 priority recommendations from the National Council’s report and to giving effect to the National Framework for Protecting Australia’s Children, as endorsed by the Council of Australian Governments.

The government remains committed to building stronger and safer communities for all Australians and this means working to address issues and provide opportunities at the local community level.

**Recommendation 14**

The Committee strongly supports the development of community-based programs and recommends that State, Territory and Commonwealth Governments provide long-term funding for community-based programs and when providing funding ensure that:

- strong agency support is provided;
- programs are established which build the capacity of community members such as training in youth work and training that
builds skills of program management and governance;

• appropriate levels of funding are made available to ensure the operation of youth programs during times of need, for example into the evenings and during school breaks when petrol sniffing is more prevalent; and

• adequate resources are provided for trained, skilled and committed staff to be retained in communities on a permanent basis rather than a fly-in-fly-out roster system.

Response

The government accepts this recommendation. State and Territory governments have primary responsibility for funding of community based programs for youth at risk. The Commonwealth’s role is complementary to State and Territory funding. The government acknowledges both the merits of community based programs, particularly those aimed at transferring skills and knowledge and building local capacity to deliver key community services, and the limitations imposed by budget cycles and changing political priorities.

This recommendation is consistent with the remote service delivery principles agreed by COAG, and the longer-term implementation issues associated with translating these principles into standard program practice are under consideration by program and policy areas across government.

Notable examples of relevant recent initiatives that have been funded by the government under the Petrol Sniffing Strategy include:

• Provision of $12 million towards the establishment of the Northern Territory Integrated Youth Services Project (IYSP), as the primary community development and youth diversion project under the Petrol Sniffing Strategy. Mission Australia was funded for three years to March 2010 under this Project to deliver holistic youth services to the four central Australian priority communities of Finke (Aputula), Imanpa, Docker River (Kaluktukatjara) and Mutitjulu, comprising:

  • the employment of two full-time youth workers (one male and one female) and relief staff in each community, to deliver a comprehensive youth service available 24 hours a day, seven days a week;

  • the employment, training and supervision of local Aboriginal people, to fill up to two full-time equivalent youth worker positions on each community; and

  • the establishment of appropriate governance arrangements in these communities.

Projects funded under the IYSP have been transitioned to the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women’s Council through funding made available under the Youth in Communities measure.

Infrastructure funding of $4 million was also provided through the IYSP to build much needed youth worker accommodation in the communities, as well construct a new recreation hall at Finke and refurbish two existing halls in Imanpa and Docker River.

Under the Northern Territory Emergency Response Youth Alcohol Diversion measure, the government funded a pilot initiative involving several West MacDonnell communities in the Northern Territory Expanded Petrol Sniffing Strategy Zone, to provide part-time employment, training and supervision to local Anangu people as youth workers. This project is being managed by the MacDonnell Shire Council.

The APY Youth Engagement Program was funded to engage 70 young Indigenous people aged 12 to 20 years who are disengaged from education and at risk of substance abuse. The program provides Indigenous youth with accredited training, work experience and support through case management and mentoring.

The government recognises the importance of providing youth services at critical times, particularly outside school hours and during school holiday periods. Various projects were funded under the Northern Territory Emergency Response Youth Alcohol Diversion measure to encourage and support youth engagement and participation in school. Funding has also been provided for a number of school holiday programs, which aim to keep children in their communities during the holiday breaks, so that they are available and available.
ready to return to school at the commencement of the new term.

**Recommendation 15**

The Committee recognises that there are some elements that are critical to the success of community programs and recommends that:

- government funded programs must provide for these critical elements including community ownership, the involvement of families and youth in their development and combined with the provision of essential support and expertise;
- the Commonwealth identify, evaluate and provide ongoing support to allow the continuation and further development of those community-based programs that have proven particularly successful; and
- the Commonwealth develop and implement a communication strategy that facilitates information sharing and the development of such programs in other communities.

**Response**

The government accepts this recommendation, recognising that successful implementation of the PSS requires ongoing collaboration with key stakeholders, including Indigenous communities. Community engagement is a key element of this Strategy. Under the PSS Northern Territory Integrated Youth Services Project (NT IYSP), for example, Mission Australia was required to establish appropriate governance arrangements and links to communities, families and young people to ensure effective and responsive service delivery. It should be noted that the success of this approach depends on a range of factors including community leadership and capacity.

As discussed in the response to Recommendation 7 above, evaluation is one of the components of the PSS Eight Point Plan. A comprehensive PSS Evaluation Strategy was developed in 2009 to support a whole of government approach to evaluating the PSS, as well as separate evaluations of each of the components of the Eight Point Plan. Component evaluations (2009-10) assess the achievements and lessons learnt from key projects implemented under the PSS, including the extent to which community members were involved in their design and delivery. In January 2010, the PSS SES Steering Committee agreed to commission a complementary PSS Monitoring and Evaluation Plan to refine data collection and monitoring capability and to streamline the existing PSS Evaluation Framework, in alignment with data collection requirements arising as a result of the strengthened roll-out of Opal fuel. The outcomes of these evaluations will inform future program development under the PSS as well as other relevant programs, for instance those funded under the Youth in Communities measure.

Similarly, communication forms one of the elements of the PSS Eight Point Plan. FaHCSIA recently received an independent report identifying and mapping communication strategies and messages used by relevant youth and substance abuse programs in the PSS Zones. This completes the first stage in the development of a range of communication strategies and resources, together with key messages and target audiences, to achieve a more consistent, integrated and community-focused approach.

Communication issues were the subject of recommendations made as part of the CAPSSU Review Report. These are further discussed in the government’s response to the 2009 Senate Committee Report (see response to Recommendations 2 and 4).

**Recommendation 16**

The Committee acknowledges the success of Yuendumu programs including the Mt Theo outstation and while recognising that this model will not fit for all communities, recommends that the Commonwealth provide long term funding and support to assist other interested communities to develop similar programs.

**Response**

The government accepts this recommendation in principle. The government acknowledges the success of the Mt Theo program and has a long history of providing recurrent funding to Mt Theo through DOHA’s Substance Use Program. FaHCSIA also invested $2 million in funding for the Mt Theo program through the Northern Territory Emergency Response Youth Alcohol Diversi-
Under the PSS Evaluation Framework, component evaluations have assessed the full range of projects being implemented under this Strategy. The lessons learned from these evaluations will inform the design and development of future projects carried out under or aligned with the PSS.

Recommendation 17
The Committee notes that as part of the Eight Point Regional Strategy for Central Australia, the Commonwealth is undertaking an assessment of the most feasible options for rehabilitation facilities for petrol sniffers. The Committee considers the provision of rehabilitation facilities for petrol sniffers a priority and recommends that Commonwealth, State and Territory Governments urgently provide adequate levels of additional funding for new and existing rehabilitation facilities.

Response
The Australian Government accepts this recommendation noting that a number of initiatives have provided funding to Indigenous substance use treatment and rehabilitation since this recommendation was made in June 2006.

DOHA provided additional funding of $3.89 million over three years from the 2007 COAG substance use measure to new and existing services that provide petrol sniffing programs. The funding enhanced service delivery through increased bed occupancy and/or increased scope and reach of services for young people in Central Australia and the Top End of the Northern Territory.

The additional funding provided under the 2007 COAG substance use measure was a whole of government initiative requiring joint consideration from the Commonwealth and Northern Territory Governments.

The Office for Aboriginal and Torres Strait Islander Health (OATSIH) Northern Territory Office in collaboration with the Northern Territory Government will continue to monitor the demand for services and need for additional funding in Central and the Top End of the Northern Territory.

The Australian Government through DOHA currently provides ongoing funding to services through the Substance Use program, COAG funding and the Northern Territory Emergency Response measures to organisations for residential and non-residential rehabilitation services in the Central Australia Zone (that includes the Northern Territory, South Australian and Western Australian areas of Central Australia):

- Warlpiri Youth Development (Mt Theo);
- Drug and Alcohol Services Association Alice Springs Incorporated (Northern Territory);
- Ilpurla Aboriginal Corporation (Northern Territory);
- Bush Mob NT (funded by OATSIH through Northern Territory Government over two years);
- Central Australian Youth Link-up Service (CAYLUS);
- Sunrise Health Service Aboriginal Association; and
- Miwatj Health.

Recommendation 18
That the Commonwealth, State and Territory Governments establish priorities for extending the roll out of Opal fuel to the current production capacity of 20 million litres. The strategy should include:

- the identification of critical roadhouses and townsships in close proximity to Opal communities;
- promotion of the Petrol Sniffing Prevention Program to roadhouse and townsships; and
- identifying and combating barriers that prevent a complete roll out of Opal throughout the Central Australian region.

Response
The Australian Government accepts this recommendation noting that the rollout of Opal fuel has extended beyond a production capacity of 20 million litres per annum, having secured increased production capacity for up to 40 million litres per annum in 2006.

As at 30 April 2010, there were 129 sites receiving or registered to receive Opal fuel across regional and remote Australia. This includes 80 communities, 37 service stations/roadhouses, seven supporting organisations and five pastoral properties.

This recommendation is closely linked to Recommendation 8 of the recent Senate Community

Please refer to the Australian Government’s response to that recommendation, which identifies current priority regions and sites being targeted for the Opal fuel rollout.

Recommendation 19
That the Commonwealth and Queensland Governments agree on a complementary subsidy approach that ensures Opal can retail in Queensland for the same price as regular unleaded.

Response
The Australian Government accepts this recommendation, noting that it has already been implemented.

The Queensland Government’s Revenue Legislation Amendment Bill (No. 2) 2006 received royal assent on 10 November 2006 and took effect on 1 December 2006. This means that unleaded Opal fuel is now a standard retail fuel product attracting the fuel subsidy in its own right, therefore effectively ending the Queensland Opal Trial.

Recommendation 20
That Commonwealth and State and Territory Governments develop systems to secure premium and other sniffable fuels at key roadhouses and townships which can then be applied in larger centres such as Alice Springs.

Response
The Australian Government accepts this recommendation, noting that it has already been implemented.

Recommendation 21
That the Commonwealth:

- undertake a study with BP Australia to determine the potential to increase the current 20 million litres production capacity at Kwinana; and
- approach other refineries to use their existing production capacity to produce Opal.

Response
The Australian Government accepts this recommendation, noting that it has already been implemented.

In May 2006, BP Australia advised that it has increased its capacity to enable production of up to 40 million litres of Opal fuel per annum from their refinery.

The Australian Government continues to work with key stakeholders to ensure the availability of low aromatic fuel, however no other fuel refiners have committed to producing Opal fuel or an equivalent.

Recommendation 22
That the Commonwealth Government discuss with BP Australia what role they may have to assist the distribution of information on Opal and the distribution of Opal identification stickers.

Response
The Australian Government accepts this recommendation, noting that it has already been implemented.

As a part of its Opal Fuel Communication Strategy, DOHA is working closely with BP Australia to develop consistent and credible messages and branding about Opal fuel for a range of target audiences, including tourists.

Recommendation 23
That the Commonwealth and State and Territory Governments examine the procedure at Maningrida whereby contracts are used to prevent contractors bringing regular unleaded petrol into their communities and facilitate the adaptation and spread of this technique to other communities.

Response
The government will give further consideration to this recommendation, noting that the Senate Community Affairs References Committee reaffirmed it in Recommendation 7 of its 2009 report Grasping the opportunity of Opal: Assessing the impact of the Petrol Sniffing Strategy. The government understands that a number of State and Territory governments have included or are planning to include similar clauses in their contracts.
A number of significant legal and operational issues would need to be addressed before this recommendation could be implemented. These include:

- ensuring the clause is consistent and applicable across all Australian Government contracts and funding agreements that may be operating within a designated area;
- whether the clause should be made mandatory, and the implications of this for monitoring compliance and enforcement;
- how best to define “areas where petrol sniffing is a problem” in a way that is legally meaningful for the purposes of a contract, particularly in circumstances where a contract may apply across a broad area or where the nature of petrol sniffing is sporadic and opportunistic; and
- the extent of the obligations that should be imposed on service providers to prevent regular unleaded petrol entering a community.

Attachment A
Eight Point Plan
Petrol Sniffing Strategy

The Petrol Sniffing Strategy takes an integrated regional approach to addressing the problem of petrol sniffing in Indigenous communities and is implemented through an Eight Point Plan.

The Petrol Sniffing Strategy Eight Point Plan was announced in September 2005. Initially funded for three years this Plan consists of the following components.

1. A consistent legal framework
2. Appropriate levels of policing
3. Further roll out of Opal Fuel
4. Alternative activities for young people
5. Treatment and respite facilities
6. Communication and education strategies
7. Strengthening and supporting communities
Communities and sites are identified to supply Opal fuel with the assistance of Indigenous Coordination Centres, DoHA state offices, Government Business Managers, State and Territory governments and non-government organisations. The introduction of Opal fuel is only undertaken after a consultation process with local stakeholders where communication needs are identified and fuel distribution is organised.

To ensure the availability of Opal fuel and its impact are more effectively communicated to Indigenous communities, DoHA will examine options to improve internal communications with Indigenous Coordination Centres and Government Business Managers who provide vital intelligence and linkages at the local level.

Recommendation 2
That any future rollout of Opal fuel be accompanied by an appropriate communication strategy that is implemented well in advance of the rollout. As such, the Committee urges the government as a matter of priority to finalise the revised communication strategy before the next phase of the rollout of Opal fuel. The Committee does not consider that this should cause any delay to the further rollout of Opal fuel.

Response
The Australian Government accepts this recommendation, noting that a communication strategy to support the ongoing rollout of Opal fuel has been finalised in the context of ongoing PSS Communications activity being developed and carried out as part of the PSS Eight Point Plan.

The additional $38.5 million over four years provided for Opal fuel by the Australian Government in the 2010 Budget includes funding for the implementation of the communication strategy.

A key component of the rollout of Opal fuel to new sites is a communication strategy that addresses the need to educate residents, key stakeholders and tourists about the effectiveness and reliability of Opal fuel, and that overcomes any negative perceptions about the product.

As communication requirements vary from site to site due to locality and demographic, a broad overarching communication strategy has been developed. The Opal Fuel Communication Strategy provides a framework for research, supporting communication activities and materials, community and stakeholder engagement, a media strategy, advertising and web-based communications. This framework will be adapted and applied to individual sites and regions as Opal fuel is introduced or if the need for renewed communication messages is identified in areas that already supply Opal fuel.

As a part of the Opal Fuel Communication Strategy, DoHA is working closely with BP Australia to develop consistent and credible messages and branding about Opal fuel for a range of target audiences, including tourists.

Recommendation 3
That Western Australia, South Australia and Queensland provide similar mechanisms to those in place in the Northern Territory which empower individual communities to ban the importation, supply and sale of regular petrol and other volatile substances in a designated local council or shire area.

Response
The Australian Government notes this recommendation.

The government recognises the importance of local solutions to substance misuse problems. Measures empowering communities to regulate volatile substances in a designated local council or shire area fall within State and Territory responsibility and are currently in place in Western Australia, Queensland and South Australia. Specific regimes are as follows:

Western Australia: Section 206 of the Criminal Code 1913 (WA), which creates an offence of supplying an “intoxicant” (including volatile substances) to a person likely to abuse it. It applies both to the sale or supply of such substances. In addition, under the Aboriginal Communities Act 1979 (WA), the council of an Aboriginal community is permitted to make by-laws dealing with a number of matters, including “the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances”. The term “deleterious substances” is not defined.

Queensland: Section 23 of the Summary Offences Act 2005 (QLD), which makes it an of-
fence to sell a “potentially harmful thing” to another person if the seller:

“knows or believes, on reasonable grounds, that the other person—
(a) intends to inhale or ingest the thing; or
(b) intends to sell the thing to another person for inhalation or ingestion whether by that person or someone else.”

In addition, Aboriginal councils may make by-laws and subordinate by-laws about any matter, so long as they follow the procedure set down in Part 7 of the Community Services (Aborigines) Act 1984 (QLD) for the making of by-laws.

South Australia: The Controlled Substances Act 1984 (SA), which contains three separate offence provisions, covering the sale or supply of volatile solvents, the purchase of volatile solvents at the request of another person, and the sale or supply of petrol to a person under 16. In addition, under section 42D of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 (SA), there is a specific offence of sale or supply of a “regulated substance” on the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, knowing or with reason to suspect that the person to whom it is sold or supplied will inhale or consume it. This includes participation in or possession for the purpose of sale or supply. “Regulated substance” is currently defined to mean petrol. This offence carries a maximum penalty of $50,000 or imprisonment for 10 years.

The government will continue to monitor progress on these matters.

**Recommendation 4**

While the Committee recognises the importance of a local ‘on the ground’, coordinated presence for the effective implementation of the Eight Point Plan, it is concerned about CAPSSU’s ability to effectively implement the Petrol Sniffing Strategy. The Committee recommends that the Commonwealth government immediately commission an independent review of the role and function of CAPSSU, specifically:

- its capacity to implement the strategy effectively;
- whether its current location in the Alice Springs ICC as part of FaHCSIA delivers the requisite level of accountability and governance standards;
- processes in place for the effective ongoing monitoring, evaluation and reporting of the Unit’s role;
- its ability to effectively engage and consult with Indigenous people and communities; and
- the effectiveness of the tri-state whole of government approach including the staffing and collaboration between departments.

**Response**

The government accepts this recommendation and notes that it commissioned an independent review of CAPSSU in 2009. That review report was received at the end of 2009. The review found that CAPSSU has made a significant contribution to the implementation of the PSS, particularly in the area of diversionary activities for young people.

The review also identified several opportunities for enabling CAPSSU to draw on the full range of resources available in the community, in achieving a better-integrated implementation of the PSS. These include:

- addressing the barriers to cooperation and collaboration, to reaffirm CAPSSU’s role as the body with oversight of the Petrol Sniffing Strategy in the Northern Territory and across State and Territory borders;
- better aligning CAPSSU’s work with parallel activities within the broader volatile substances area; and
- strengthening the governance arrangements and program frameworks within CAPSSU, to provide greater transparency, program logic and accountability to the work of the unit.

The government welcomes the key findings and recommendations of the report and significant whole-of-government work in response to the report is underway under the supervision of the PSS SES Steering Committee and in consultation with CAPSSU. This will inform the next phase of the Petrol Sniffing Strategy, and build on the strategy’s significant outcomes to date in reducing sniffing rates in remote Indigenous communities.
Recommendation 5
Given the continuing resistance to Opal fuel by some retailers across all jurisdictions in central Australia, the Committee recommends that the Commonwealth government complete, as a matter of priority, the necessary work to determine whether legislation is both possible and practicable. If these retailers do not voluntarily agree to supply Opal within six months, and if it is established that there are no legal impediments to the implementation of Commonwealth legislation, the Commonwealth government should immediately commence the drafting of legislation to mandate the supply of Opal fuel within the petrol sniffing strategy zone.

Response
The Australian Government accepts this recommendation in part.
In June 2009, DoHA engaged the South Australian Centre for Economic Studies to undertake a cost-benefit analysis of the legislative options to mandate the supply of Opal fuel and control the sale of PULP in designated regions of Australia.
The study examined the voluntary roll out of Opal fuel in three different analysis areas, and considered the long and short term outcomes and costs of the program, balanced against benefits to individuals, communities and governments. The legislative options for mandating supply of Opal fuel were also examined.
A broad range of stakeholders were consulted including: Indigenous communities; fuel retailers and distributors; health organisations, non-government organisations and government officials (including community-based government officials and police).
The final report of the study was received in January 2010 and is now available on DoHA’s website at http://www.health.gov.au/internet/main/publishing.nsf/Content/health-oatsih-pspp-reports
The cost-benefit analysis concluded that the community benefits exceeded the costs, both in the short and the long term. However, the study also noted that the conclusions were based on limited data on the prevalence of petrol sniffing and that fuel storage and distribution issues needed to be addressed to enable a full roll out of Opal fuel in northern Australia.
The Australian Government has provided $38.5 million, over four years, in the 2010 Budget to enhance the current voluntary roll out of Opal fuel. This funding will be used to:
• establish new storage facilities for Opal fuel in Darwin and northern Queensland. These new facilities will enable Opal fuel to be delivered to 39 new sites in the East Kimberley of Western Australia, the Top End of the Northern Territory and the Gulf of Carpentaria region in Queensland. In addition, the storage facilities will also ensure a more reliable supply of Opal fuel to Indigenous communities already receiving Opal fuel;
• implement a communication strategy both with the roll out of Opal fuel and to sites already receiving Opal fuel; and
• implement a surveillance system to collect data on the impact of Opal fuel and the broader Petrol Sniffing Strategy. This monitoring system will collect information on the prevalence of petrol sniffing, switching to other substances and individual and community behavioural changes.
The information collected through the surveillance system will be used by the government to inform future decisions regarding the value of an additional legislative approach once the full voluntary roll out of Opal fuel has occurred in 2012-13.
There are currently only a small number of retailers refusing to supply Opal fuel. The new funding will address the reasons some of these retailers have given for not supplying Opal fuel. This includes initiatives to ensure:
• increased communication about Opal fuel to address myths about the fuel’s reliability;
• communication about Opal fuel targeted at tourists to address concerns that the fuel is bad for tourism; and
• the roll out of Opal fuel occurs on a regional basis in northern Australia to address concerns that individual retailers will be disadvantaged if they supply Opal fuel.
Recommendation 6
In the event that the introduction of Commonwealth legislation is not possible, the Committee recommends that State and Territory governments introduce legislation to mandate the supply of Opal within the petrol sniffing strategy zone.

Response
The Australian Government notes this recommendation.
Please see comments in response to recommendation 5 above.

Recommendation 7
Given that the Committee in its 2006 report recommended that all governments replicate the procedure used in Maningrida to prevent contractors bringing regular unleaded petrol into communities by making it a term of contract, the Committee reaffirms this recommendation and recommends that contracts for service in areas where petrol sniffing is a problem contain terms which prevent regular unleaded fuel entering the community and require that all other volatile substances and inhalants be locked away when not in use.

Response
The government will give further consideration to this recommendation and understands that a number of State and Territory governments have included or are planning to include similar clauses in their contracts.
A number of significant legal and operational issues would need to be addressed before this recommendation could be implemented. These include:
- ensuring the clause is consistent and applicable across all Australian Government contracts and funding agreements that may be operating within a designated area;
- whether the clause should be made mandatory, and the implications of this for monitoring compliance and enforcement;
- how best to define “areas where petrol sniffing is a problem” in a way that is legally meaningful for the purposes of a contract, particularly in circumstances where a contract may apply across a broad area or where the nature of petrol sniffing is sporadic and opportunistic; and
- the extent of the obligations that should be imposed on service providers to prevent regular unleaded petrol entering a community.

The government notes that preventing contractors from bringing regular unleaded petrol into communities is just one of a number of measures that may be employed to control the supply and use of petrol in areas where petrol sniffing is a problem.
Other measures that would complement this strategy include the use of alternative low aromatic fuels such as Opal, council by-laws and relevant State and Territory legislation such as the Volatile Substance Abuse Prevention Act 2005 (NT). By way of example, this Act already enables communities in the Northern Territory to create area management plans to manage the possession, supply and use of volatile substances in a particular area defined by the community. It is a criminal offence under the Act for a person to contravene an approved community management plan. The government understands that a number of communities in the Northern Territory have approved community management plans in place.

Recommendation 8
The Committee reaffirms its previous recommendation that the Commonwealth, State and Territory governments revise and agree upon priorities to consolidate and extend the rollout of Opal fuel to utilise the current production capacity of 40 million litres per annum. The immediate focus should be on:
- delivering a comprehensive exclusion zone in central Australia;
- the option of establishing a bulk storage facility in Darwin in order to provide a sustainable long-term distribution system in northern Australia; and
- actively expanding the rollout of Opal fuel to the far west coast region of South Australia and Arnhem Land in the Northern Territory.

Response
The Australian Government accepts this recommendation and notes that its current priorities
for the rollout of Opal fuel align with the Committee’s recommended focus.

**Delivering a Comprehensive Exclusion Zone in Central Australia**

To deliver a comprehensive exclusion zone in central Australia, the areas surrounding the central desert region are being targeted for the rollout of Opal fuel. The immediate focus is the rollout to Laverton and the Goldfields region of Western Australia and Coober Pedy in South Australia. Discussions have commenced with fuel distributors servicing Laverton and the Goldfields area (located further west of the existing Central Desert Region) regarding a broader rollout of Opal fuel to this region. The comprehensive rollout in Laverton and the Goldfields could see an additional nine sites commence supplying Opal fuel. This will help reduce the amount of regular unleaded petrol being taken onto the Ngaanyatjarra Lands including Warburton.

To support the rollout in this region, the Australian Government is working with BP Australia to establish bulk storage for Opal fuel in Kalgoorlie, announced in March 2010. Establishing storage in the area will help guarantee continuity of supply to the region.

This rollout will occur in the 2010-11 financial year with a targeted communication campaign to support Opal fuel’s introduction.

The town of Coober Pedy has been approached to supply Opal fuel to prevent the continued trafficking of petrol into the APY Lands for sniffing purposes and also to limit the migration of sniffers to Coober Pedy to access regular unleaded fuel. Initial discussions have commenced with local government and key stakeholders in the community. To date these groups have given support to the rollout to all service stations in the town. A communication strategy informed by community and stakeholder consultation will be implemented to support the rollout of Opal fuel to this town.

**Bulk Storage Facility in northern Australia**

The 2010 Budget has provided an additional $38.5 million to continue the current voluntary rollout of Opal fuel by addressing storage and distribution issues. Under the new measure, storage facilities for Opal fuel will be established in the Top End of Australia including Darwin in the Northern Territory and Northern Queensland. Establishing these facilities will enable Opal fuel to be provided to an additional 39 sites surrounding 11 Indigenous communities with known petrol sniffing issues.

The storage facilities are expected to be ready for use in 2012-13.

**Expanding the Rollout of Opal Fuel to the Far West Coast Region of South Australia and Arnhem Land in the Northern Territory**

**Yalata and Nullarbor Region**

The community of Yalata is approved to receive Opal fuel but does not currently have a working fuel pump. A working group lead by the Indigenous Coordination Centre in Ceduna is assisting Yalata Community Council with a project to establish a supply of Opal fuel to Yalata. The Commonwealth Government together with the South Australian Government is providing funding to obtain a stand alone fuel unit to supply Opal fuel to the community. This project is being undertaken as a trial of this facility in a community.

The project timeframes have been extended due to a number of complexities surrounding approval of the site for the fuel unit. The extension also ensures that the project is implemented in line with Yalata Community’s requirements and in a way that makes certain that this project remains viable in years to come.

The immediate priority in the region is the provision of Opal fuel to the Yalata Community. The further rollout of Opal fuel to the Nullarbor region will be considered following the supply of Opal fuel at Yalata and whether a need for the introduction of Opal fuel beyond Yalata is identified.

**Arnhem Land**

The majority of communities in this region participated in the Comgas Scheme and switched to Opal fuel shortly after its introduction in 2005. There are currently 13 sites receiving Opal fuel in Arnhem Land.

To support the existing sites in Arnhem Land, Opal fuel will be introduced to surrounding regions including Katherine/Mataranka and Kakadu National Park/Jabiru. The establishment of a storage facility in Darwin will provide a reliable
and sustainable supply chain for Opal fuel to this region allowing these rollouts to progress.

Initial conversations with fuel retailers and other local stakeholders in these regions produced a generally positive response to the introduction of Opal fuel, with the proviso that all retailers agree to switch.

It is anticipated that Kakadu National Park/Jabiru will introduce Opal fuel in 2010-11 under interim distribution arrangements with sites in Katherine/Mataranka being added in 2011-12.

The rollout of Opal fuel to these regions will be supported by a communication campaign informed by the results of community consultation.

Recommendation 9

The Committee considers that the Guidelines for the Responsible Sale of Premium Unleaded Petrol are a necessary response to the availability of sniffable premium fuel and recommends the Commonwealth government finalise and distribute the guidelines without delay, making sure that adequate support is provided to ensure their implementation.

Response

The Australian Government accepts this recommendation.

The Guidelines for the Responsible Sale of Premium Unleaded Petrol were printed in March 2009 and are now being disseminated to service stations that supply both premium unleaded petrol and Opal fuel, and also to Opal fuel distributors.

Initial dissemination of the Guidelines has been targeted to service stations and roadhouses in Alice Springs and the Central Desert Region that supply premium unleaded petrol. An officer from DoHA has conducted site visits to a number of these service stations to explain the Guidelines and to provide assistance with their implementation.

Through funding provided by DoHA, the Central Australian Youth Link-Up Service (CAYLUS) will also assist with the Guidelines’ implementation by working with fuel retailers to encourage and support their introduction. This is similar to work already undertaken by CAYLUS around the responsible sale of solvents.

Recommendation 10

That twelve months after the distribution of the Guidelines for the Responsible Sale of Premium Unleaded Petrol the Commonwealth government undertake an audit of both the uptake and effectiveness of the guidelines in reducing access to premium fuel for the purpose of sniffing.

Subsequently, if the audit finds that these guidelines are not proving effective, the Committee recommends that, while conscious of the potential commercial costs, consideration is given to subsidising the development of an Opal equivalent substitute for premium fuel.

Response

The Australian Government notes this recommendation and will continue to monitor and review the uptake of the Guidelines in new and existing regions where Opal fuel and premium unleaded petrol are sold side by side.

The Australian Government is not presently considering the option to fund the development of low aromatic premium unleaded petrol. In the event that a suitable substitute is developed and presented to government, options to subsidise this product’s production and distribution may be considered.

No fuel supplier has indicated an ability to produce a low aromatic premium substitute to date. Information from BP Australia suggests that the low volume of premium unleaded fuel sold in the designated petrol sniffing zones means that any premium substitute would have to be heavily subsidised by the Australian Government. The subsidy is likely to be considerably higher than the subsidy paid currently to BP for Opal fuel.

Recommendation 11

That the Commonwealth government, as a matter of priority, expand current efforts to improve data collection on the prevalence and trends over time in relation to petrol sniffing and substance abuse in Indigenous communities so as to collect comparable data across all jurisdictions.

Response

The Australian Government accepts this recommendation and notes that significant progress has been achieved to date in improving the quality and consistency of data being collected on
petrol sniffing and other substance abuse. Recent initiatives include the following:

- A set of indicators to monitor petrol sniffing prevalence and effects commissioned by DoHA from James Cook University in December 2006. These indicators were used to collect baseline prevalence, health and social outcomes data relating to petrol sniffing in 74 remote Indigenous communities that had recently begun using Opal fuel.

- The final report was not available for public release due to the sensitivity of the community information. However, a summary of the report, including key findings, was publicly released on 1 May 2008 and is published at the following site: http://www.health.gov.au/internet/main/publishing.nsf/Content/health-oatsih-pspp-reports.

- DoHA contracted James Cook University to undertake data collection from the East Kimberley region, and the Tangentyere Council to undertake data collection in Alice Springs Town Camps. All of the data collection projects employed the same methodology to ensure data consistency.

- DoHA commissioned from James Cook University an impact evaluation of the roll-out of Opal fuel to:
  - identify the impact of the roll-out in contributing to changes in the prevalence of petrol sniffing and other outcomes, including any potential unintended consequences; and
  - identify and analyse the range of factors that determine the success or otherwise of the outcomes of the Opal fuel roll-out.

The evaluation included a second round of data collection on the prevalence of petrol sniffing from a sample of 20 communities where baseline data was previously collected. The selection of 20 communities provided a representative sample across jurisdictions where petrol sniffing has been a problem and of the different manifestations of petrol sniffing. This data collection utilised the same methodology to ensure the full impact of Opal fuel was measured.


The Evaluation’s conclusions pointed to an overall decrease in the number of people petrol sniffing and the frequency of sniffing in 17 out of the 20 communities in the data collection sample. Across the whole sample there was a decrease of 431 (70 per cent) in the number of people sniffing between baseline and follow up. Of particular significance is the finding that:

“Central Australia and the APY Lands are the regions with the largest decreases in petrol sniffing. With 94% and 93% decreases respectively.”

DoHA will be collecting petrol sniffing prevalence data annually. This data collection will use the same sample and methodology that was used in the Evaluation of the Impact of Opal Fuel, and it will monitor the prevalence and frequency of all volatile substance use.

- FaHCSIA has also completed Baseline Community Profiles in a number of communities across the PSS Zones, including communities in the East Kimberley. FaHCSIA will continue to develop further profiles over the next 12 months. These profiles examine a range of aspects in communities including housing, health, early childhood, education, employment and substance abuse. Baseline data on the instances, prevalence and frequency of petrol sniffing for the Central Desert Region was collected at the commencement of the PSS.

- As part of the review of the Central Australian Petrol Sniffing Strategy Unit (CAPSSU) referred to in the response to Recommendation 4 of this Part, an appropriate methodology will be identified to help CAPSSU take on a stronger coordinating role in the future, in monitoring the prevalence and trends over time of petrol sniffing and other substance abuse in Indigenous communities. This methodology will allow data to be compared
across jurisdictions and will be linked with the data collection processes of other agencies (such as DoHA), to ensure the full impact of petrol sniffing problems and interventions are measured.

- The 2010-11 Budget has provided funding to establish an ongoing annual surveillance system to monitor the incidence and prevalence of petrol sniffing and transference to other substances. This annual data collection will also assist to evaluate the effectiveness of the Opal fuel program and other interventions that affect petrol sniffing prevalence.

**Recommendation 12**
That the Commonwealth government, in partnership with State and Territory governments, provide adequate resources to enable the extension of quality youth services and the employment of a male and a female youth worker for each community in the Petrol Sniffing Strategy zones.

**Response**

The government notes this recommendation. State and Territory governments have primary responsibility for funding of youth services. The Commonwealth’s role is complementary to State and Territory funding. The government acknowledges the importance of sustainable youth services to effectively address the underlying causes of petrol sniffing and other forms of substance abuse in remote Indigenous communities.

The government has to date provided considerable funding and support for youth services through the PSS and complementary Australian Government programs that cut across a number portfolio areas. Notable examples of projects that have direct relevance to PSS Zones include the following.

- $12 million over three years (April 2007 – March 2010) to fund the Northern Territory Integrated Youth Services Project, the primary youth diversion and community development activity in central Australia under the PSS. The Project provided integrated structured youth services to Finke (Aputula), Docker River (Kaltukatjara), Imanpa and Mutitjulu and included $4 million in supporting infrastructure. These projects have been transitioned to the NPY Women’s Council under funding awarded through the Closing the Gap in the Northern Territory Youth in Communities measure (a total of $27 million for the measure) in early 2010.

- $18 million over two years (2007-08 and 2008-09) under the Northern Territory Emergency Response Youth Alcohol Diversion measure to fund a wide range of diversionary activities and youth focused infrastructure projects throughout the Northern Territory. The measure complements the PSS by providing additional resources to address youth substance abuse in Indigenous communities. Funded projects include the development of a Northern Territory Youth Development Network in the West Arnhem and Daly River regions and medium to large scale youth diversion projects and recreational infrastructure in central Australia. A number of these projects have been developed in partnership with Local Government Shires and the Northern Territory Government.

- Funding to provide youth worker accommodation and other supporting infrastructure including:
  - $3.4 million in 2008-09 from the Aboriginals Benefit Account was provided to the Central Australian Youth Link-Up Service (CAYLUS) (under the auspice of Tangentyere Council) to fund infrastructure projects in the Expanded Central Australian Petrol Sniffing Strategy Zone, including the construction/refurbishment of recreation halls in seven communities and the construction of youth worker accommodation in four communities.
  - $2.7 million (2006-07 and 2007-08) to construct five duplex units to house youth workers in Warburton, Warakurna, Wanarn, Jameson and Blackstone in the Ngaanyatjarra Lands in Western Australia. This allowed for the expansion of the Shire’s youth network through the engagement of additional youth workers.
  - Funding of $1.34 million in 2008-09 for the CAYLUS Youth Wellbeing Program. This...
Program provides education, prevention and diversionary activities to Indigenous communities, with a focus on inhalant misuse including petrol sniffing, and has received DoHA funding since 2001. Following positive evaluation results in 2007, DoHA has committed to fund the CAYLUS Youth Wellbeing Program until the end of the 2011-12 financial year.

- A contribution of approximately $2.4 million (2008-09 and 2009-10) towards the development of the Shire of Wyndham-East Kimberley Youth Network and the Halls Creek Youth Services Network Coordination Hub. Both of these projects expanded existing youth services, identified service delivery gaps, implemented new youth activities and facilitated capacity building to support ongoing activities in several East Kimberley communities including Kununurra, Wyndham, Kalumburu, Oombulgurri, Halls Creek, Halls Creek town camps, Balgo, Mulan, Bililuna, Warmun and Ringer Soak.

In addition to these initiatives, the government is also investing in a range of sporting activities, particularly in remote areas. Examples include:

- a funding contribution towards the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Multi-Sports Activities Regional Partnership Agreement (RPA). The RPA provides for structured inter-community sports competitions across APY communities including a very successful and popular inter-community Australian Football League (AFL) competition, regular multi-sports activities for young people throughout the year, and recreation activities such as horse riding, BMX and motocross;

- joint funding of an AFL Club Fostership Program and AFL Ambassadors for Life Mentoring Program with the Australian Football League in 2007, to promote healthy, active lifestyles and increased school attendance for youth in selected Indigenous communities (mainly in the Northern Territory), and to provide mentoring from Indigenous Australian Rules players, as positive role models to over 100 Indigenous young people from around Australia; and

- funding to expand AFL activities in the East Kimberley region of Western Australia, through the employment of a Community Development Officer, an administrator to manage football activities in the region, and two AFL Indigenous trainees to help deliver schools-based programs.

In the May 2009 Budget, the government announced funding of $28.4 million over three years under FaHCSIA’s Youth in Communities (YIC) measure, to support the establishment of a comprehensive youth strategy for the Northern Territory. The government has worked in consultation with the Northern Territory Government to develop the broad directions, service principles and projects to be funded through this strategy, and to oversee delivery of the initiative over the next three years. For more information about the YIC measure, please see the response to Recommendation 15 of this Part (below).

Improving the coordination of youth services is a high priority for the government.

The Australian Government released the National Strategy for Young Australians in April 2010. This Strategy sets out a vision for all young people to lead safe, healthy and happy lives. It provides a framework to guide Australian Government investment in young people, highlights what the Australian Government is already doing to support young Australians as well as the areas where Government can and will do better.

The government is committed to developing youth service models that are sustainable, appropriate and relevant to individual community needs. Building the capacity of local people to run diversionary activities is particularly important, and is already occurring in a number of funded projects such as the Mt Theo Substance Abuse Program and the Northern Territory Integrated Youth Services Project. Pilot projects are also being funded to provide important training and employment opportunities for local Aboriginal people in youth work.

Recommendation 13

The Committee reaffirms Recommendation 17 from its 2006 report which called upon Commonwealth, State and Territory governments to provide additional funding to new and existing
rehabilitation facilities in order to provide a quality service while meeting current demand.

Response
The Australian Government accepts this recommendation.

DoHA provided additional funding of $3.89 million over three years from the 2007 COAG substance use measure to new and existing services that provide petrol sniffing programs. The funding enhanced service delivery through increased bed occupancy and/or increased scope and reach of services for young people in Central and the Top End of the Northern Territory.

The additional funding provided under the 2007 COAG substance use measure was a whole of government initiative and as such required joint consideration from the Commonwealth and Northern Territory Governments.

The Office for Aboriginal and Torres Strait Islander Health (OATSIH) Northern Territory Office in collaboration with the Northern Territory Government will continue to monitor the demand for services and need for additional funding in Central and the Top End of the Northern Territory.

The Australian Government through DoHA currently provides ongoing funding to services through the Substance Use program, COAG funding and the Northern Territory Emergency Response measures to organisations for residential and non–residential rehabilitation services in the Central Australia Zone (that includes the Northern Territory, South Australian and Western Australian areas of Central Australia):

- Warlpiri Youth Development (Mt Theo);
- Drug and Alcohol Services Association Alice Springs Incorporated (Northern Territory);
- Ilpurla Aboriginal Corporation (Northern Territory);
- Bush Mob NT (funded by OATSIH through the Northern Territory Government over two years);
- Central Australian Youth Link-up Service (CAYLUS);
- Sunrise Health Service Aboriginal Association; and
- Miwatj Health.

Recommendation 14
The Committee considers the provision of successful programs in remote Indigenous communities to be a highly specialised area for which mainstream programs and ‘one size fits all’ solutions are not necessarily appropriate. The Committee recommends that in order to maximise local ownership and effectiveness of programs, the awarding of contracts in remote Indigenous communities must take into consideration a tenderer’s:

- on the ground presence, reputation and standing in the region;
- existing relationships, networks within the region and support or endorsement from communities; and
- ability to provide tailored programs to individual communities or groups of communities in response to the diverse cultural expectations, kinship systems and protocols of the region.

Response
The Australian Government accepts this recommendation in principle.

The government agrees with the principle of ensuring that appropriate knowledge and abilities are taken into account in any procurement or funding process, particularly those involving remote Indigenous communities with specialised needs that do not readily fit into mainstream programs. Program funding is awarded to providers through competitive application processes (either open or selective) undertaken as prescribed under the Commonwealth Financial Management and Accountability Act (FMA).

Specific requirements under the FMA include the need to ensure that any spending proposal is an efficient, effective and ethical use of Commonwealth resources that is not inconsistent with the policies of the Commonwealth.

The policy requirements are set out in the Commonwealth Grant Guidelines (CGGs), as well as other relevant policies and legislation relating for example to privacy, anti-discrimination and social inclusion. These guide assessment panels in awarding funding to providers who have submitted applications.
In particular, the CGGs set out key principles for grants administration. These include probity and transparency, and achieving value with public money.

Under the internal guidance given to officials conducting tender processes involving program funding, high-level principles must be applied in any government selection process.

In December 2009 Northern Territory State Office and CAPSSU hosted an information session for agencies and non government organisations who wished to submit tenders for funding under the Youth in Communities measure. This allowed the prospective tendering agencies the opportunity to ask detailed questions regarding the process and what information needed to be in tender documents to satisfy the tender requirements. Positive feedback was received from the participant agencies and consideration will be given to providing information sessions of this nature for future tender processes.

Recommendation 15

The Committee reaffirms the recommendation of its 2006 report that the Commonwealth, State and Territory governments immediately provide long term flexible funding, especially for successful programs already operating in communities, to address the sporadic nature and short term focus of current funding models.

Response

The government accepts this recommendation in principle, noting that funding for the Petrol Sniffing Strategy was made ongoing in 2007; and that long term funding is also being provided through complementary programs.

The Northern Territory Integrated Youth Services Project, for example, was funded over three years (April 2007 – March 2010) through a single funding agreement with FaHCSIA, the Attorney-General’s Department and DEEWR. It was the primary youth diversion and community development project under phase one of the Petrol Sniffing Strategy. The provision of three year funding allowed these departments to work with the provider, Mission Australia, to put in place a coordinated and complementary response to the problems of petrol sniffing in Finke, Imanpa, Docker River and Mutitjulu. The services provided under this contract were transitioned to the NPY Women’s Council in April 2010, with funding provided until 2012 under the Youth in Communities measure.

Longer term youth funding was also provided under the Northern Territory Emergency Response. In the May 2009 Budget, the government announced that it will invest $28.4 million over the next three years (2009-10 to 2011-12) under the Youth in Communities measure, to develop a comprehensive youth strategy in the Northern Territory. This builds on the $18 million that has already been provided under the Northern Territory Emergency Response Youth Alcohol Divers-
ernments should aspire to providing a single contract where possible.

Response

The government notes this recommendation, acknowledges the benefits for an organisation of a single agreement and recognises the challenges involved in creating one. Work is being progressed to reduce and streamline reporting requirements and the administrative burden on Indigenous organisations funded by the government.

The Cross Agency Working Group on Indigenous Funding and Governance Reform, formerly under the auspice of the Secretaries Group for Indigenous Affairs and now overseen by the Executive Coordination Forum for Indigenous Affairs (ECFIA), has identified a number of areas where significant progress can be made to improve the interaction between government funding processes and Indigenous organisations.

DoHA consistently reviews its risk assessment and monitoring processes in an endeavour to reduce the impact on Indigenous service providers. In 2008, DoHA undertook a minor review of its risk assessment framework. This review resulted in a reduction to the frequency of risk assessments for organisations with “low” or “medium” risk ratings, from annual to biennial. DoHA is also considering reducing the information that is required as part of the risk assessment for those organisations which have been accredited under organisational/management accreditation standards, such as the Quality Improvement Council or International Organisation for Standards.

In addition, the Office for Aboriginal and Torres Strait Islander Health (OATSIH) within DoHA is moving forward with reforms of its reporting requirements, and in May 2009 undertook further consultation with key stakeholders based on the directions proposed in the Consultation Paper: Review of Reporting Requirements for OATSIH funded Organisations (available on DoHA’s website at http://www.health.gov.au/internet/main/publishing.nsf/Content/health-oatsih-pspp-reports.) The revised reporting requirements for OATSIH service providers will include a streamlined set of questions, with the phased implementation of a web-based reporting tool and improved reporting back to service providers. Feedback from the latest round of consultations is currently being reviewed, and will be used to guide implementation of the key elements of the framework, which are aimed at reducing the reporting and administrative burden on service providers.

FaHCSIA is also progressing work on the development of a standard data collection framework to ensure a consistent approach to data collection, including data for use across multiple programs. In addition, FaHCSIA is progressing work to reduce the number of funding agreements administered through its mainstream program areas. This is being achieved through the use of header agreements and the amalgamation of projects into one schedule per program. This initiative was introduced from 1 July 2009. DEEWR also currently uses header agreements for programs under the Indigenous Education Targeted Assistance Act 2000. Each funded organisation has one agreement with one or more schedules (depending on the number of projects being delivered by the provider).

In partnership with non-government agencies, the government finalised in February 2010 a National Compact with the Third Sector. This compact will ensure that the complementary roles of government and non-government stakeholders are fully aligned in order to maximise service delivery outcomes. Through these measures, the government aims to reduce the administrative burden for Indigenous organisations, to facilitate more streamlined funding and reporting arrangements and to foster genuine partnerships in the delivery of services to Indigenous Australians.

Recommendation 17

That additional resources be provided for adult education classes in communities where the reduction in petrol sniffing has created a need for these services, and that appropriate adult education engagement and training methodologies are used, delivered by qualified adult educators.

Response

The government accepts this recommendation, noting the many benefits of adult education that addresses the multiple barriers faced by people previously involved in petrol sniffing and the long
term disengaged. These barriers may include ongoing mental health issues, low self-confidence and low literacy and numeracy levels.

Under the PSS, the government has funded five diversionary education and training projects in the PSS Zones. These projects are based on the needs of individual communities and target disengaged people aged between 11 and 25 years. The projects help to address multiple barriers faced by young Indigenous Australians, including those who have been previously caught up in substance abuse, and to support them through a range of complementary interventions to engage with other programs and services.

Some projects, such as the Mornington Island Parents as First Teachers Project, specifically target young adults, including people who have formerly misused volatile substances, who are unable to engage with mainstream schooling due to barriers such as their age. These projects provide participants with basic literacy, numeracy, support and pathways to help with their re-engagement with education.

In the 2009 Budget the government announced that a further $21.6 million would be invested in the Workplace English Language and Literacy (WELL) program, to complement broader reforms to the Indigenous Employment Program which aim to make employment and training services more responsive to the specific needs of Indigenous job seekers.

This funding is in addition to the commitment already made by the government through DEEWR under programs such as:

- **Training Initiatives for Indigenous Adults in Regional and Remote Communities (TIFIARRC):** This program operates in Queensland, Western Australia, South Australia and the Northern Territory. The government has committed $21.4 million over four years (2008-11), with state jurisdictions jointly managing the program and providing matched funding. TIFIARRC provides funding to attract, engage and support Indigenous adults in regional and remote communities to access vocational education and training opportunities, including the Australian Government’s additional training places as part of the Skilling Australia for the Future policy. Funding is also available for projects to build the capacity of Indigenous training providers or develop new community-based providers. Preference is given to training that results in, or is linked to, Certificate Level II or above qualifications.

- **While not specifically targeting petrol sniffing communities, the program has funded the delivery of Certificate II in Community Services Work and Certificate III in Aged Care Work to Community Development Employment Program and Home and Community Care kitchen workers on the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in South Australia. The Waltja Remote Youth Worker training project in the Alice Springs region also delivered accredited training in youth services for adults from up to six communities, comprising on the job learning and training tools developed with cultural advisors.**

- **Language Literacy and Numeracy Program (LLNP):** This program delivers language, literacy and numeracy training to assist job seekers, including Indigenous Australians, to improve their language, literacy and numeracy skills so they can better achieve sustainable employment, education or training outcomes. In the Northern Territory Central Desert region, Structured Training and Employment Programs (STEP) Training is contracted to deliver LLNP training and assessment services.

- **Indigenous Employment Program (IEP):** The IEP offers tailored solutions to assist employers to recruit, train and provide sustainable employment for Indigenous Australians.

Other DEEWR programs that provide Indigenous people, including those from remote communities, with the ability to engage with accredited training or university include:

- **The Indigenous Youth Mobility Program (IYMP)** supports Indigenous youth who wish to move away from their home community to gain the qualifications they need to have a greater chance of obtaining sustainable employment in either their home community or elsewhere.
While IYMP is aimed primarily at 16–24 year old Indigenous young people from remote areas to take up an apprenticeship, or to undertake a VET or university course, young people from major towns and cities are also encouraged to apply to participate. They may, however, be required to relocate to an alternative host location, rather than the one nearest to their home. The program operates in 17 locations across the country.

- **Away from Base for ‘mixed mode’ delivery (AFB)**, provides funding to cover travel costs including fares, meals and accommodation, for eligible Indigenous students studying approved ‘mixed-mode’ courses, when they are required to travel away from their permanent home for a short period of time to undertake approved activities. This includes students required to attend short courses, field trips, occasional residential schools or practical placements. Eligible providers in the Higher Education and Vocational Educational and Training sectors administer this funding. Where it is more cost effective to do so, AFB funding can also be used to meet the travel costs of lecturers who travel to the home communities of students to deliver the face to face component of an approved ‘mixed-mode’ course.

The primary objective of AFB is to increase access and participation by Indigenous students from rural and remote areas in tertiary study (higher education and Vocational Education and Training), leading to increased enrolments and retention, improved educational outcomes and improved employment prospects, life choices and quality of life for Indigenous people.

A ‘mixed-mode’ course is a nationally accredited course that is delivered through a combination of distance education and face-to-face teaching for students who are based in their home communities and undertake occasional intensive study periods on campus.

A complementary program, ABSTUDY AFB, is administered by Centrelink.

- The Youth Connections Program provides a holistic approach to servicing young people at risk including support for individual young people and the broader community. The Youth Connections program is available to eligible young people who are most at risk of disengaging, or already disengaged from education, family and/or the community. Service delivery will be characterised by flexible and individualised case management to young people to remain engaged or re-engage them with education and/or further training, and to improve their ability to make positive life choices. Youth Connections Providers will also work to strengthen and better coordinate services in their regions and build the capacity for key stakeholders.

The government will continue to promote these programs, and the benefits of adult education to these communities, including those where there has been a reduction in petrol sniffing. Any potential additional investment targeted to these communities, should continue to focus on addressing the multiple barriers faced by young Indigenous people.

**Recommendation 18**

The Committee reaffirms Recommendation 3 of its 2006 report that the Commonwealth government provide adequate additional resources to the Aboriginal and Torres Strait Islander Social Justice Commissioner to monitor and report annually on the progress towards implementing the above mentioned recommendations until the Commissioner can report that all recommendations have been sufficiently addressed.

**Response**

The government notes this recommendation.

The government notes that the Aboriginal and Torres Strait Islander Social Justice Commissioner currently monitors and reports on issues arising from petrol sniffing and substance abuse in the annual Social Justice reports.

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According to ABS experimental life tables for Aboriginal and Torres Strait Islander peoples Australia 2005-7 3302.0.55.003 the current life expectancy for Indigenous males is 11.5 years and for females is 9.7 years. The change from the previous calculation of 17 years should be treated with caution and may reflect a change in calculation method only.

COMMITTEES

Intelligence and Security Committee Report

Senator MARSHALL (Victoria) (5.44 pm)—On behalf of the Parliamentary Joint Committee on Intelligence and Security, I present the report of the committee, Review of administration and expenditure: No. 8— Australian intelligence agencies, and seek leave to move a motion in relation to the report.

Leave granted.

Senator MARSHALL—I move:

That the Senate take note of the report.

The Parliamentary Joint Committee on Intelligence and Security’s oversight of the Australian intelligence community, the AIC, is a key element of our national security architecture. I am therefore pleased to present the eighth review of the administration and expenditure of the Australian intelligence community by the PJCIS.

This review examined a wide range of aspects of the administration and expenditure of the six intelligence and security agencies, including the financial statements for each agency and their human resource management, training, recruitment and accommodation. The committee made a total of eight recommendations as a result of this review which cover a number of important issues that arose during the course of the inquiry. I will now refer to four of the committee’s recommendations in more detail.

During this review the committee found that a significant inconsistency exists in the committee’s oversight of the Australian intelligence community. The committee took evidence from a number of the agencies that they have attachments or secondments within the AFP. Since the September 11 terrorist attacks in the United States and terrorist attacks in Bali, the AFP has been increasingly involved in counterterrorist activities and there are sections of the AFP that have been created to address significant counterterrorism and national security functions. It is clear to the committee that the AFP has evolved to include a significant intelligence function and that sections of the AFP have deep operational and intelligence linkages with the Australian intelligence community.

The committee therefore recommends that the Intelligence Services Act 2001 be amended to include AFP counterterrorism elements in the list of organisations that the committee reviews.

The committee also examined the issue of access to information beyond administration and expenditure. In the committee’s view, it is clearly impossible to conduct any mean-
meaningful review of the administration and expenditure of the Australian intelligence community without knowledge of their activities, operations, skills, methods and the product they create all being made available to the committee. This has been acknowledged by previous committees and by the Australian intelligence community.

The committee therefore recommends that the government agree to amend the Intelligence Services Act to enable specific material which does not affect current operational activity to be provided to the committee. A small working group drawn from relevant departments, agencies and the committee should be set up to prepare this amendment for consideration by the government.

The review also examined archival practices as a result of the government’s proposal to reduce the open access period specified in the Archives Act 1983 from 30 to 20 years. The committee took evidence from all the agencies that moving from a 30-year archiving regime to a 20-year regime would result in an increased workload and increased redactions. On the evidence available to the committee the committee concludes that a document released at 20 years would be more redacted than one released at 30 years. This would have the unintended consequence of providing less information to the public than at present although providing it 10 years earlier. The committee recommends that, should the proposal to amend the open access period of the Archives Act 1983 proceed, consideration should be given to special provisions for the AIC documents to be exempted, on a case-by-case basis, from release at 20 years.

The committee took the opportunity afforded by this review to look at the budget of the Office of the Inspector-General of Intelligence and Security, the OIGIS. The OIGIS’s budget has not grown in line with ASIO’s budget growth. In light of the increases in the number of personnel and activities of the AIC as well as an expansion in the IGIS’s role, the committee recommends that the budget of the OIGIS be increased.

Overall, the committee is satisfied that the administration and expenditure of the six intelligence and security agencies is sound, and it thanks the heads of the Australian intelligence community agencies and all those who contributed to this review. Lastly, I would like to thank the secretariat. I commend the report to the Senate.

Question agreed to.

Procedure Committee

Report

Senator BUSHBY (Tasmania) (5.50 pm)—On behalf of the Chair of the Procedure Committee, Senator Ferguson, I present the second report of the Procedure Committee on the arrangements for the opening of Parliament and rules for questions under standing order 73.

Ordered that the report be printed.

Corporations and Financial Services Committee

Report

Senator BUSHBY (Tasmania) (5.50 pm)—On behalf of the Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services, Senator Mason, I present the report of the Parliamentary Joint Committee on Corporations and Financial Services, Statutory oversight of the Australian Securities and Investments Commission, together with the Hansard record of proceedings.

Ordered that the report be printed.

Treaties Committee

Reports

Senator BUSHBY (Tasmania) (5.51 pm)—On behalf of the Deputy Chair of the

Senator BUSHBY—I move:
That the Senate take note of the reports.

I seek leave to have the reports incorporated in Hansard.

Leave granted.

The reports read as follows—

Tabling Statement for Report 111: Treaties tabled on 25 November 2009 (3), 4 and 24 February 2010

I present Report 111 of the Joint Standing Committee on Treaties, which reviews the following significant treaty actions:

• amendments to Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals;
• the Statute of the International Renewable Energy Agency;
• an agreement with France on cooperative enforcement of fisheries laws in sub-Antarctic maritime areas; and
• a health care agreement with Slovenia.

The report also deals with 1 minor treaty action. The Committee supports all the treaties examined in this report. However, the Committee has made an additional recommendation in relation to amendments to Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals.

Mr President, these amendments affect three species of shark that range in Australian waters, the porbeagle, shortfin mako and longfin mako. Due to risks to these species, each is now listed on Appendix II of the Convention, obliging Australia to work with other countries to conclude international agreements for their conservation. In this regard, Australia is participating in multilateral negotiations for a Memorandum of Understanding on the Conservation of Migratory Sharks that will include these sharks.

The inclusion of these sharks on Appendix II has an additional ramification in terms of Australia’s Environment Protection and Biodiversity Conservation Act. All species on an appendix for which Australia is a range state must be listed as migratory species under the Act, and such listing came into effect on 29 January this year.

Mr President, this listing has caused considerable concern among recreational fishers who are now prohibited to fish for these sharks. The Committee received more than 40 submissions to its inquiry, largely from recreational fishing groups and individuals opposed to the EPBC Act listing, who challenged the scientific basis for the listing and raised concerns about a lack of consultation about the legislative change.

The Department of the Environment, Water, Heritage and the Arts has acknowledged it did not consult with recreational fishers or conservation and environment groups about these amendments. Given the nature and number of submissions received, the Committee has recommended that the Department review its consultation processes for environmental treaties to ensure that more effective consultation is undertaken with all potentially interested parties.

Mr President, the Committee was unimpressed with the long delay in tabling these amendments in the Parliament. The amendments were adopted in December 2008, automatically entered into force for Australia on 5 March 2009, but were not tabled until 25 November 2009, nearly nine months after they had entered into force. The Committee considers that the Department of the Environment, Water, Heritage and the Arts needs to more effectively manage its treaty making process to ensure treaty actions are tabled in a timely manner and that this Committee’s time-frames are respected.

Mr President, the Committee reiterates the point raised in its previous report – the value of the Committee’s inquiries to the treaty making process is undermined when there is insufficient time to properly consider a treaty or to allow public examination of a treaty.

Mr President, I will now turn to the Statute of the International Renewable Energy Agency, IRENA. IRENA is a treaty level inter-governmental or-
ganisation that has been established to promote the widespread and increased adoption and sustainable use of all forms of renewable energy technologies. The organisation is currently in an interim preparatory phase and will enter into force on 8 July 2010.

IRENA will be a centre of excellence for renewable energy technology and a significant mechanism to facilitate international engagement on this issue. Through prompt ratification of the Statute, Australia will be able to engage with the international community on renewable energy technology development and deployment, and take an active role in development of IRENA and its work plan.

IRENA will allow Australia to strengthen cooperative ties with countries both in and outside our region and move beyond Australia’s traditional engagement with bodies such as the International Energy Agency. In particular, membership of developing countries in the Asia-Pacific region is likely to bring further international attention to the energy challenges faced by this region.

Mr President, the Agreement on Cooperative Enforcement of Fisheries Law between Australia and France in Maritime Areas adjacent to the French Southern and Antarctic Territories, Heard Island and McDonald Island is intended to tackle illegal, unreported and unregulated fishing in the territorial seas and exclusive economic zones surrounding these territories. Such fishing is a serious threat to the marine environment and the sustainability of valuable fish stocks.

This agreement will formalise previous ad hoc enforcement activities undertaken with France to enforce fisheries laws and will greatly improve efforts by both countries to address illegal, unreported and unregulated fishing in the Southern Ocean. Activities that are authorised by this treaty include boarding, inspection, hot pursuit, apprehension, seizure and investigation of fishing vessels believed to be acting illegally.

Mr President, the Agreement between Australia and Slovenia concerning the provision of health care is one in a series of bilateral agreements Australia has entered into to provide reciprocal access to the public health care system for temporary visitors to another country.

Under the agreement a person in need of immediate medical treatment will be provided with the medical services that are clinically necessary for the diagnosis, treatment and care of that person. Such services will be to the same standard of treatment that is provided to residents of the country the person is visiting and each country will meet the costs associated with providing such services.

Mr President, I commend the report to the Senate.

Tabling Statement for Report 112: Treaties tabled on 9, 10, 15, 16 and 29 March 2010

I present Report 112 of the Joint Standing Committee on Treaties, which reviews eight significant treaty actions:

• Taxation information exchange agreements with Gibraltar, the Cook Islands and the States of Guernsey;
• Agreements on the allocation of taxing rights with the Cook Islands and the States of Guernsey, entered in conjunction with the taxation information exchange agreements;
• An exchange of letters amending the agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System; and
• New agreements on Social Security with the Czech Republic and the Former Yugoslav Republic of Macedonia.

Two minor treaty actions are also included.

Mr President, the Committee supports each of the actions considered in this report. I will direct my remarks today to the content and purpose of the eight significant actions.

I turn firstly to the five taxation agreements. These treaties have a common object, Mr President — the elimination of harmful tax practices amongst low tax jurisdictions, in accordance with OECD standards.

We do not know the full level and type of economic activity between Australia and the Cook Islands, Gibraltar and the States of Guernsey. All three, however, are recognised offshore financial centres; and AUSTRA data indicates that the flow of funds is significant.
Mr President, the proposed new treaties will help Australia combat this threat to the integrity of our tax system. Three are tax information exchange agreements, which essentially follow an established model format. Both parties are obliged to exchange information which is foreseeably relevant to the administration and enforcement of domestic tax laws. Where the party does not hold the information necessary to comply with a request, it must use its relevant information gathering powers to obtain it.

The two additional taxation treaties with the Cook Islands and the States of Guernsey provide for the allocation of taxing rights in order to prevent double taxation of the same income. Australia offered these agreements to encourage entry into the information exchange arrangements. The Committee understands that Gibraltar did not take up the offer.

Mr President, I turn to the exchange of letters amending the Joint Food Standards System. This system is a cooperative bilateral arrangement involving the Governments of Australia, New Zealand, and the Australian States and Territories. It provides the framework for the timely development and review of food standards appropriate to both countries. Draft standards and amendments become part of the legally enforceable Food Standards Code following consideration and endorsement by the Ministerial Council, a deliberative body comprising relevant ministers from all jurisdictions.

Mr President, the Exchange of Letters will amend aspects of this process to give effect to the recommendations of a 2007 report. It will remove the Ministerial Council’s power to call for a second review of a draft standard or amendment. It will also remove the automatic requirement for the Council to seek a review at one jurisdiction’s request.

Two further changes will affect the adoption of standards in exceptional or emergency situations. A single exceptional circumstances mechanism will apply to both parties; enabling separate standards to be created only in response to specific risks. The Exchange of Letters will also create additional obligations for jurisdictions adopting temporary standards, where there is not sufficient time for the normal drafting process to take place.

Mr President, the Committee supports these measures to improve the efficiency of the system, notwithstanding the fact that another review into Food Labeling Law and Policy is currently underway. The Committee has been assured that the present measures will not undermine the outcome of that review.

Mr President, I turn finally to the new bilateral Agreements on Social Security with the Czech Republic and the Former Yugoslav Republic of Macedonia. These treaties will add to the 23 bilateral social security agreements Australia has already ratified. Agreements of this nature assist Australian residents access certain social security payments which they are entitled to receive from another country. Specifically, the treaties considered in this report will cover the Australian age pension; and the Czech and Macedonian age, disability and survivor’s pensions.

Once the treaties enter into force, people living in one country will be able to lodge a claim for a pension with the other country. Restrictions on the portability of payments will be removed; and avenues for mutual assistance will be provided to help ensure people are paid their correct entitlements.

Mr President, the Committee is conscious that these agreements impose an administrative cost on Australia which will not be fully offset by the reduction in the cost of age pensions. This is due in part to the small number of persons eligible under the Agreements. The Department of Families, Housing, Community Services and Indigenous Affairs estimates that two thousand people across both countries will be affected by the Czech Agreement; and four thousand people will be affected by the Agreement with FYR Macedonia.

Mr President, in noting that these numbers are small, the Committee has not lost sight of the fact that the improvement in the pension incomes of eligible Australians will be significant. The Committee accepts that the social benefit to be realised in this instance outweighs the net cost to Australia.

In concluding my remarks today, I thank the numerous agencies, individuals and organisations who assisted in the Committee’s inquiries.
Mr President, I commend the report to the Senate.
Question agreed to.

Privileges Committee
Report

Senator FEENEY (Victoria) (5.51 pm)—I present the 145th report of the Committee of Privileges, entitled Persons referred to in the Senate—Mr Geordie Guy on behalf of Electronic Frontiers Australia Inc.
Ordered that the report be printed.

Senator FEENEY—by leave—I move:
That the report be adopted.

This report is the 59th in a series of reports recommending that a right of reply be afforded to persons who claim to have been adversely affected by being referred to, either by name or in such a way as to be readily identified, in the Senate.

On 7 April 2010 the President received a submission from Mr Geordie Guy, board member of Electronic Frontiers Australia, relating to comments made by Senator Conroy, in response to questions by Senators Boyce and Collins during question time in the Senate on 15 and 16 March 2010, and in a statement tabled by Senator Conroy on 16 March 2010. The President referred the submission to the committee under privilege resolution 5. The committee considered the submission today and recommends that Mr Guy’s proposed response, together with the statement tabled by Senator Conroy to which it referred, as agreed by the committee, be incorporated in Hansard.

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

**Summary of Electronic Frontiers Australia (EFA)**

**16 March 2010**

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<th>No</th>
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<th>EFA Comments</th>
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<td>1</td>
<td>19 December 2009 4ZZZ, ‘Brisbane Line Weekend’ Nic Suzor, Chair, EFA</td>
<td>“Now, the second problem is that the filter is, really, a waste of money in that it technologically can't achieve its aims.”</td>
<td>The live pilot has shown that filtering a defined list of URLs (i.e. a page or an image on a website) can be done with 100% accuracy and negligible impact on network performance. ISPs in many western democracies have shown for many years that filtering works.</td>
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<td>2</td>
<td>19 December 2009 4ZZZ, ‘Brisbane Line Weekend’ Nic Suzor, Chair, EFA</td>
<td>“So the people who are going to be trafficking in the worst of the worst material, things like child sexual abuse material, child pornography, this material is not traded on the open internet.”</td>
<td>As at 28 February 2010 ACMA had identified 355 ‘live’ URLs of child abuse material which was available on the ‘open internet’. It is reported that some people's first encounter with child pornography is on the open internet before they are lured into more sophisticated arrangements.</td>
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<td>3</td>
<td>19 December 2009 4ZZZ, ‘Brisbane Line Weekend’ Nic Suzor, Chair, EFA</td>
<td>“So it won't stop access to that sort of material, and it won't stop the trade. What's needed there instead is police activity.”</td>
<td>The Government’s cyber-safety plan includes ongoing funding for an additional 91 AFP officers for the Child Protection Operations Team.</td>
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The other reasons put in favour of the filter seem to be that we’re going to be making the internet safe for Australian kids, and the problem with this is that with any fairly small list, and we’re looking at about 1000 to 10,000 web sites, so not a huge proportion - a very tiny proportion of material on the internet - you’re not going to make the internet any safer for children.

The Government has consistently acknowledged that ISP filtering is not a ‘silver bullet’ solution. ISP filtering is one element of a broad range of measures under the Government’s Cyber-safety Plan, including law enforcement and education.

“I had a call recently from the administrator of Pill-reports, which is a drug information site, which realistically has saved or - I don’t think it goes too far to say it saved the lives of a lot of people by providing information on the safe use of drugs. These are the sort of web sites that would likely be blocked and the people who this is really going to effect are people who are not able to get around the filter and access that information.”

An assessment of this website has not been made as there have been no formal complaints to the ACMA regarding this site at the time of the statement of the EFA.

Before any part of a website that concerns proscribed drugs reaches the RC classification threshold, the content is usually found to either provide detailed instruction in the use of proscribed drugs such as its manufacture and/or self-administration; or the glorification of the proscribed drug with the intention to actively encourage and/or promote its use. This may not be the case where the drug use is depicted in a medical or public health context.
But so far… the policy’s been fairly vague, in that Senator Conroy says that certain things will be banned, inappropriate material will be banned, and as I said, he conflates that with child sexual abuse material, and there’s no clear indication of exactly what category of material will be block... banned.

If - at the moment it seems like it's going to be the whole of, what we call, RC, which is Refused Classification material, which is extremely broad.”

The Government has made it very clear that the target of mandatory filtering is Refused Classification (RC) material on an RC Content list of specific URLs that are hosted on overseas servers. The definition of RC is clearly set out in the long-standing National Classification Scheme.

RC-rated material includes child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime, violence or drug use and/or material that advocates the doing of a terrorist act. Under existing laws it is already illegal to distribute, sell or make available RC films, computer games and publications. This material is also subject to take-down notices by ACMA if hosted in Australia. Australian society, through the Australian Parliament, has accepted for many years the definition of RC content.

Significant measures to increase transparency and accountability are proposed including: block pages that enable users to seek review of any material that they find blocked; appeal mechanisms; wherever practical, notification to website owners of RC content after liaison with the AFP; and an annual review by an independent expert and a report to Parliament.
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<td>8</td>
<td>17 December 2009 Channel 10, ‘The 7PM Project’ Colin Jacobs EFA, Vice-Chair</td>
<td>“The Government’s own studies have shown that once you try and expand filtering beyond that list in any way, even in the most accurate scenarios, we’re talking three or four per cent of sites being blocked that shouldn’t be. That adds up to many, many millions of websites that would be denied to Australians.”</td>
<td>Testing in the live pilot and Telstra’s own testing found that a defined list of URLs can be blocked with 100% accuracy. ISPs in many western countries have also shown that filtering of a defined list can be done with 100% accuracy. The 3-4 percent Jacobs is quoting refers to the results of Enex TestLab’s testing of optional levels of filtering where parents may choose to have a wider range of content blocked. It would be their choice to accept some over-blocking if they wish to have more content blocked.</td>
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<td>9</td>
<td>17 December 2009 Channel 10, ‘The 7PM Project’ Colin Jacobs EFA, Vice-Chair</td>
<td>“They went ahead and they’ve allocated $43 billion to give us all faster and better internet. Now, in the meantime they’re spending $40 million or more on this filter which will only make things slower and more expensive if it’s implemented. Also the tests that they did, tested speeds that we have now, once the new broadband network is in place, the results that they’ve got are completely inappropriate.”</td>
<td>Enex TestLab conducted testing of ISP-level filtering on networks running at speeds of up to 8 megabits per second. This was the highest speed offered by any of the pilot participants. Consultations with ISPs and expert technical advice confirms that there is no reason that ISPs could not implement a technology that filters a defined list of specific internet addresses (URLs) with no, or only negligible, impact on network speeds when utilising the National Broadband Network.</td>
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<td>10</td>
<td>17 December 2009 Channel 10, ‘The 7PM Project’ Colin Jacobs EFA, Vice-Chair</td>
<td>“Filtering was never going to be the answer. Parents need - and teachers - they need information from the Government on, what are the real risks kids face; what are the practical steps that you can take? A lot of the problems kids have aren't stumbling across content, it has to do with interacting with other people. Getting bullied online and so on.”</td>
<td>The Government’s cyber-safety plan includes significant funding for these matters. For example, $32.8 million has been provided to ACMA to undertake cyber safety education, awareness and counselling activities.</td>
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<td>11</td>
<td>17 December 2009 Channel 10, ‘The 7PM Project’ Colin Jacobs EFA, Vice-Chair</td>
<td>“There is a role for Government in making filters for the home more accessible and more affordable, and in terms of combating child pornography, the Australian Federal Police are out there everyday, infiltrating these networks and putting people in jail. If the Government's serious about that, better funding the police will have a much better outcome about getting these guys off the streets than this proposal which, really, is just a political smoke-screen to make the Government look good.”</td>
<td>The Government’s cyber-safety plan includes on-going funding for an additional 91 AFP officers for the Online Child Protection Operations Team.</td>
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<td>12</td>
<td>17 December 2009 EFA website Colin Jacobs Vice-Chair, EFA</td>
<td>“all Australian ISPs will be required to filter access to a government-supplied blacklist containing “refused classification” (RC) web content. That would include nasty stuff like child pornography, but also a broader range of content: fetishy sex, instruction in crime (such as euthanasia), any computer game not suitable for under 18s.”</td>
<td>Online games will not be filtered pending the outcome of the consultation process being conducted by the Minister for Home Affairs.</td>
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But because the list itself is secret, there are those who end up on the list, you know, won't know about it, there won't be an appeals mechanism like there is for other censorship decisions. So it's not very transparent at all, which is, you know, one of our main concerns.

Significant measures to increase transparency and accountability are proposed including:
- block pages enable users to seek review of any material that they find blocked;
- appeal mechanisms;
- wherever practical, notification to website owners of RC content after liaison with the AFP; and
- a annual review by an independent expert and a report to Parliament.

So when we look at the small list, the government blacklist, yes, that can be blocked pretty accurately. The question is, who decides what's this material that's not acceptable in any civilised society. The criteria that the Government has suggested would certainly include things like child pornography that everybody agrees should be blocked, but the criteria are much, much more broader than that.
We never got a good explanation for why all of those sites were on the leaked blacklist because it’s secret. You know, we only knew about it from the leak. Some of those sites such as the dentist or a tuckshop supply company ended up on the list because their site was once hacked and had material on it that, you know, was offensive. But they were never notified, and once the problem was fixed, they never came off the list again.

We think the fact that it’s secret really changes the game and, you know, we have to be a lot more careful and we need a much better explanation of why this is necessary."

The situation of the dentist and tuckshop have been explained on numerous occasions. Some businesses based in Queensland were hacked with pages within their website having child abuse material uploaded. Complaints led to the URLs leading to those pages being added to the ACMA blacklist. It should be noted that these websites were never blocked and it was only the pages which had the illegal content uploaded that ended up on the list provided to accredited PC filter vendors.

Significant measures to increase transparency and accountability are proposed including:
block pages enable users to seek review of any material that they find blocked;
appeal mechanisms;
wherever practical, notification to website owners of RC content after liaison with the AFP; and
a annual review by an independent expert and a report to Parliament.

A public consultation paper is available from the Department’s website. Submissions closed 12 February 2010 and will be shortly published.

The Government will not expand mandatory ISP-level filtering beyond RC-rated material. This would require changes to the legislation that would have to be supported by both houses of Parliament.

Any future Government would have to pass legislation – just as they would have to do to change any existing law in Australia.
An arbitrary decision is not made by a Government official. After initial assessment by the ACMA, classification is determined by the Classification Board, an agency at arm’s length from the Government, made up of representative members of the community. The National Classification Scheme Guidelines are reviewed periodically to ensure they reflect community standards. The National Classification Scheme is underpinned by legislation.

Significant measures to increase transparency and accountability are proposed including: block pages enable users to seek review of any material that they find blocked; appeal mechanisms; wherever practical, notification to website owners of RC content after liaison with the AFP; and a annual review by an independent expert and a report to Parliament.
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<th>No</th>
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<th>EFA Comments</th>
<th>Response</th>
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| 18 | 16 December 2009  
ABC 936 Hobart,  
‘National Morn-  
ing’s’  
Geordie Guy  
EFA Board Mem-  
ber  
National Technol-  
ogy Policy Coordi-  
nator, Australian  
Democrats | “What we’re still waiting on is an ETA on some sort of report or community engagement that tells us that this is a good idea and if it is a good idea, why it’s a better idea than traditional law enforcement and education, which is the way that Australians expect our law enforcement agencies and our judi- ciary to approach illegal stuff.” | ISP filtering is one element of a broad range of measures under the Government’s Cyber-safety Plan, including law enforce- ment and education. These initiatives tackle the issue of cyber- safety from a number of directions. More importantly, this approach is based on the key role parents and carers have in the online safety of children, and provides them with the nec- essary information to assist with this task. |
| 19 | 16 December 2009  
ABC 720 Perth,  
‘Mornings’  
Geordie Guy  
EFA Board Mem-  
ber  
National Technol-  
ogy Policy Coordi-  
nator, Australian  
Democrats | “what we also understand is that the blocked mate- rial could get larger and larger, and also the report didn’t consider what should happen with high speed networks such as the Government’s proposed na- tional broadband network.” | The Government will not expand mandatory ISP-level filtering beyond RC-rated material. This would require changes to the legislation that would have to be supported by both houses of Parliament. Any future Government would have to pass legislation – just as they would have to do to change any existing law in Australia. |
| 20 | http://nocleanfeed.c  om  
EFA website | “The category of material that has been ‘refused classification’ includes websites about euthanasia, controversial movies such as ‘Ken Park’ and ‘Baise-moi’, and many games that are designed for people over 16 years of age.” | See response to 6. |
<p>|    |                |              | Online games will not be filtered pending the outcome of the consultation process being conducted by the Minister for Home Affairs. |</p>
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<th>EFA Comments</th>
<th>Response</th>
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| 21 | 22 December 2009  
EFA website  
Nic Suzor | “Electronic Frontiers Australia today expressed its surprise and concern that the operators of the satirical protest site Stephen-Conroy.com.au were given only three hours to justify their “connection to” the domain name. Under Australian domain name regulations, it is quite common for website operators to be required to identify their reasons for operating under an Australian domain name, but it is unusual for operators to be offered so little time to provide those reasons. This incident reflects worrying concerns about the power that private domain name regulators have to silence critical political speech without going through legitimate legal channels.” | This was a decision taken by auDA. |
| 22 | 15 December 2009  
EFA website  
Colin Jacobs | “We’ll be interested to see how the Internet service providers respond. We know they are critical of having such intrusive Government interference in their networks,” | The Government welcomes the constructive input of Australia’s four largest ISPs – Telstra, Optus, iiNet and Primus. These companies came forward to help inform the Government’s approach to ISP-level filtering. Between them these ISPs account for more than 80% of internet users in Australia. |
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<td>23</td>
<td>21 December 2009 Crikey, ‘Reporters without Borders: Don’t do it, Rudd!’ Colin Jacobs, CEO, EFA</td>
<td>Jacobs discusses an open letter to the Prime Minister signed by Jean-Francois Julliard, Secretary-General on 18 December 2009 and located on the ‘Reporters without Borders’ website, Paris. “Firstly, the decision to block access to an ‘inappropriate’ website would be taken not by a judge but by a government agency, the Australian Communications and Media Authority (ACMA). Such a procedure, without a court decision, does not satisfy the requirements of the rule of law. The ACMA classifies content secretly, compiling a website blacklist by means of unilateral and arbitrary administrative decision-making. Other procedures are being considered but none of them would involve a judge.”</td>
<td>See responses to 6 and 7.</td>
</tr>
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<td>24</td>
<td>21 December 2009 Crikey, ‘Reporters without Borders: Don’t do it, Rudd!’ Colin Jacobs, CEO, EFA</td>
<td>“The letter also expresses concern at the vagueness of the filtering criteria, worrying that “subjects such as abortion, anorexia, Aborigines and legislation on the sale of marijuana would all risk being filtered, as would media reports on these subjects.” Julliard notes the inherent unreliability of filtering and cites the leaked ACMA blacklist of earlier in the year as an example of how legitimate material can find its way onto a blacklist.”</td>
<td>See responses to 6 and 7.</td>
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<tr>
<td>25</td>
<td>8 January 2010</td>
<td>“...when we talk about refused classification, we're talking about a much, much, much broader scope than simply the things that you can't see on television. It's absolutely not just illegal material. ... What we're concerned about is just how broad that RC is, and the fact that it's going to catch up a whole bunch of things that are perfectly legal to access on television, in cinemas, et cetera,......”</td>
<td>Only material which is Refused Classification will be subject to mandatory ISP filtering. RC-rated material includes child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime, violence or drug use and/or material that advocates the doing of a terrorist act. Under existing laws it is already illegal to distribute, sell or make available RC films, computer games and publications. RC material clearly cannot be accessed on television and in cinemas.</td>
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<td>26</td>
<td>8 January 2010</td>
<td>“Also, since 1996 it of course includes computer games which are not suitable for young children, because we don’t have an adult rating for computer games in this country. This means they can’t be given a rating and this means they’re refused classification.”</td>
<td>See response to 12.</td>
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Geordie Guy, EFA Board Member
National Technology Policy Coordinator, Australian Democrats.

Clive Hamilton, Professor of Public Ethics, Charles Sturt University Higgins candidate, the Australian Greens.
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<td>27</td>
<td>14 January 2010</td>
<td>“The second reason that we’re concerned about it is the idea of the cost that will go into it. So if we start from the position that we don’t believe it will work, the Government will be spending, you know, millions of dollars, hundreds of millions of dollars on the technology that simply won’t bring about the results. So we see it as an extraordinary waste of taxpayers’ money.”</td>
<td>Funding for mandatory ISP filtering is one element of the Government’s cyber-safety plan, which is comprised of a range of measures, including law enforcement, education, international co-operation, research and filtering.</td>
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<td>28</td>
<td>15 January 2010</td>
<td>“We’re concerned that Australia is following the sorts of precedents set down by countries like China and Iran that have maintained internet censorship,” said Mr Guy. He said Australia’s proposed plan resembles China’s original censorship regime which blocked banned content at the internet service provider-level.”</td>
<td>Australia’s ISP filtering policy is very different to arrangements in China and Iran. The Australian Government will require ISPs to block the URLs (i.e. a page or an image on a website) of RC-rated material hosted on overseas servers. The Australian scheme will apply to a defined category of content with a very high level of transparency and accountability.</td>
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<td>29</td>
<td>20 January 2010</td>
<td>“Once there’s new and secretive censorship powers in place it seems to us very unlikely that all future governments will resist the temptation to expand it, whether is might be to do with copyright or whatever the particular moral panic is of the day. Once the mechanism is there it’s clearly much easier to broaden what goes on the list than it is to institute the entire system in the first place.”</td>
<td>See responses to 16 and 19.</td>
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<td>30</td>
<td>20 January 2010</td>
<td>“We still don’t know what will happen when an Australian internet user tries to access a blocked site, whether they’ll get a message and an explanation or simply a blank page. We don’t know. And one worry that we have is if an Australian business is added to the black list they’ll probably have no way of knowing, you know, how or why it’s happened or when it’s happened and they may simply just see that all of their traffic stops with no mechanism to get themselves off the list again.”</td>
<td>See response to 15.</td>
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<td>31</td>
<td>20 January 2010</td>
<td>“Somebody could post something obscene or at least that would be refused classification to an otherwise harmless website that would therefore automatically go on the list if someone made a complaint to ACMA so even if your website is harmless now and you don’t think you would be affected, it could certainly happen at some point in the future, the content could change and you could find yourself on the blacklist without warning.”</td>
<td>See response to 15.</td>
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<td>32</td>
<td>22 January 2010</td>
<td>Colin Jacobs: “China’s not alone in censoring the internet and that’s a club that Australia is unfortunately set to join if the Rudd Government get their way this year.”</td>
<td>Australia’s scheme involving a well defined and narrow category of content known as Refused Classification cannot be compared with China’s filtering scheme.</td>
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<td>No</td>
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<td>33</td>
<td>26 January 2010</td>
<td>“Existing censorship is an open and transparent process but this new internet censorship power is completely secret and not subject to public review,” Jacobs said.</td>
<td>As part of the introduction of mandatory ISP-level filtering of RC-rated overseas content, the Government proposed measures to improve the transparency of processes that lead to material being placed on the RC content list. The proposed new measures include: the Classification Board classifying RC-rated content which has been referred to ACMA as a complaint; the ACMA notifying readily identifiable and contactable website owners that their content is to be added to the RC content list after liaison with the AFP; a standardised block page that enables users to seek review of any material that they find blocked; and a review by an independent expert and a report to Parliament. A public consultation paper is available from the Department’s website. Submissions closed on 12 February 2010 and will shortly be published.</td>
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<td>34</td>
<td>26 January 2010</td>
<td>“The scope of the filter is quite broad – although it will block the nastiest of the nasty content that [Communications Minister Stephen Conroy] likes to talk about, our concerns are around the edges where politically sensitive topics such as euthanasia, drug use and sexuality material will be blocked.”</td>
<td>The Government will shortly introduce into Parliament legislation for the mandatory ISP-level filtering of Refused Classification (RC) content. RC material includes child sexual abuse imagery; bestiality; sexual violence; detailed instruction in crime, including suicide related material; violence or drug use and/or material that advocates the doing of a terrorist act.</td>
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<td>35</td>
<td>8 February 2010</td>
<td>“Discussion about euthanasia or abortion, as well as discussion about drug use, are all things that can get sucked up under that RC category because of the way the category is worded.”</td>
<td>Classification decisions are made by the Classification Board and the Classification Review Board by applying the Classification (Publications, Films and Computer Games) Act 1995, the Classification Code, and classification guidelines.</td>
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<td>3CR Breakfast, 7.39am</td>
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<td>Material that provides detailed instruction or promotion of matters of crime or violence would generally be classified Refused Classification. Material that contains drug use is generally Refused Classification where the drug use is related to incentives or rewards. This may not be the case where the drug use is depicted in a medical or public health context.</td>
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<td>Melbourne</td>
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<td>Compere: AJ</td>
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<td>‘Discussion about proposal by Federal Minister for Broadband and Communications Stephen Conroy, for a mandatory internet filter blocking material refused classification’</td>
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<td>Geordie Guy, EFA</td>
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The response read as follows—

Appendix Two

Response by Mr Geordie Guy, Board Member, Electronic Frontiers Australia Inc. on behalf of the Board Members of Electronic Frontiers Australia Inc.

Pursuant to Resolution 5 (7) (b) of the Senate of 25 February 1988

We, the individuals listed below, seek redress under the resolution of the Senate of 25th February, 1988, concerning the protection of persons referred to in the Senate (resolution 5). We are readily identifiable as the persons referred to by Senators Stephen Conroy, Sue Boyce and Jacinta Collins during questions without notice regarding Internet content on the 15th and 16th of March 2010 in that we are members of the board of Electronic Frontiers Australia Inc. (EFA), namely:

Chair: Nic Suzor, LLM, LLB, BInfTech
Vice Chair: Colin Jacobs, BA, BSc
Board Member: Geordie Guy, Dip. I.T. (Network Engineering), CCDA, MCTS

Senator Conroy made several misrepresentations both verbally and in the tabling of a document, which are unsubstantiated and false. The senator’s remarks go to our individual good characters, reputations and integrity. As members of the board of management of the association, his remarks further reflect on the integrity of the thousands of members and supporters of both EFA and online rights in Australia.

EFA has opposed the introduction of mandatory ISP level censorship since the proposal was announced by the government, commonly in the form of expert comment to members of the press. In that time the proposal has undergone constant changes in response to criticism from EFA, bodies representing Australian technical experts, youth advocacy organisations, media and journalism organisations, members of opposing political parties and the wider Australian public. Characterising EFA as deceitful on the basis of previous expert comment on any one aspect of this constantly shifting proposal, when that comment was factual at the time it was made, is disingenuous and distracting at best.

2. Senator Collins asked a supplementary question

“I have a further supplementary question. Is the minister aware of an ABC poll that showed 80 per cent of people support the government’s policy on internet filtering? Is the minister aware of any alternative approaches on cybersafety?” - Hansard Tuesday 16th March p21

The Senate may have taken from this question that EFA’s position is at odds with that of the Australian people and that the association’s efforts in this regard are therefore on occasion deceitful or misleading. EFA wishes to inform the Senate that on every occasion where polling has been completed of a population who understand the nature of the government’s proposal, the opposition is overwhelming. The most recent example of this was a survey of users of the website Whirlpool (where participants discuss technology and other related matters). In this survey, 92.6% of 24,683 respondents rejected the government’s proposal.

EFA asserts that the positive response to the ABC’s Hungry Beast survey is due primarily to an inadequate description of refused classification which did not include wider material that is necessarily caught in the definition. In this regard, Senator Conroy insists on drawing the attention of the media and parliament to RC as including matters of child abuse, bestiality, crime etc., but does not explain that RC can also contentiously stretch to cover other other speech discussing matters which are in no way repugnant to the standards of ordinary Australians.

EFA seeks the opportunity to correct the incorrect assertions provided to the Senate.

The following facts apply.

1. Senator Conroy stated with regards to a Reporters Without Borders report:

“The government was very clear in its announcement that our policy is to require ISPs to block a defined list of URLs of content which have been classified as RC under Australia’s existing national classification scheme.” - Hansard Tuesday 16th March p21

The senator then went on to inform the Senate that Reporters Without Borders has been misled, later asserting that they were misled by EFA, as to the nature of the government’s proposal.
3. By tabling a document of factually incorrect or irrelevant responses to a collection of hand-picked EFA public statements, Senator Conroy asserts the EFA is wrong in its advocacy and has been both misleading and incompetent. Those responses are reproduced here with an explanation of why they are incorrect or irrelevant.

3.1 The live pilot has shown that filtering a defined list of URLs (i.e. a page or an image on a website) can be done with 100% accuracy and negligible impact on network performance. ISPs in many western democracies have shown that filtering works. Item 1, Tabled Document

EFA asserts the live pilot is most politely described as inconclusive. The report classifies negligible impact as up to 10% and did not consider a high speed network such as is proposed under the government’s National Broadband Network. 100% accuracy in censorship was only achievable after the exclusion of content on highly popular websites. Patently, 100% accuracy in any affair is achievable if all errors are excluded.

The pilot participants were variously very small ISPs, business-focused ISPs or were already providing a censorship system to their customers and unable to be relied upon to show what the implementation of a national scale mandatory censorship system would be like. All participants chose freely to be included in the trial. While optional ISP filtering has been shown to be technically feasible in some countries for the issue of child pornography only, mandatory filtering of a category as wide as refused classification has only been attempted in countries such as China and Iran. EFA cannot be considered misleading merely due to discomfort arising from the highlighting of the pilot’s flaws.

The statement made by EFA Chair Nic Suzor was that a technological filtering solution could not achieve a (presumed) goal of protecting children or combating child sexual abuse. The ability of a filter to accurately block a defined list of URLs is not wholly determinative of the efficacy of the proposal as a whole. The Government has released no evidence that shows what proportion of the entire set of material that would be classified RC if a complaint were lodged is expected to be added to the list of filtered URLs. EFA asserts that since the government cannot hope to accurately regulate the entirety or even a meaningful subset of web material that could potentially be classified RC, the accuracy of the system must be much less than 100%.

EFA stands by its assertion that the technological solution proposed by the Government cannot materially protect children from exposure to material that may be dangerous to them, nor can it help to prevent the trade in child sexual abuse material. EFA also asserts that, unlike physical distribution, where the Government is able to regulate public sale and exhibition, the proposed plan cannot address the bulk of material on the internet that may fall within the broad definition of Refused Classification. For this reason, the technological filtering solution proposed by the Government cannot achieve the same goals as classification addresses for public distribution, sale, and exhibition of physical material.

3.2 As at 28 February 2010, ACMA had identified 355 ‘live’ URLs of child abuse material which was available on the ‘open internet’. It is reported that some people’s first encounter with child pornography is on the open internet before they are lured into more sophisticated arrangements.- Item 2, Tabled Document refuting an apparent EFA position that there is no child abuse material on the open Internet.

EFA’s position is that 355 URLs out of the one trillion websites recently reported as indexed by Internet search engine Google, is a concentration which is functionally non-existent. EFA believes that the bulk of child sexual abuse material is available not on the world wide web but in other areas of the Internet such as peer-to-peer filesharing networks, private networks and other secretive arrangements. EFA advocates law enforcement resourcing and cooperation to combat child sexual abuse material which is already illegal in every jurisdiction. It seems unlikely EFA can be considered to be misleading the Australian public or making outrageous claims in advocating that criminals should be dealt with by the criminal justice system. Further, it seems unlikely that EFA can be considered misleading by being sceptical of tens of millions of dollars earmarked for a programme designed to address a problem which is functionally equivalent to four grains of sand in a
one thousand tonne pile (355mg in one kilo-
tonne), assuming one web site to a URL.

Without understanding what the remaining nebulous concepts in the response mean, EFA cannot hope to defend itself against phantom reports or undetailed arrangements of any level of sophis-
tication.

3.3 Various government responses attempt to refute EFA statements that resources are better deployed elsewhere, by stating that law enforce-
ment and education elements as well as censorship formulate a comprehensive policy, or “cen-
sorship is not a silver bullet”.

EFA asserts that undertaking something for which there is no mandate, which cannot achieve its policy aims, costs millions of dollars and threatens freedom of expression is not made ac-
ceptable by undertaking it in addition to acceptable measures. Put simply, EFA cannot be consid-
ered to be misleading the Australian public by pointing out that bad ideas in the company of good ones are still bad ideas.

3.4 Various government responses attempt to refute or dismiss EFA statements that computer games, the safe use of illicit drugs and other mat-
ters of crime, violence, cruelty or revolting and abhorrent phenomena come under the scope of refused classification. Examples include that the matter of computer games is deferred pending the outcome of a consultation process being con-
ducted by the Minister for Home Affairs, and that no complaint has been made about a website that discusses the safe use of illicit drugs. - E.g. tabled document items 5, 7, 13 and 20.

EFA cannot be considered to be misleading the Australian public by highlighting areas in which the government concedes the refused classification category is at odds with the standards of Aus-
tralians, even if the government is considering measures to attempt to rectify any of the many problems with the classification system. EFA furth-
erly considers this evidence against the govern-
ment’s responses which insist on drawing allu-
sions to refused classification material being syn-
onymous with illegality and child abuse.

3.5 Various government responses attempt to refute or dismiss EFA statements that bureaucrats compile ACMA blacklists (either current or fu-
ture) and that the process in which they do is opaque. Various other responses distinguish the original ACMA blacklist of prohibited content which was the intended instrument of the original policy, with a purpose-built refused classification list now, and accuses EFA of conflating the is-

sues. - E.g. tabled document items 5, 6, 15, 28, 33 and 35.

With regards to the compilation of an RC blacklist, EFA asserts that it cannot be considered misleading or incompetent if we highlight any failure of Internet regulation simply because that failure is currently being considered for review by the government. With regards to the previous prohibited content list and conflation of it, EFA cannot be held accountable for confusion in the electorate and media which continues to linger after the government changes its policy dramati-
cally. The government has done little to dispel this confusion by repeatedly failing to clearly articulate its policy proposal.

3.6 The government responds that it does not intend to expand censorship beyond RC material.

- Tabled document item 19.

EFA has never suggested that the government intends to extend censorship beyond its current plan of RC material, nor did EFA assert that the previous plan of prohibited content was necessarily intended to be expanded beyond that. EFA has no plans to suggest that any further reinventions of the policy are to be expanded beyond whatever their scope may be. EFA asserts simply that any government now or in the future may expand the scope of censorship systems once they are built - as has been the case in the example of Thailand where censorship was originally implemented to censor child abuse material but now censors a much wider scope of content.

In any event, Australian restriction on free speech and expression is not contingent on an expansion of censorship beyond refused classifi-
cation material. While restricted from public sale or exhibition, Refused Classification material is generally not illegal to acquire or own except in Western Australia and parts of the Northern Territ-
ory. Refused classification material has included computer games not suitable for young children (despite the government’s assertions that this is under review), a computer game which includes
fictional depictions of graffiti, movies such as Ken Park which are available around the world (and indeed available for purchase online by Australians), and has been thought by the ACMA to include material such as footage of Iranian protestor Neda Aghar-Soltan and abortion material until the incidental clarification from the classification board. This is all despite Senator Conroy’s repeated assertions that refused classification “includes” (note: includes does not mean “is restricted to”) child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime etc. Eligibility for inclusion in the category of refused classification is no difficult challenge, requirements are only an arbitrary level of offence, and someone similarly offended.

EFA cannot be considered to be misleading the Australian public simply by highlighting how broad the refused classification category is, how refused classification material is not generally illegal to possess unless it is illegal for reasons other than being refused classification, and how potential will always exist for censorship schemes to be expanded.

Each of Senator Conroy’s responses to EFA’s public statements are factually flawed, do not consider the entire matter or do not address the EFA statement they purport to respond to in the tabled document. EFA has endeavoured in every respect, and are confident that we have done so successfully, to maintain a factual and accurate opposition to what we have considered to be bad public policy in line with both our organisation’s objectives and the concerns of our members.

We tender the above in good faith and request that our response be incorporated in the parliamentary record.

Yours faithfully
Geordie Guy
Board Member, Electronic Frontiers Australia Inc.
on behalf of the Board Members of Electronic Frontiers Australia Inc.

Privileges Committee
Report

Senator FEENEY (Victoria) (5.53 pm)—On behalf of the Chair of the Standing Committee on Privileges, I present the 146th report of the Committee of Privileges, entitled Persons referred to in the Senate—Ms Vicki Dunstan on behalf of the Church of Scientology Australia.

Ordered that the report be printed.

Senator FEENEY—by leave—I move:

That the report be adopted.

This report is the 60th in a series of reports recommending that a right of reply be afforded to persons who claim to have been adversely affected by being referred to, either by name or in such a way as to be readily identified, in the Senate.

On 11 May 2010, the President received a submission from Ms Vicky Dunstan, President of the Church of Scientology Australia, relating to comments made by Senators Xenophon, Milne and Bob Brown in the Senate on 11 and 18 March 2010 during debates to refer matters relating to the Church of Scientology to a committee for inquiry and report. The President referred the submission to the committee under privilege resolution 5. The committee considered the submission on 16 June 2010 and recommends that the proposed response, as agreed by the committee and Ms Dunstan, be incorporated in Hansard.

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

I commend the motion to the Senate and seek leave to have the response incorporated in Hansard.

Leave granted.

Question agreed to.
The response read as follows—

Response by Ms Vicki Dunstan,
President, Church of Scientology Australia

Pursuant to Resolution 5(7)(b) of the Senate of 25 February 1988

Reply to comments by Senator Nicholas Xenophon (and others) in the Senate (11 & 18 March 2010)

Pursuant to resolution 5 (7) (b) of the Senate of 25 February 1988, I make this submission on behalf of the Church of Scientology regarding comments and allegations made in the Senate concerning the Church by Senator Nicholas Xenophon, Senator Bob Brown and Senator Christine Milne on the 11th and 18th of March 2010.

The allegations that have been made against the Church by former members were first raised in the Senate by Senator Xenophon in November 2009 and repeated by various media and have remained as bald allegations—unproven and unprovable because they are false. The same is true with regard to the latest round of false allegations.

On 17 November 2009, Senator Xenophon raised a series of unfounded and irresponsible allegations in the Senate.

The Church was and remains deeply concerned about the comments and issues raised by Senator Xenophon.

The Church strongly advocates that any issue or individual that involves criminal conduct should be brought to the immediate attention of the relevant law enforcement agency for investigation. The Church does not resile from this position.

As a religious institution, we believe that it is appropriate to bring any such claims before relevant authorities to investigate without favour or “political agenda”.

We believe that is fundamental to section 116 of Australia’s Constitution and the principles of our modern democracy.

Despite the unsubstantiated claims made by Senator Xenophon in the Senate under parliametary privilege, the Senator refused to meet with representatives of the Church.

Access to Senator Xenophon was denied. No opportunity was afforded the Church to correct the record with the Senator.

In response to the unfounded and irresponsible allegations made by Senator Xenophon, the Church submitted a detailed Right of Reply to the Senate, outlining the inaccurate claims made under privilege, and this was incorporated in the Hansard in February 2010.

Following this submission to the Australian Parliament, Senator Xenophon raised further unfounded and irresponsible claims on the 11th and the 18th of March 2010.

Senator Xenophon once again failed to contact the Church to verify the claims, violating the principle of fundamental fairness.

Instead, the Senator based his unfounded and irresponsible allegations on hearsay; at no time did Senator Xenophon attempt to hear the Church's side of the story to correct and clarify the facts.

In response to the allegations raised in the Senate on 11 and 18 March 2010, the Church wishes to place on the Senate record the following factually based evidence.

1. Alleged Abortions:

   The practice of abortion conflicts with fundamental teachings of Scientology. As stated by the Founder of Scientology in Dianetics: Modern Science on Mental Health:

   “Once the child is conceived… that man or woman who would attempt an abortion on an unborn child is attempting a murder which will seldom succeed and is laying the foundation of a childhood of illness and heartache.

   “Anyone attempting an abortion is committing an act against the whole society and the future….”

   It is not Church policy or practice to counsel expectant mothers or any of its staff to have abortions.

   Nevertheless, the Church recognises that the law permits women to obtain abortions from qualified medical personnel under certain circumstances.
The Church, like all Australian institutions, respects the legal parameters set by our legislators and judiciary, and does not interfere with a woman’s freedom of choice in this regard.

In Senator Xenophon’s speech the Senate on 17 Nov 2009, he refers to claims by Mr Aaron Saxton about women he allegedly coerced to have abortions. Since the delivery of this Senate speech, Mr Saxton has also corrected the record by publishing an article on James Randi Educational Foundation site (www.randi.org) that none of these women he supposedly coerced “factually did” have abortions.

The Church of Scientology considers the family unit and children to be of paramount importance and that “when children become unimportant to society, that society has forfeited its future,” as stated by the Founder of Scientology, L. Ron Hubbard in his book Science of Survival. The allegations being made are without merit and are contrary to the widely known beliefs and practices of the Church.

2. Occupational Health and Safety
The Church places the safety of its people as a core responsibility of the organisation.

A safe and secure workplace is valued by all members of the Church.

We adhere to legislative and statutory regulatory requirements with regard to safety of the workplace as outlined by the Commonwealth and respective state governments.

Like all major Australian institutions, the Church employs a range of recognised and accredited experts to advise on appropriate workplace safety measures to ensure that all legislative and regulatory requirements are achieved.

Church staff enjoy a low incidence of sickness or injury in the workplace and we remain committed to providing a safe and secure environment.

Senator Xenophon’s allegations of unsafe Occupational Health and Safety practices by the Church are false. Only general statements without empirical evidence have been provided to the Senate.

Once again, Senator Xenophon denied the Church the opportunity to provide information regarding these allegations before he addressed the Senate under the cover of parliamentary privilege.

3. Alleged Harassment
The Church does not tolerate harassment of individuals in the workplace or in the broader community.

We have a strong commitment to promoting freedom of religion and tolerance around the world.

Unfortunately, many members of the Church have experienced unfair treatment, stalking, threats and harassment by hate groups. On all occasions, the Church has taken appropriate action and referred these matters to the authorities.

Senator Xenophon in his speech of the 18th of March outlines unfounded and irresponsible allegations of harassment by alleged representatives of the Church.

Again no evidence is provided to the Senate. Again unfounded claims have been made under the cover of parliamentary privilege.

4. Alleged Financial Impropriety
The Church places enormous importance on financial management and trust. We rely on the ongoing support of our members in assisting our community and outreach activities around Australia.

This support is critical to our ministry and to providing assistance to thousands of Australians who suffer drug related problems and other personal issues.

Churches rely upon a system of tithes, or rely on members to make charitable payments to support their functions, fund their community activities and to spread their teachings. The Church of Scientology is no exception.

Courts and governmental agencies in the United States, Europe and other countries have repeatedly acknowledged Scientology’s religiosity. In October 1983, The High Court of Australian in Church of the New Faith v. Commissioner of Payroll Tax (Vic) recognised Scientology.

5. Alleged risk to the community
The Church of Scientology and the prominent psychiatric professor and author Dr. Tomas Szasz
founded the Citizens Commission on Human rights in 1969 to investigate and expose abusive practices in psychiatry.

CCHR comprises many professionals, including psychologists, psychiatrists, doctors, lawyers, educators and others who share a common concern about the human rights abuses and stigmatization inherent in the mental health system. Indeed, it was due to CCHR’s efforts that mental health laws enacted legal rights for patients and their informed consent for treatment rights that until then psychiatrists had denied them.

Over the past four decades, the lives of many children and adults have been saved by the dedicated work of Scientologists and many other concerned individuals working together for mental health reform and access to proper medical treatment.

In conclusion, Australians enjoy a nation that promotes religious freedom, tolerance and understanding.

It underpins our society and is the cornerstone of our great democracy. The origins of the freedoms that all Australians enjoy today can be traced back to the earliest of times.

The Church, its parishioners and supporters are proud of their contribution to our Australian way of life through volunteerism; pastoral; and community activities, including its effective drug prevention program “Say No to Drugs, Say Yes to Life” and Volunteer Ministers Disaster Relief program.

The Volunteer Ministers, over 200,000 strong worldwide, have helped more than 1.4 million people in times of disaster during the past year, and have volunteered much-needed disaster relief aid in Haiti since the January earthquake.

Like all religions, we aim to enrich society and support our neighbourhoods.

We remain vigilant in protecting and promoting human rights.

That is why we take this opportunity to reply to the irresponsible allegations made by Senator Xenophon in the Senate.

Again we extend to Senator Xenophon the opportunity to meet with the Church and receive factual information about our pastoral work and care.

We do this openly and with confidence.

Further, we extend this opportunity in the spirit of our founding fathers as want to ensure freedom of religion for all Australians and that our laws are respected and obeyed.

Legal and Constitutional Affairs Legislation Committee Report

Senator McEWEN (South Australia) (5.55 pm)—On behalf of the Chair of the Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I present the final report of the committee on the Wild Rivers (Environmental Management) Bill 2010 [No. 2], together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Migration Committee Report

Senator McEWEN (South Australia) (5.56 pm)—I present the report of the Joint Standing Committee on Migration, Enabling Australia: Inquiry into the migration treatment of disability, together with the Hansard record of proceedings, minutes of proceedings and submissions received by the committee and seek leave to move a motion in relation to the report.

Leave granted.

Senator McEWEN—I move:

That the Senate take note of the report.

I am very pleased to be able to table this report on behalf of the Joint Committee on Migration today. The committee was asked to inquire into the assessment of the health and community costs associated with a disability as part of the health test undertaken for Australian visa processing. The inquiry was launched in August last year with the aim of examining whether the balance be-
between the economic and social benefits of the entry and stay of potential immigrants with a disability should be a factor in a visa decision. Similarly, the committee explored whether the potential costs and use of services by the potential immigrant should also be a factor in the visa decision.

For people wishing to immigrate to Australia the current health requirement is assessed along two dimensions. The first is that the applicant satisfies the significant cost threshold, which is set at $21,000. Assessment of healthcare and community service costs higher than this will result in the rejection of a visa application unless the application is made under a visa category where the health requirement may be waived. Second, the healthcare and community services that are accessed by the applicant while in Australia cannot prejudice the access to those same services by an Australian citizen or permanent resident.

Approximately some 45 per cent of Australians were born overseas or have at least one parent who was born overseas. Historically our migration program has focused on shortfalls in the labour market, typically targeting areas of skill shortages. More recently it can also be said that Australia has one of the best resettlement programs for humanitarian resettlement and we are viewed internationally as a multicultural society.

As a nation built on migration, we cannot underestimate the contribution and value that immigrants bring to us. It is for this reason that this inquiry went ahead, to ensure that as a nation we take a holistic view of what somebody—a potential immigrant—can offer us. Currently, if a family tries to immigrate to Australia with one family member with a disability the whole family can be denied entry due to an estimated financial burden that it is assumed the person with a disability will have on Australia’s economy. This presumption has proven to be inequitable and unfair to families and indeed specifically for the person with a disability. Regardless of someone’s abilities Australia should be viewing potential immigrants for what they can contribute to society, not just on the basis of financial costs it is assumed that they may incur.

After receiving 113 submissions to the inquiry, the committee held public hearings and roundtables in Canberra, Sydney, Melbourne and Brisbane. The majority of submissions to the inquiry came from Australian citizens or people residing within Australia, but the committee was also contacted by a number of people outside Australia whose visas had been refused or people who were awaiting the outcome of their visa application. On behalf of the committee, I would like to thank all those who took the time to lodge a submission to the inquiry and who shared with us their sometimes harrowing stories of attempts to get a visa.

In this inquiry it was not the committee’s aim to make recommendations relating to specific visa classes or criteria; rather, the committee placed emphasis on setting out the principles that should inform migration policy as it relates to the treatment of people with a disability. The report which I am tabling today considered Australia’s health requirement in a number of ways. Firstly, it was considered in relation to the key decision makers in the visa application process: the medical officers of the Commonwealth and the Department of Immigration and Citizenship, which makes the decision on whether to accept or reject a visa application based on the opinion of the medical officers of the Commonwealth. Secondly, the health requirement was analysed using the perception and experiences of those from the key visa streams—family, humanitarian and skilled. The committee heard accounts from a range of applicants in those visa streams.
who had been adversely affected by the health requirement. The committee took evidence from many families who had been rejected for visas on the basis that one family member was a person with a disability and that the individual’s assessed costs would exceed the significant cost threshold. The committee also took some evidence which alleged Australia was in breach of its international obligations.

The committee has made 18 recommendations to the government. Those recommendations broadly propose that the assessment of potential immigrants across the visa streams should be fairer and should not treat disability as a factor fatal to the success of an application for a visa. The first recommendation in the report is that the Australian government raise the significant cost threshold which forms part of the health requirements to a more appropriate level. Presently, when a medical officer of the Commonwealth assesses a potential immigrant, the potential cost of their disablement or disease to the Australian community is taken into consideration. If it is estimated that the cost will be over the threshold of $21,000, the individual is most likely to be declined a visa. However, the committee found that the costing that is currently used to determine the significant cost threshold was applied way back in the year 2000 and has not been escalated or reviewed since.

Recommendation 4 of the report seeks to define and draw a distinction between the assessment of costs and potential dangers of infectious diseases, which are a threat to public health, and the assessment of costs and contribution for those with disabilities. In particular, the recommendation suggests that the government amend the Migration Regulations 1994 so that diseases and medical conditions are addressed separately from the assessment of conditions that are part of a disability. The committee firmly believes there must be a distinction between disease and disability.

Similarly, in recommendation 8 the committee suggests that the Australian government remove from the Migration Regulations 1994 the criterion under the public interest test which states that costs will be assessed regardless of whether the healthcare or community services will actually be used in connection with the applicant. The committee has concerns that in determining whether or not applicants have the right to reside or live permanently in Australia there is no consideration given to whether they will access each and every service or payment to which they are eligible. Therefore, it is unfair that people are declined permanent residency on the basis that they may use Australia’s healthcare system. Rather, they should be looked at on a case-by-case basis, taking into account individual circumstances. The current approach to visa assessments does not consider aspects such as whether an applicant or the family of the applicant has the resources to cover the costs associated with the care of the applicant. Nor does it take into account the skills and expertise that the applicants may have to offer Australia, which would in turn allow them to undertake some of their own care or make their own economic contribution to reduce any future care costs.

Recommendations 3, 11, 12 and 17 all revolve around including social and economic contributions in visa assessments. Recommendation 3 is that the government allow for consideration of the social and economic contribution to Australia of a prospective migrant. Recommendation 12 suggests that the government recognise the contribution made by carers within the family as an offset to healthcare or community services costs. Finally, recommendation 17 proposes an investigation into a voluntary bond or some
other scheme such as that for applicants to indemnify against.

I very much look forward to the government’s response to this very important and timely report. I would like to conclude by thanking the committee secretariat and all the members and senators who contributed to this inquiry but, in particular, the families of those who have a disability who took the time to share their stories with us. Their stories were very formative in determining the recommendations in this report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Legal and Constitutional Affairs Legislation Committee

Report

Senator IAN MACDONALD (Queensland) (6.05 pm)—I seek leave to take note of the report presented by Senator McEwen into the Wild Rivers (Environmental Management) Bill.

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—You are seeking leave to move that the Senate take note of the Legal and Constitutional Affairs Legislation Committee report on the wild rivers bill. Is leave granted?

Senator McEwen—Could I just clarify, Madam Acting Deputy President? It is my understanding that reports into bills are not normally debated in the chamber.

The ACTING DEPUTY PRESIDENT—You are correct, Senator, but leave can be granted. Is leave granted?

Senator Chris Evans—We don’t normally. The bill’s coming on in the morning.

Senator Ian Macdonald—That could well interfere with the running of the chamber for the duration of the day.

The ACTING DEPUTY PRESIDENT—Order! I am sorry, Senator Macdonald. Leave is not granted.

Senator Barnett—Madam Acting Deputy President, may I intervene here. Senator McEwen tabled the report on the Wild Rivers (Environmental Management) Bill and then immediately moved to the next report. I know that Senator Macdonald has been waiting patiently to speak to the report—he has been here for over an hour. I am not blaming anyone, but I am a little puzzled. Senator McEwen went straight from one report to another while Senator Macdonald was seeking the call, but he did not obtain it. Can the Clerk provide some advice on that, because my understanding is that Senator Macdonald is entitled to speak to the report.

The ACTING DEPUTY PRESIDENT—Senator Barnett, leave needs to be granted for Senator Macdonald to speak. I will ask again whether leave is granted.

Senator Chris Evans—I am always happy to facilitate the progress of the Senate, but the normal process is that we do not speak on bills. As I understand it, the opposition are bringing the bill on for debate tomorrow morning.

Opposition senators interjecting—

Senator Chris Evans—I am told it is now tonight. Madam Acting Deputy President, if Senator Macdonald wants to talk to his whip, we can have a chat to our whip and we will see if we can progress something, but we do not normally grant leave for bills and we certainly do not grant leave on the same day we are bringing the bill on for debate. An agreement about a limited debate on the bill would seem to me to be seeking to undermine that debate. I am happy to suggest that Senator MacDonald talk to his whip who can then talk to our whip. We might come back if there is some sort of arrangement that they want to make.

The ACTING DEPUTY PRESIDENT—Thank you, Senator Evans. The question as
to whether leave has been granted has been put. Leave has not been granted.

Senator Boswell—Madam Acting Deputy President, on a point of order: I understand that an agreement was made.

The ACTING DEPUTY PRESIDENT—Senator Boswell, leave has been requested and denied.

AVIATION TRANSPORT SECURITY AMENDMENT REGULATIONS 2010 (No. 1)

Motion for Disallowance

Senator XENOPHON (South Australia) (6.09 pm)—I move:

That the Aviation Transport Security Amendment Regulations 2010 (No. 1), as contained in Select Legislative Instrument 2010 No. 80 and made under the Aviation Transport Security Act 2004, be disallowed.

In September last year I moved a disallowance motion against the Aviation Transport Security Amendment Regulations 2009, which included strict liability provisions against pilots which were then and still are today internationally unprecedented and unacceptable. My motion last year was supported by both the opposition and the Australian Greens. I thank them for supporting last year’s common-sense motion to disallow the regulations. Imagine my surprise, then, when on Wednesday, 12 May, in the first sitting week since the six-month disallowance period expired, the government announced it was introducing near identical regulations under the Aviation Transport Security Act 2004, be disallowed.

This regulation shows how poorly thought out these regulations are. During the recent Senate estimates, Mr Peter Robertson, General Manager Aviation Security with the Office of Transport Security, said that there was concern around ‘vulnerability created through a general provision of access to the cockpit’. He said:

As you can imagine, the consequences of a breach there can be substantial; catastrophic, in fact. It is the ultimate goal of the terrorist to be able to take control of an aircraft and create shock and awe. We are trying to protect against a vulnerability that could be exploited in any way ... I do believe that security in our skies is absolutely crucial. There is no question about that. I share the government’s concern about trying to ensure absolute safety for passengers and crew on aircraft, but I would prefer the pilot on a plane to be looking out of the window of the plane and not checking the door behind him just in case someone has not closed it properly. When we consider issues of security on aircraft we should be guided by the pilots who have command of those aircraft. They would know better than, with respect, any bureaucrat that is looking at this particular issue.

My concern is that under these regulations pilots will be held responsible if a so-called
unauthorised person enters or remains in the cockpit of the aircraft when the aircraft is in flight under his or her command. These ‘unauthorised persons’ include anyone who is not a member of the aircraft’s crew and is not otherwise permitted by the operator or the Civil Aviation Safety Authority to be in the cockpit during the flight. That means that in the unlikely event of an emergency an off-duty pilot who is on the flight but not on the flight deck at that time would not be allowed to access the cockpit to assist and ensure the safety of passengers, because that would be illegal. I think that defies common sense. On the issue of whether an off-duty pilot should be allowed to be in the jump seat in the cockpit of an aircraft, Mr John McCormack, Director of Aviation Safety with the Civil Aviation Safety Authority, acknowledged that his personal opinion was that that was not a safety issue. I think it would actually enhance safety to have another set of eyes, that of an off-duty pilot, in the cockpit. I have given a number of examples previously where having an off-duty pilot on an aircraft was very beneficial for safety. There have been a number of such instances in recent times around the world.

I moved a disallowance motion against these regulations last year, and I move a disallowance motion again today, because they are a significant departure from global practice. The government will say that consultation did occur between the department and various airlines, pilots associations, unions and flight attendants’ representatives following the disallowance passed last year in preparation for the regulations to be reinstated, but I would like to know what the government says constitutes consultation because none of the pilots associations or representatives that my office has spoken to, or the pilots I have spoken to, can remember any consultation taking place. They acknowledge that meetings were held initially to discuss concerns, but there was nothing beyond that, I am told, and certainly they were not privy to a viewing of any of the redraft regulations so they could provide further comment.

The President of the International Federation of Air Line Pilots’ Associations, Captain Carlos Limon, was recently in Australia, and during his time here he campaigned heavily against these regulations. Captain Limon is London based and has flown all over the world and he says he has never come across regulations such as these. He recently said in a statement:

This proposal runs counter to internationally accepted conventions that the airline as the Air Operator Certificate holder is ultimately responsible for regulatory compliance. Abandonment of this principle could have far reaching effects for aviation safety since it could allow unscrupulous operators to claim they have no responsibility for safety of operations.

Second, in its present form the legislation— that is, the regulations— will exclude licensed company pilots from the list of people allowed to travel on the flight deck. This proposal is without merit, since past experience in real world operations has shown that an additional pilot on the flight deck enhances the safety of flight operations.

Captain Limon goes on to say:

Furthermore, the fact that this legislation supposes that a pilot, who may well have been in command of another company aircraft shortly before or subsequently, somehow poses a security risk when travelling on the flight deck when off duty … is conceptually very poor and illogical. I note that similar concerns have been expressed by pilots in the Australian and International Pilots Association in terms of these new regulations.

This is a case where it is important that the government adequately consults with airline pilots. It is important to consult with
those who have responsibility for the safety of aircraft. There is no-one who wants more to be able to go safely from point A to point B in an aircraft than the pilot and crew. That is their interest. They want to do the right thing by the safety of passengers and, when you have pilots associations, both here and internationally, saying that these are unprecedented, unfair and counterproductive regulations then they ought to be defeated. With due respect to the government, I believe they ought to go back to the drawing board to consult with airline pilots in a meaningful way so that we can ensure that these sorts of regulations are not brought up again. I think it is important that we listen to the pilots in relation to this. We should listen to those who have the primary responsibility for the safety of their passengers and crew. If we choose not to listen to the pilots, we do so at our peril. That is why I have moved this motion to disallow these regulations and I would urge for the support of my colleagues, again, in relation to this.

Senator IAN MACDONALD (Queensland) (6.18 pm)—I, on behalf of the coalition, want to indicate to the Senate that the coalition will be supporting the disallowance motion, as we have done twice in the past. We do it for the reasons which Senator Xenophon has very clearly and precisely put. One wonders why the government continues to regale the Senate with these regulations. This is at least the second, and I suspect the third, time that they have been brought back in much the same form on each occasion, and on each occasion we have indicated at some length that the opposition does not support the strict liability element on pilots—that is, making it a strict liability offence for pilots if someone else happens to open the door. I know that the shadow minister, Mr Truss, has had a number of discussions with the minister or his staff and has tried to negotiate a way through this. We have been given some verbal assurances—that really do not go far enough, in any case—but nothing in writing.

It is indicative of the sheer arrogance of this government that they are bringing these regulations back in the same form as they have before. It is the same arrogance that has led this government to introduce a huge mining tax on Australian industry, a tax which will destroy the jobs in my state of Queensland and Western Australia in particular. There was no consultation with the mining companies. Mr Rudd looked at the polls, realised he had to do something dramatic and so brought in this tax without any understanding of it and without any consultation. It was certainly not on the recommendation of Mr Henry. Mr Henry has subsequently said, again I say with some respect, that it is a tax that should be repeated across other industries in Australia, and that must start the alarm bells ringing.

This arrogance is also clear from the way the government simply paid Telstra whatever they asked for to get the NBN through. And why? Not because the NBN had proved its worth. Not because there had ever been any cost-benefit analysis done, but because Mr Rudd noticed the opinion polls and needed something to distract attention from them. Many commentators are saying today, and I particularly refer to Terry McCrann, that Telstra are laughing all the way to the bank. They got more out of Mr Rudd on the NBN proposal than they ever might have expected. And why? Simply because Mr Rudd was going downhill in the polls and needed some sort of a circuit breaker.

Senator Sterle interjecting—

Senator IAN MACDONALD—We know, Senator Sterle, that Mr Rudd is about to do yet another backflip on the great big new mining tax. Deny to me, Senator Sterle, that in the very near future we will hear of...
some negotiations with the gas industry, which Mr Rudd will hold up as the success of this whole enterprise. He and everybody who drills down into it will know that there is nothing in it for the gas people—and he will also know that the miners will not be part of it. I am currently speculating, of course—unless the announcement has been made in the—

Senator Sterle interjecting—

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—Order! Senator Macdonald, please resume your seat. Senator Sterle, interjecting is disorderly and I ask you to refrain.

Senator IAN MACDONALD—Thank you for protecting me, Madam Acting Deputy President. I know that Senator Sterle is very concerned about this, coming from Western Australia as he does. He can read the polls. On the last poll in Western Australia there would not be a Labor Party member left in Western Australia. If Senator Sterle is unfortunate enough to be on the Senate ticket this time, he might not even get there. We have two Western Australian senators in the chamber—Senator Sterle and Senator Evans—defending the great big new tax on mining that will destroy Western Australia. We all know that Mr Rudd will do one of his famous backflips and try and pretend that he has solved the issue. But everyone will be able to see through that and understand that Mr Rudd has again thought more of his own personal political future than the country’s future.

The motion before the chamber is related to airline safety. I come from Northern Queensland where air safety is particularly important. In Cape York we use small aeroplanes and large aeroplanes all the time. The impact of safety regulations on those of us who live in the remoter parts of Australia is always important—as is the Queensland Labor government’s awful wild rivers legislation, which this Senate is trying to overturn with a private member’s bill that is before the chamber at the moment. I had desperately hoped that I, Senator Barnett, Senator Boswell and others would have been able to talk to a report that was tabled that clearly shows just how awful that wild rivers legislation is for the Indigenous people living in Cape York. Unfortunately, we were prevented from talking to that report before the Senate, but that does not in any way stop the very good dissenting report by the coalition senators, drafted by Senator Guy Barnett, that clearly shows that the interests of the Indigenous people in Cape York are severely and badly impacted upon by the Queensland government’s wild rivers legislation. Hopefully later tonight we will have the opportunity of discussing in this chamber, albeit very briefly, that overturned wild rivers bill. And hopefully we will pass a bill which will effectively overturn the Queensland government’s wild rivers legislation which is so destructive to Indigenous people—providing, of course, that it is passed by the other place.

The people of Cape York have a difficult time now with small aircraft around—and we have to use them. The people who live in Cape York deserve every opportunity to get ahead. But what is the Labor Party in Queensland doing? It is preventing these people from the proper, adequate and free use of their own land. Through its declaration on wild rivers in Cape York the Queensland Labor government has simply locked up rivers and made it impossible for Indigenous people to get full value from their land. This deprives them of the opportunity for wealth and full-time work, and the dignity that goes with that, and condemns them yet again to a life of welfare dependency. This is something that their leaders are desperately trying to get them out of but they find it impossible.
I only mention Cape York in relation to the motion before the chamber, which deals with aircraft matters. I am conscious that we have to finish with the disallowance motion by 6.50 pm. I guess that Senator Milne might like to speak on this motion and that someone from the government might like to speak on it, and I know that Senator Back is very interested in making a brief contribution as well. But let me quickly reiterate why the coalition will be supporting Senator Xenophon’s disallowance motion. There was never any genuine consultation with the group that looks after the airline pilots. That is typical of this government—no effective consultation whatsoever.

I have mentioned that the coalition was very concerned about the strict liability issues of the proposed legislation. These new regulations do not address the concerns that were expressed by the coalition previously and, as I have mentioned, they differ little from the previous regulations. The only significant difference is that they have deleted an employee of the aircraft operator from the list of people able to enter the cockpit. Hence, the new regulation makes the class of persons able to enter the flight deck even more limited. The coalition has always had concerns that it is sometimes in the interests of safety of the aircraft and all on board if an off-duty pilot is able to sit in the jump seat. The government has said to us that they have addressed some of those issues; but, if they have addressed them, why not amend the regulations to make absolutely clear the issues they were talking to us about?

There are some other, almost cosmetic, differences to the regulations, which are referred to in the explanatory statement, but again they do not address the real issue. It would have been so easy for the government to fix this matter, and had they done it properly I am quite sure that neither Senator Xenophon nor the coalition would have been moving to disallow this regulation. Mr Albanese will be going wild in the other place tomorrow, accusing the coalition and Senator Xenophon of not having any regard for aeroplane safety. We expect that from Mr Albanese. He is well known for his over-the-top hyperbole. The actual situation here is that if this is a problem it could easily have been fixed by the government negotiating with the pilots and talking more seriously with the opposition. We retain our concerns about the inability of other pilots to use the jump seat. Evidence, experience and example show that a third pilot in the jump seat has on occasions been a particular boost to airline and aircraft safety. The other issue of the strict liability I have briefly referred to.

There are some other things I would have liked to have said, but I am conscious of the time constraints and that others may wish to speak. There are many things I could have said about legal advice given, but again the government has simply drafted clumsy and draconian regulations. It is again an example of an inexperienced government that has not learnt humility nor the fact that good law-making takes place only after thorough and considered consultation. Clumsy, ham-fisted laws are not the way to do business. For those and all the other reasons that I and Senator Xenophon have mentioned, we will be supporting the disallowance of the Aviation Transport Security Amendment Regulations 2010 (No. 1).

Senator MILNE (Tasmania) (6.33 pm)—In the past the Greens have supported Senator Xenophon in disallowance and we will be doing so again. I also sought a briefing on this from the government, to reconsider the matter, and I too find it very disturbing that the Australian and International Pilots Association oppose this particular change. These are the people who fly constantly. These are the people who put their own lives on the line every day as they take to the air. I am
The main issue that the pilots are most concerned about is the exclusion of licensed company pilots from the list of people who can travel on the flight deck of their companies’ aircraft. Admittedly, the airline can be approached to give permission for one of its own pilots to travel in the jump seat, and it was put to me that this is a loophole. A terrorist could train as a pilot, get employed as a company pilot and therefore be able to get access to the cockpit. But if a terrorist trained as a pilot and became a company pilot, why would he or she attempt to hijack the aircraft from the jump seat? Why would they not just do it on a day when they were flying the plane, when they had control and were in charge? Why would they wait until they were in the jump seat? Yes, there is always the risk that somebody might train as a pilot and become licensed to an airline. But they then have access to the cockpit every day that they go to work for that airline, so I cannot see that that actually deals with the issue. More particularly, it goes to the issue of determining the profile of the people you train and employ as pilots in the first place rather than to this regulation.

Another issue is the shift of criminal responsibility from the airlines to the pilot in command in relation to safety breaches, in particular, to the shutting of the door. Again, this comes down to the issue that if the door is not properly shut who is responsible? Should the pilot be criminally responsible for breaches of the safety regulations or should it be the airline? As the Australian and International Pilots Association make very clear it is a long-held international aviation principle that the airline is ultimately responsible for the actions of its pilots. The shifting of criminal responsibility to the pilot in command is, in my view, not the appropriate way to go and could be exploited by an airline to get out of doing what it should be doing in taking responsibility in the event that an incident of some kind occurs.

I am aware, as everybody is, that there are pilots who are travelling backwards and forwards to places—sometimes on duty, sometimes off duty—who use the jump seat. Sometimes you could regard it as a perk of the airline if they are off duty and they are going on holidays or whatever. But that is an issue for the airline to deal with if a licensed pilot of the airline is using a jump seat as a perk. It is a question for the airline as to how it regards the behaviour of its pilots and whether it is appropriate. In relation to how an airline may manage that particular issue it is not up to governments to determine or to judge what is a perk and what is and what is not allowable.

My focus is entirely on the safety of the aircraft and its passengers, on ensuring that an airline always has to take criminal responsibility for anything that occurs in relation to that airline. I just cannot believe that the Australian and International Pilots Association will not be supporting these regulations if it has real concerns about a loophole for security reasons. I am aware that the government is going ahead with these regulations because it has advice from its security people about loopholes, but I am afraid I just cannot see that these regulations will do anything to address the security issue. I think it goes much further back in terms of whom you are training and whom you are employing as pilots. That is where the real scrutiny is needed—psychological profiles et cetera in relation to that—rather than trying to shift criminal responsibility or trying to take away these long-held aviation principles. That is why I, on behalf of the Greens, take the position that I do.
Senator BERNARDI (South Australia) (6.39 pm)—I recognise that Senator Back wants to make a brief contribution to this debate on Senator Xenophon’s disallowance motion. As he makes his way to the chamber and before he makes that contribution I have to say, in a rare show of solidarity with Senator Milne, that I agree with much of what she has said. There seems to be a great advocate for common sense in this case, because governments have to learn that they cannot micromanage every industry. If any government should heed that lesson it should be the Rudd government. Where they have sought to impose their authority, their will or their wisdom—or lack thereof—on particular industries we have seen disaster after disaster. You can recover from financial incompetence, you can recover from mismanagement of particular industries, but you cannot recover from a catastrophe on an airline. Everyone is interested in protecting the safety and efficiency of pilots, air traffic and air transport in Australia. There is no doubt about that. I believe this chamber and in fact this entire parliament would subscribe to that view. But in doing so we cannot for a moment pretend that the government knows best in these areas. We already place a great deal of faith and trust in our pilots and in our airline maintenance systems and some of that is through regulation but, frankly, the bulk of it is through common sense.

As Senator Milne pointed out, if the intention of these regulations is to protect a potential terrorist from training as a pilot and hijacking a plane, it beggars belief that they will do it to a plane other than the one that they are already in command of. We should listen to the Australian and International Pilots Association which clearly has a vested interest as, frankly, we all have in maintaining safety. But we should also recognise that airlines have a corporate responsibility to uphold their own standards. To shift criminal liability onto a particular pilot when they may just be adhering to traditional customs or to business-as-usual behaviour which historically has provided no real threat to airline safety is, I believe, a step in the wrong direction.

I think I have made my point. Since I have a note that Senator Back is unable to join us, I will cede the time to the government and to Senator Evans for his contribution, but I stand at one with the coalition in supporting Senator Xenophon’s disallowance motion.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (6.43 pm)—The opposition seems to be confused on this issue. I do not think Senator Macdonald’s contribution will look good in Hansard, given the rather ranting contribution he made to what really should be treated as a much more serious issue. Aviation safety and security is certainly the government’s No. 1 priority and it should be a bipartisan issue. The terrorist attempt on the United States bound flight on Christmas Day last year showed that we cannot afford to be complacent. Australia’s aviation security regime is built upon a number of layers of security measures to ensure that Australia’s aviation industry is safeguarded and able to respond quickly to threats of unlawful interference with aviation.

Hardened cockpit doors and restricting cockpit access are the last lines of defence to stop terrorists taking control of a plane. Stringent rules must apply to who can open the hardened cockpit door and enter the cockpit. Aircraft operators have invested heavily to meet regulations requiring hardened cockpit doors in certain aircraft. As a parliament, we now need to ensure that there is no uncertainty as to who is responsible in different scenarios for ensuring that the cockpit remains secure.
The effectiveness of hardened cockpit doors as a security measure is compromised if there are not clear and consistent regulations governing cockpit access. Put simply, the government takes the view that if a person does not have an operational, safety, security or training reason to be in the cockpit they should not be there. Frankly, if a person does not have an operational reason to be in the cockpit, does not have a safety reason to be in the cockpit, does not have a security reason to be in the cockpit or does not have a training reason to be in the cockpit then why should they be allowed to be in there?

This is an important aviation security matter, and aviation security is an important part of national security. All aircraft operators, including Qantas, Virgin, Tiger and Jetstar should have consistent rules setting out when the cockpit doors should be locked and who can access the cockpit. There have been substantial consultations with pilot associations on this issue. Mr Albanese met personally with representatives of the pilot unions and there have been several meetings between pilot unions and the minister’s department.

The Aviation Transport Security Amendment Regulations 2010 (No. 1) commenced on 21 May 2010. The regulations restrict access to the cockpit to persons who have an operational, safety, security or training need to be there. Under the regulations that decision is made by the aircraft operator; in other words, the airline takes responsibility for determining who is in the cockpit. However, the act and the regulations permit the pilot in command to allow a person into the cockpit for a safety or security reason during flight.

Pilot unions have raised the issue of the potential safety benefits of allowing off-duty pilots and other aviation professionals to utilise the jump seat in the cockpit. We want to be clear about this: the regulations do not impact on the ability of the pilot in command to take whatever action may be necessary and reasonable to protect the safety or security of an aircraft. This may mean, for example, that a passenger who is a doctor, off-duty pilot or engineer is allowed by the pilot in command into the cockpit if there is a safety or security need to do so. Of course, off-duty pilots and other company employees can use the jump seat in the cockpit for repositioning of crew returning home after duty or other operational travel. The regulations mean it is a safe decision for the pilot in command as to whether an off-duty pilot who is travelling for recreation can enter the flight deck. The regulations place responsibility on the pilot in command of the aircraft to ensure that the cockpit door remains locked except for certain allowable circumstances such as to permit authorised persons to enter or leave the cockpit and for safety reasons.

A breach of the regulations is a strict liability offence. Strict liability offences are fairly common and are used where it is necessary to ensure the integrity of a regulatory regime, such as security or public health. Of course, there are many other strict liability offences that apply to pilots. For example, there is a strict liability offence requiring a pilot to comply with an aircraft’s flight manual, and under longstanding regulations a pilot will commit a strict liability offence if they commence a flight while there is outstanding maintenance required on the plane, if they fly an aircraft over a prohibited area or if they tow anything without approval.

These strict liability offences all relate to the operation of the aircraft and their fundamental purpose is to protect the safety and security of the aircraft and its passengers. The responsibility for maintaining the integrity of the cockpit is such a responsibility. If the person who is operationally in charge of the aircraft is not the person who should be operationally responsible for basic measures
to protect the security of the flight deck it begs the question: who else could do it? In practical terms there is no other person who would be in a position to exercise control over the cockpit door and the associated access entitlements while the aircraft is operating.

The government has placed responsibility for this important measure on the pilot who is operationally in charge of the aircraft at the time. If the chief pilot is on a sleep break or on a long-haul flight then responsibility rests with the pilot who is in command of the aircraft at the time. And at all times, if the pilot is acting reasonably to protect the safety or security of the aircraft, its cargo, a person, other aircraft or an airport there can be no offence committed. Those absolute defences are set out in primary legislation in section 10A of the Aviation Transport Security Act 2004.

Should the disallowance motion be passed there will be no legal constraint on who can enter the cockpit. This is completely inconsistent with the policies of successive Australian governments that only people with a genuine safety, security, operational or training need may be permitted to enter and remain in the cockpit of an aircraft. Of course, aircraft operators can direct pilots as to who can enter the cockpit. But Qantas will have one set of rules, Jetstar another set, Virgin another and Tiger will have its own rules.

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—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 ask the clerks to set the clock accordingly.

Senator SCULLION (Northern Territory) (6.50 pm)—I rise to support the Wild Rivers (Environmental Management) Bill 2010 [No. 2]. This is a very simple piece of legislation. It does two things, in effect, but they are important things. It will require the agreement of traditional owners; that the development and use of native title land in a wild river area cannot be regulated under the relevant Queensland legislation unless Aboriginal traditional owners of the land agree. There are three other parts to it: one gives the capacity for the Governor-General to make regulations and the others are a transitional provision to ensure that the time line does not go forever and it deals with the capacity under the Constitution about how we can make this law.

Aboriginal people in this country have been through a long and arduous process of having their legal rights recognised, and I know that many of those in this place have supported that process. But it seems in many cases that when you get to the end of that process everybody says, ‘Oh, fantastic—wasn’t that great?’ Aboriginal people, if you like, for a long time have been in the struggle for land rights and have gathered the eggs. They have gathered them in, and often the processes by which they gather those eggs are limited. They might be land councils, and we only give them money to gather eggs. There has not been much story in terms of the development. So we should not see the involvement of land and sea based economic activity as the endgame. The first step is over; they now need to be able to be involved in that process without any impedi-
ment. So that should be the beginning of the process—certainly not the end.

Many of our first Australians—I see this as I move around Australia, not only in Queensland but in a number of places—have seen their lands locked up as national parks, in some cases as part of a deal. A New South Wales land council speaking to me the other day told me it is not part of a deal; it is part of meeting some weird quota that they have in New South Wales. So we need to ensure that Aboriginal people have the same access to economic opportunities from their land as every Australian should.

As people interested in this debate will all know well, there is a great tragedy visible when we enter Aboriginal land. I worry that they might have very few things and they live in very sparse conditions, and many people would see abject poverty. They smile at me and say: ‘But, Nigel, look at our land. Look at our country. Look at our riches.’ It recalls, of course, the old phrase ‘land rich and dirt poor’. I wonder why this exists. Here is an opportunity today to support a piece of legislation that is not symbolic. It might not get it completely right, and I understand why some people would choose not to support it, but what it says is that we need to make sure that we take every single blockage that is not an essential blockage out of the way so that our first Australians can have equity in the simple process of being able to use their land.

We go out of our way sometimes to protect values, whether they be biodiversity values or cultural values, but we do not seem to spend enough time protecting economic values and opportunities for people to use the land that they have. Of course, Australians would have no problem at all with unique biodiversity or other particular cultural values being protected, and of course the very first people that will tell you that they need protection are our first Australians. They will tell you that that protection is absolutely needed. When we particularly protect unique and rich biodiversity—and that is effectively the motive behind the wild rivers legislation—nobody would disagree, but if that is going to be the case then everybody should bear the cost. We as Australians should all bear the cost. But the sad part about the wild rivers legislation is that the cost is fundamentally borne by the people who live in that area, because it is the cost of not having economic opportunities. That is a cost that I think is inequitably imposed on them. If there is unique biodiversity on some farmers’ land or in other areas, there are a whole range of other processes that take place to ensure that there is no inequity in that regard. So this is a piece of legislation that we cannot allow to remain in place, for that reason.

The notion of sustainable development of land and conservation being mutually exclusive, of course, is insupportable, and I have spoken about that before in this place. Supporting Aboriginal people to create economic activities for future generations is not asking anything special. It is not that we are asking anything different from any other Australian. If land has any special biodiversity or cultural values, yes, it should be protected, but we need to support the protection that will already be given by our first people; we do not need to take it over.

I can recall that when this first came up Mr Abbott did not raise this issue, as has been claimed, to somehow belt up the Queensland government. Aboriginal people should have the right to develop their own land, because they also have a right to ensure that they leave an economic legacy to their children. We have heard Noel Pearson, who spoke so eloquently about how this is not an issue about a decision for himself; this is an issue about a decision for his grandchildren. To leave a legacy in this place should be one
of the smartest things we ever do. Support this legislation and provide that legacy. *(Time expired)*

**Senator CROSSIN** (Northern Territory) *(6.56 pm)*—The debate on the Wild Rivers (Environmental Management) Bill 2010 [No. 2] in this chamber this evening is nothing but a political stunt, and I want people listening to the broadcast and people in the press gallery to clearly understand that this is a political stunt. The fact that as Chair of the Senate Legal and Constitutional Affairs Legislation Committee, which inquired into this legislation, I have only five minutes to contribute to this debate and that this legislation will be debated within only half an hour proves how desperate the Leader of the Opposition and the people opposite me are to try to gain support, for some reason or other, in the Cape York Peninsula.

I say on record that never in my history of being involved in committees in this parliament and as chair have I seen my committee secretariat harassed, bullied and verballed by witnesses—by one particular witness, in fact—as I have during the course of this inquiry, to comment on the way in which committee decisions were made. With no dissent, committee decisions were made, and particular witnesses—one particular witness, in fact—then had the audacity to ring and verbal my committee secretary about that. We have had undisclosed material—an undisclosed privilege matter—and the whole conduct of this inquiry has been nothing but a sham in respect of the opposition, who have tried to bully, filibuster and bring this debate on well before time.

**Senator Ian Macdonald**—Who’s the chairman? If there’s a sham, it reflects on the chair.

**Senator CROSSIN**—Senator Macdonald, I will take that interjection, because never before in the history—

**Senator Barnett**—Madam Acting Deputy President, I rise on a point of order on Senator Crossin’s remarks in respect of those in the opposition, and specifically those on the committee, because I find them incredibly and personally offensive. I would ask her to withdraw her remarks. Those members on the committee were bona fide and they did everything right. Her remarks were personal and offensive, and I ask her to withdraw her remarks.

**Senator CROSSIN**—I have not named individuals.

**The ACTING DEPUTY PRESIDENT** *(Senator Carol Brown)*—Senator Crossin, I ask you to be mindful of your comments.

**Senator CROSSIN**—I have not named individuals. At every single committee meeting I held there were unanimous decisions made and the record of that will stand. Let me go to the conduct of this inquiry in the 2½ minutes I have remaining. There is no explanatory memorandum with this piece of legislation, so from the very beginning our committee was not aware of what it was that the author of this piece of legislation intended to achieve. It makes it particularly difficult. I might add that this matter was mentioned by the Senate Standing Committee for the Scrutiny of Bills. They highlighted the fact that there was no explanatory memorandum with this piece of legislation.

I also add for the record that the Queensland parliament passed a Queensland act for the purpose of preserving the natural values of rivers that have all, or almost all, of their natural values intact. It was not the job of my committee to inquire into the piece of legislation that the Queensland government enacted. My committee’s role was to look at the piece of legislation that was before it, and I do not believe that a number of witnesses clearly understood that point during the conduct of the inquiry. We got 38 submissions—
15 supporting the bill, eight disagreeing with the bill, with four being from Indigenous parties. There were 10 submissions that were critical of the Wild Rivers Act but were not supportive of the legislation that I as chair had before me. Therefore, we had 18 of the 38 submissions against this piece of legislation, not one way or the other, and 15 for it. So you cannot say that the majority of those who made submissions to this inquiry were in favour of this piece of legislation.

This bill raises significant legal issues and would substantially increase red tape, including for Aboriginal entrepreneurs and developers. It is inconsistent with the Native Title Act and I urge people to read the committee’s view in the Senate report. The last chapter goes to the explanation as to why we believe it is inconsistent with the Native Title Act. This is not in fact a future act under the Native Title Act and we go into the reasons why. This bill is poorly drafted, it is unclear and it could not be responsibly supported by any Australian government. A broad range of views was expressed at the Senate committee inquiry. (Time expired)

Senator McLUCAS (Queensland) (7.01 pm)—As the Chair of the Senate Legal and Constitutional Affairs Legislation Committee has said very clearly, this debate on the Wild Rivers (Environmental Management) Bill 2010 [No. 2] is a stunt. It is a political stunt and it has nothing at all to do with the economic aspirations of people who live in Cape York. It has everything to do with the gathering of votes in the lead-up to an election later this year. I am terribly disappointed that the behaviour of the Liberal-National Party I have observed on Cape York is being continued here today in the Senate. We have observed over years Liberal-National Party members intentionally dividing the community of Cape York Peninsula for their own political benefit and I am tired of watching communities that Senator Scullion himself described as not being able to have an economic advantage being used by those of you who sit over there and would like to sit over there in the other place for your own political advantage—and you know it. You know that this is the purpose of what you are doing. The Liberal-National Party has form in this area.

Senator Ian Macdonald—You have no idea—go back to Canberra.

Senator McLUCAS—I will take that interjection, Senator Macdonald. Which area in Australia under the Liberal-National Party government never had a natural resource management board? Cape York Peninsula. Which area in Australia more than any other needed some sort of leadership through a natural resource management board? Cape York Peninsula. It is the actions of Liberal-National Party members that meant that that area never had a representative voice on natural resource management. It is a political stunt and you are getting more time to play with people who live on Cape York Peninsula.

Senator Crossin interjecting—

Senator McLUCAS—As Senator Crossin indicated, this bill is not only a stunt but also an unworkable bill. Evidence provided to the committee by many witnesses talked about the drafting problems that were evident and the unworkability of the bill in effect. I refer people to paragraphs 2.31 to 2.37 of the report which concludes by saying: Australians for Native Title and Reconciliation concurred, stating that, in the absence of any draft regulations, it is impossible to tell whether the consultation processes proposed by the Bill would be any better than those currently in place:

If you want to make an amendment, make it to the Native Title Act.

Let me go to another issue. The assertion from that side is that the Queensland legislation means that economic opportunities that
could be available to people of Cape York are now not available. If this is the case, why were those economic opportunities not taken up prior to the beginning of the wild rivers legislation? Why have things changed? There is simply no change. There have been 173 applications made since the instigation of the Wild Rivers Act on Cape York Peninsula. One hundred of those 173 applications have been approved and a number of them are in abeyance.

I go to the role of the Balkanu Cape York Peninsula development Corporation. Balkanu is the economic development organisation of Cape York Peninsula and they, as is their right, are running a campaign against the Queensland legislation. That is their right, but at the same time they are tasked and funded to assist Aboriginal people of Cape York to progress any economic aspirations. Why are we not surprised that the economic development organisation is not in fact doing this? If you were an Aboriginal person living on Cape York, why would you go to Balkanu to get assistance when you knew they were running the campaign against the state government? I think that is a problem. It needs to be resolved and it was canvassed during the hearing. Let us also go to the division in the community about whether or not the Queensland legislation is a good or a bad thing. It is a shame that I cannot finish my speech.

(Time expired)

The ACTING DEPUTY PRESIDENT (Senator Boyce)—I ask that the interjections stop. Interjections from both sides affected Senator McLucas’s ability to make her speech.

Senator LUDLAM (Western Australia) (7.07 pm)—The reason Senator McLucas did not get to complete her speech is that this debate has been crammed into 25 minutes on a Tuesday night. Before I comment on the substance of the Wild Rivers (Environmental Management) Bill 2010 [No. 2], I would like to make some remarks on the process that has brought us here. This is the first time in my experience, having been here for two years as a full member of the Senate Legal and Constitution Affairs Legislation Committee, which Senator Crossin chairs, that I have ever seen a proposed motion come through this parliament to cut short the reporting period of a committee. That is what happened. Senator Crossin, in her brief time, did not make mention of that. Then we saw the procedural chicanery that occurred this afternoon, and which has been going on for the last 48 hours, to find some time to have this debate. The Greens have been proposing, and the coalition opposed our proposition, additional sitting hours so that we could debate the bill—and we will get to the merits of it in a moment—without the farce of everybody watching the clock for periods of four, five or six minutes.

I would also like senators to recognise that we are on Ngunawal land tonight and that no Aboriginal voices are represented in this debate, as has been the case for the last several hundred years. So here we are again, debating the future and the sovereignty of Aboriginal people in their absence in this parliament. We have some affinity for the principles in this bill. We welcome the Liberal Party’s newfound commitment to increasing the rights of native title holders. The principle here, as I read it, is that native title holders should be able to agree or disagree with legislation and determinations that affect their land, so, for a moment, let us give the coalition the benefit of the doubt.

As the additional comments of the Australian Greens outline, there are substantial flaws contained in Senator Scullion’s bill and we identify in those comments why we do not believe the Senate should pass this bill. It will quite clearly not achieve what it says it will. We would be much better off with sub-
stantive Native Title Act amendments which would implement the bill’s stated intent far more effectively than what has been presented to us tonight. Any change to the native title rights of Aboriginal and Torres Strait Islander peoples should apply nationally, rather than in one part of one state. Professor Jon Altman, who provided evidence to the inquiry, said:

... unless such provisions are extended Australia-wide this change will constitute Cape York bioregion-specific legal exceptionalism. This is hardly appropriate given that the Closing the Gap framework applies nation wide ...

Changes to the Native Title Act would be far more likely to produce an outcome consistent with what we believe Senator Scullion’s legislation is trying to achieve, if this is really about a requirement to obtain the agreement of Aboriginal people before a wild rivers declaration on their land is made. Senator Scullion’s bill is silent on the processes that should be used in obtaining the consent of what the legislation refers to as ‘the traditional owners of native title land’.

Many witnesses to the inquiry pointed out—and Senator Scullion knows this well—that there is an existing process under the Native Title Act for negotiating Indigenous Land Use Agreements. This exists, it is already well defined and the Greens believe it makes sense to have this reflected in any legislative changes which seek to require the consent or agreement of Aboriginal people with regard to wild rivers declarations. Those increased rights should be available to all native title holders across the country and in all circumstances, rather than only on Cape York and only with regard to one particular Queensland state law.

As the committee’s report notes, many submissions and witnesses to this inquiry also raised the United Nations Declaration on the Rights of Indigenous Peoples and, in particular, the principle of ‘free, prior and informed consent’, which is detailed in article 19 of that declaration. The Greens have consistently supported the UN Declaration on the Rights of Indigenous Peoples and we supported the current government’s decision to sign that declaration. That is why we recommend that the content of this declaration be reflected in domestic laws and domestic policies, with priority given to examining how the principle of free, prior and informed consent should be consistently and effectively applied. The Liberal Party opposed that declaration while in government and continuing public statements—correct us if we are wrong, Senator Scullion—would suggest that their official policy is to continue to oppose it. But, nonetheless, we welcome the support that Liberal Party senators expressed throughout this inquiry for the principle of free, prior and informed consent as it is contained in the declaration. The committee notes the declaration and consent principle contained within it is not yet binding in Australian law. We do not believe that we should be signing international declarations unless we are prepared to make an effort to implement them in domestic law.

In Australia, free, prior and informed consent provisions exist only under the Aboriginal Land Rights (Northern Territory) Act and, even here, there are ways of overriding the right of veto and the right of consent. In other jurisdictions, apart from WA, under land rights under state laws, there are specific forms of consultation and negotiation possible. But, just as we have seen, not just in Cape York but right across the Top End in the Kimberley and the goldfields—right across the country—the Native Title Act does not contain the right to say no and have that no respected. For this reason, the Native Title Act should be amended to provide native title groups with free, prior and informed consent rights. Instead, under the future acts regime, they perhaps, at best, have a right to
negotiate or, more weakly and at the worst, they have a right of consultation, and then various developments can roll right over the top of them. If the coalition has suddenly discovered the benefits of giving traditional owners a veto power over developments on their land, then let us talk about sovereignty and let us have that principle enshrined nationally.

In 1999 the Nunavut Act was signed in Canada. That is just one example, I suppose, of just how far it seems we have to come in this country, that we should be having a debate here in parliament in 2010 in the absence of Aboriginal voices in this parliament or people to put their own views without white fellas putting them for them yet we had an act of parliament in Canada that established the newest federal territory of Canada. It was separated officially from the north-west territories on 1 April 1999 by the Nunavut Act. How far are we in Australia from that kind of discussion of sovereignty of Aboriginal peoples? Rather, we have these continued legalistic wranglings over the way the land rights act operates in the NT and the way the Native Title Act operates around the country.

There are big structural changes that require more than a 25-minute debate squashed into a Tuesday night more or less against the will of the chamber. I think we need to give more substantive time to this debate. This is one of the worst abuses of process I have seen in the brief number of years I have been here, both in the committee stage when I was being dealt with and in the way this debate was brought before the chamber this evening.

Senator SCULLION (Northern Territory)
(7.14 pm)—I would like to deal with a couple of matters that have been raised in the debate on the Wild Rivers (Environmental Management) Bill 2010 [No. 2]. The principal matter is the United Nations International Declaration on the Rights of Indigenous People. I will quote from the Prime Minister’s apology two years ago. He said:

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

The great irony, of course, was that the day that Rudd subscribed to the International Declaration on the Rights of the Indigenous People was the same day that the Bligh government in Queensland applied the wild rivers legislation to the significant—

Senator Crossin—Madam Acting Deputy President, on a point of order: we have a Prime Minister in this country who has a proper title. I think this chamber of all places in this country should refer to the Prime Minister by his correct title.

The ACTING DEPUTY PRESIDENT (Senator Boyce)—Thank you, Senator Crossin. That is correct. However, time for the debate of this bill has now expired.

Question put:
That this bill be now read a second time.
The Senate divided. [7.19 pm]
(The Acting Deputy President—Senator S Boyce)

| Ayes | 34 |
| Noes | 32 |
| Majority | 2 |

AYES
Abetz, E. Adams, J.
Back, C.J. Bernardi, C.
Birmingham, S. Boswell, R.L.D.
Boyce, S. Brandis, G.H.
Bushby, D.C. * Colbeck, R.
Cormann, M.H.P. Eggleston, A.
Ferguson, A.B. Fielding, S.
Ferravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Heffernan, W.
Humphries, G. Joyce, B.
Kroger, H. Macdonald, I.
Mason, B.J. McGauran, J.J.J.
Tuesday, 22 June 2010

The question now is that the remaining stages be agreed to and the bill be passed.

The Senate divided. [7.27 pm]
(The Acting Deputy President—Senator S Boyce)

Ayes............ 34
Noes............ 32
Majority........ 2

AYES
Abetz, E.        Adams, J.
Back, C.J.       Bernardi, C.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Boyce)—The question now is that the remaining stages be agreed to and the bill be passed.

The Senate divided. [7.27 pm]
(The Acting Deputy President—Senator S Boyce)

Ayes............ 34
Noes............ 32
Majority........ 2

AYES
Abetz, E.        Adams, J.
Back, C.J.       Bernardi, C.
Birmingham, S.   Boswell, R.L.D.
Boyce, S.        Brandis, G.H.
Bushby, D.C.     Colbeck, R.
Cormann, M.H.P.  Eggleston, A.
Ferguson, A.B.   Fielding, S.
Fierravanti-Wells, C.  Fisher, M.J.
Fisher, M.J.     Joyce, B.
Humphries, G.    Macdonald, I.
Kroger, H.       McGauran, J.J.J.
Mason, B.J.      Parry, S.
Nash, F.         Ronaldson, M.
Payne, M.A.      Scullion, N.G.
Ryan, S.M.       Troeth, R.B.
Troeth, J.M.     Williams, J.R.
Williams, J.R.   Xenophon, N.

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

* denotes teller

Question agreed to.

Bill read a second time.

Bill read a third time.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Boyce)—Order! It being past 7.20 pm, I propose the question:

That the Senate do now adjourn.

CHAMBER
Brisbane: Homelessness

Senator MOORE (Queensland) (7.29 pm)—Today in the Mural Hall there was an expo of services that are being provided in our nation for people who are homeless. For the first time in my experience in this place there was due respect and acknowledgment given to the very important work that a number of agencies are doing in this very difficult field. One of the organisations that was showcasing the work they are doing was Micah Projects from Brisbane. Micah is an extraordinary organisation. It has been working in the Brisbane area with a true mission to create justice and to respond to injustice at the personal and structural levels of society. It aims to break social isolation and build community. Micah Projects works across a range of social justice fields in the inner Brisbane area and its services have been acknowledged by a number of governments, both in Australia and internationally, for its professionalism and the compassion which it provides.

A key program that Micah is now involved in is called 50 Lives 50 Homes—and that is the badge in a beautiful yellow that I am wearing at the moment. This is a campaign to house and support Brisbane’s 50 most vulnerable homeless people. This project is being worked on by a range of people in the Brisbane community. It gathers partners from government, not-for-profit organisations, business and citizens who are committed to ending homelessness for people in Brisbane. A wide range of clubs and organisations have been involved. The 50 Lives 50 Homes project was made possible with the support of the Mater Foundation and it has worked with the principles that have been developed in the US by an organisation called Common Ground USA. It is an amazing and reputable organisation which was founded in 1990 by Peter Ezersky and Rosanne Haggerty. They have the mission to end homelessness by creating environments that foster growth in individuals and the development of supportive relationships.

They have a three-pronged strategy which has proved to be successful. They have a commitment to affordable housing that is linked to services to help people rebuild lives and get back on their feet individually. They have a commitment to outreach—to identify and house the most vulnerable and to develop a vulnerability index which surveys and identifies chronic homelessness. This particular index is the tool which has been used by Micah in Brisbane for its current project. The third part of the Common Ground program is prevention, which looks to address and tackle social and economic factors that cause homelessness in order to prevent it.

Common Ground have the runs on the board. To date, they have helped over 4,000 people to conquer homelessness. They have built and maintained permanent and transitional housing in the US and they have plans for the future. One of their programs is called Street to Home, which was proved to decrease homelessness by 87 per cent in one neighbourhood in New York City.

The Common Ground process relies on effective partnerships and one of the organisations with which they have developed an effective partnership is Micah in Brisbane. A wonderful relationship has developed between these organisations. It involves people from Micah travelling to New York and working on the ground there and people from Common Ground coming and sharing their wonderful knowledge with us in Brisbane. One of the processes that have been used to work on the 50 Lives 50 Homes project is a survey that was conducted in inner city Brisbane between 7 June and 11 June this year. During that period, between the hours of 4 am and 6 am—and I might have been
there—12 teams, made up over 70 community volunteers, canvassed the streets of Brisbane’s metropolitan area. Specialised teams also worked with food vans, in emergency accommodation, youth services and squats. The locations were based on current knowledge of the hotspot areas in Brisbane.

The volunteer teams used the Common Ground USA vulnerability index to survey and create a personal, by-name registry of individuals who were experiencing chronic homelessness and rough sleeping and those who were really at risk of premature death. Over 100 volunteers in total participated during the week by helping with the data entry, administering the surveys, fundraising for household items and providing meals and support for the people who were working.

The project relied on people being engaged personally and actually feeling trust in the system. People were able to systematically gather the names, pictures and dates of birth of individuals sleeping on the streets. They captured data on their health status and institutional history. That is a really important point: these were people who had been in prison or hospital and, in some cases, people who had been in the military. They captured data on how long they had been homeless and the patterns of crisis accommodation use—the idea, as we know, of the merry-go-round of services that end up with them still being lost without any sense of belonging or future.

The data was collected by using a 38-item questionnaire that again used the methods that had been developed by Common Ground. The vulnerability index was used to identify those who had been homeless the longest and who were the most vulnerable. This register will now be used to target new and available housing and services to the most vulnerable in an effort to make a real difference in reducing chronic homelessness within Brisbane.

The index is based on research by Dr Jim O’Connell of the Boston Healthcare for the Homeless Program. His research shows that certain medical conditions place a homeless individual at a higher risk of dying than others if they remain on the streets. The at-risk indicators showed the number of people who had psychiatric, medical or substance abuse problems and the number of times that people had been involved in ER services over the previous year or three months. They also showed their age, HIV status, general health conditions such as cirrhosis or liver condition and kidney disease and also any history of vulnerability to cold or wet weather injuries.

All of this data being pulled together will give us a real basis on which to build plans for the future. The whole concept of having the 50 homes for the 50 people who are the most vulnerable means that there is an accountable and transparent way of seeing what results can be achieved within a set time. We need to put together the full program, give ourselves clear goals and work effectively with our partners—and the list of people who want to be involved in this project is very long—to ensure we get results.

Among the issues that are looked at is the age of the people—and we know that there are particular age groups that are most vulnerable, such as young people who are under the age of 20. I heard from one of the project workers today about a young woman who was a student from overseas at one of the universities. She had not had the confidence or the ability to link in with the support services of the university and she was actually sleeping out, because she did not know how to get the services that were available. Micah was able to immediately link her to the services provided by the university. Another
case that was mentioned today was that of a young man who had left home and had lost many links with his family and friends. Through the process of filling out the survey, he was able to be reunited, with help from Micah, with his family in North Queensland. That is an amazing, immediate result of the personal, strategic way that this program is operated.

The idea of matching together 50 homes and 50 lives indicates that this is a start and that there are real outcomes. One of the most interesting things about the way this is working is that people are using the various social networking sites to share facts and information. Through the US process there has been usage of things such as Twitter. So the volunteers who were working on the ground over the weekend in Brisbane were not only putting together information and talking about their experiences but also sharing it with other agencies in the US so that they could learn and find strength from each other and also celebrate the results.

I truly respect the work of Micah Projects in Brisbane. Their coordinator, Karyn Walsh, has been involved in so much of the social justice work that is being done in our community. This one project is part of the overwhelming scheme that is being carried out through the work on homelessness. They are working effectively with the government through their white paper process, which means that progress is being made on the critical issue of homelessness. We can learn from this and we can celebrate the results.

Learn, Earn, Legend!

Senator COLBECK (Tasmania) (7.39 pm)—This evening I would like to discuss my experience over the last two days with a work experience student from the Learn, Earn, Legend! program, a program run by the government which was launched yesterday. It is an Indigenous voluntary student work experience program that provides Indigenous secondary students with unpaid voluntary work experience in ministers’ offices, parliamentarians’ offices and Public Service departments and agencies here in Canberra over this week.

I had the delightful experience of having a young man by the name of Shaquille Oakley in my office over the last two days, and I set him a task to do some research for me relating to my portfolio, specifically with respect to fisheries. When he had pulled that information together, I asked him to put it into a speech that I could present to the chamber. I have to say that it was a real delight to have Shaquille in the office. He was very keen to participate and he was full of questions and inquiry; in fact, he told my staff member that he got into trouble at school for asking too many questions. I would have to say that inquiry is something that I would encourage, and it brought a smile to my face to hear that that was what he was getting into trouble for, because when the story was starting to unfold and the discussion was that he was getting into trouble, I wondered what it was about. To be told that it was for asking too many questions was really great.

When I asked him if he was going to have lunch with the rest of his colleagues who were here today, he said that he was but that if I wanted him to stay in the office and do some more work he would be more than happy to do that. That showed the enthusiasm he brought to the place today. He is a young man who made a conscious decision to be different and to achieve, and obviously we will see about that in the future. This is effectively the presentation that he put together for me:

My name is Shaquille Oakley, I am a 16 year old teenager who is currently schooling in Perth at Balga S.H.S, but I am originally from a small town called Carnarvon. Being from a small town which is surrounded by the ocean I have an ex-
experience with the sport recreational fishing but I had to big of dreams to follow such a sport.

Western Australia’s vast coastline offers people a variety of great fishing experiences. Recreational fishing is a popular activity that involves around 34 per cent of the State’s population and contributes more than $570 million a year to the State’s economy. An estimated 643,000 people in WA each year.

Western Australia’s fisheries management strategies have one primary goal—fish for the future. This means ensuring our fisheries are ecologically sustainable. These strategies are part of an integrated approach to management that not only takes into account the impact of fishing by recreational, commercial and indigenous sectors—But also the effect of other human activities on the state’s ecosystems. In Western Australia, all marine fishing is managed in four broad biological regions—the North Coast, Gascoyne Coast, West Coast and South Coast.

Marine conservation areas play an important part in conserving our marine ecology and protecting biodiversity. These include marine nature reserves, marine parks, fish habitat protection areas and various fishing closures. In addition to the general fishing rules in this guide, most of these areas contain sanctuary zones and have special rules that apply to fishing within them.

Recreational fishing, also called sport fishing, is fishing for pleasure or competition. It can be contrasted with commercial fishing, which is fishing for profit, or subsistence fishing, which is fishing for survival.

In WA, recreational fishers are represented by recfishwest. The values of this organisation include:

1. to ensure sustainable management of fish stocks and habitat,
2. to preserve the environment,
3. to obtain adequate funding, and
4. all other items which could affect the interests of the recreational fishing community of Western Australia.

The goals of recreational fisherman in Western Australia are responsible. They include:

- Healthy stocks of fish of all species, sizes and ages
- Good environmental conditions so fish can survive and breed successfully
- Recognition by everyone that regardless of what has been done before, the fish stocks always belong to the whole community, not just to any one group, and the community should decide how those fish are used and shared.

Leading to:

- Recreational fishing having a guaranteed share of the fish which can be caught sustainably, sharing with commercial and other needs.
- Reasonable and practical fishing rules which balance the enjoyment of fishing with the need to manage and share the catch and preserve the fish stocks.
- Access to fishing spots, without unnecessary restrictions or closures which don’t make sense.

I think that is a pretty good effort, really an impressive effort, by Shaquille. As I said, it was a pleasure to have him in my office. He made the decision to be different and to achieve and from this piece of work he presented for me to present to the Senate to-night, I think he is going to go a long way. I wish him very well in achieving his dreams. As he said, he is dreaming big. I think he has the capacity to go a long way. He has demonstrated that by providing me with quite an impressive piece of work, which I have presented here tonight.

Climate Change

Senator FURNER (Queensland) (7.45 pm)—Climate change has not disappeared. It continues to require strong domestic and international action. It is without doubt that climate change continues to demand strong policy commitment. The Rudd Australian government remains committed to the CPRS as the cheapest and most effective way to combat climate change. Our greenhouse gas
reduction targets remain unchanged. A Rudd Labor government is boosting our existing investments in clean and renewable energy and supporting greater energy efficiency measures. This means faster and more accelerated investment in renewables and renewable energy technology to help ensure Australia can meet our emissions reduction targets.

The Rudd government has tirelessly pursued the best interests of the nation in attempting on several occasions to pass the CPRS through the Senate. In the wake of obstruction of the CPRS from the opposition and the Greens, the government has looked to other areas of renewable energy sources—in particular, the expansion of the renewable energy target to 20 per cent. That means by 2020 the household electricity equivalent usage will come from renewable sources. In addition, a $2 billion commitment to clean energy technology such as wind, solar and geothermal sources will help ensure that the technologies we need to face the future are developed. This government is committed to carbon capture and storage technology development, evidenced by a $2.5 billion commitment. A further $5 billion has been committed to supporting Australian businesses and Australian households in reducing energy usage and emissions.

Under the Howard government, renewable energy in this country was going backwards, despite Australia having some of the world’s best wind resources and the highest average solar radiation per square metre of any continent. We also have huge potential in geothermal and wave energy. Today the Australian government is making unprecedented investments in renewable technologies and their deployment. It is important to remember that the government has undertaken these practical and effective initiatives, developed and implemented during and despite the CPRS obstruction and the misinformation of those opposite. This government has remained open to negotiation with all parties, but those opposite have demonstrated their willingness repeatedly to pursue their own political interests over the national interest. On the contrary, this government has demonstrated commitment and determination to address climate change.

Recently I became aware of a Liberal National Party survey distributed in my home state of Queensland in which constituents are encouraged to have their say on climate change. We, of course, all know Tony Abbott had his say some time ago on that issue. Imagine my surprise upon discovering 10 questions dedicated to this issue. Of particular interest was a question which asked:

Which statement best sums up your view about climate change?
- Climate change is caused by humans.
- Climate change is part of a natural environmental cycle made worse by humans.
- Climate change is part of a natural environmental cycle.
- Climate change is not occurring.
- Don’t know.

Naturally the missing option of ‘absolute crap’ as a tick box response is missing. I cannot begin to understand how this underpinning statement of the opposition’s climate change policy has been omitted. Just think of the seconds of thought, effort and development that went into Tony Abbott’s ‘absolute crap’ policy statement. It was wasted. The people of Wright were denied the pleasure of witnessing the extent of the coalition’s brilliance on climate policy. It seems Mr Abbott is happy to flirt with the idea of consultation on this issue, just as he is happy to experiment with the definition of truth and ‘gospel truth’.

Are the good people in the seat of Wright reading this survey expected to believe Mr Abbott will consider their responses concern-
ing climate change? Quite clearly, the answer must be no, as Mr Abbott has already decided what a government led by him will do in this regard: nothing. He made that decision in the same way he makes all his decisions, without the consultation of his caucus, his party or genuine consultation with the Australian electorate as a whole. An interesting coincidence is that the survey page includes a photo of Mr Abbott with none other than what appears to be the disgraced, disendorsed former LNP candidate for the Queensland federal electorate of Wright, Hajnal Ban. The parallel fates of both this survey and Ms Ban are appropriately linked. Under a coalition government led by Mr Abbott, climate change is destined to meet the same fate as Ms Ban’s candidacy—thrown out, and dead in the water.

This survey circulated by the Liberal National Party in Queensland is nothing but a disingenuous and scurrilous attempt to mislead the public with one-sided questions—questions based on negatives rather than neutrality, and always looking for the answer the LNP wants, rather than that of the survey’s respondent. I believe the recipients of this LNP survey will see through the questions and agenda sought in it, as they see through this opposition leader, phoney Tony Abbott.

**Food Security**

Senator NASH (New South Wales) (7.51 pm)—I rise tonight to talk about apples. ‘Apples are not apples’—and they certainly are not in this instance. In particular, I want to talk about the Australian apple industry and the potential importation of apples from China. There is a very serious issue looming for the Australian apple industry. It has been a little below the radar over recent times. Hopefully now we will start—really at the last moment—to get some focus on this out in the community. An import risk analysis process began last March to look at the potential importation of apples from China. We are very close to being at the end of that whole process. The only thing left to go is for the chief executive of Biosecurity Australia to tick that off and say, ‘Yes, the apples can come in.’ So that just sets the scene.

What has happened, though, in the meantime—at the end of last year—was the discovery in the United States of a pest called *Drosophila suzukii*—the spotted-wing drosophila. This caused serious concern to Biosecurity Australia. *Drosophila suzukii* was first officially reported as a fruit pest in mainland USA on 25 February 2010. A whole range of measures took place from there. During May last year, two Biosecurity Services Group officers went to the US on a verification visit to confirm the status. There were very serious concerns. Emergency measures were put in place because of the potential risk of this pest. What came to light at that point was that *Drosophila suzukii* had not been considered as a potential risk for Australia and for the importation of apples from China to Australia. This has caused serious concern within the industry, not that they are saying to stop any potential trade. They are saying, ‘We need time to have a proper, full and comprehensive process put in place to properly determine the risks that are posed by this pest, the *Drosophila suzukii*.’

Apple and Pear Australia Limited put in some real concerns. There have been some appeals put in to the IRA process, all of which were either disallowed or knocked back. Last Thursday, the biosecurity spokesman for APAL, John Corboy, said: The IRAAP said that commenting on *D. suzukii* would be commenting on the scientific merits of the IRA, which is BA’s import risk assessment—which was outside its terms of reference. It also said the import risk assessment can only be based on the known science at the time of the IRA.
There are some really huge concerns that this pest is not being included as part of the IRA. He went on to say:

It is absurd that a risk analysis is set to a fixed-time period. We don’t know the distribution of *suzukii* in China and we should be finding that information.

The key to this matter is that there are still far too many questions around the risk that this pest poses for Australia. Today, I have written to the Minister for Agriculture, Fisheries and Forestry, Tony Burke, to ask him to support the halting of the process of the IRA by Biosecurity Australia to ensure that there is significant time given to be able to properly assess the potential risk of this pest. This can be done. Biosecurity Australia do have the provision to inquire further when there are issues of this nature. They have a stop-the-clock provision. It means that they can stop the IRA process at this point in time while they gather more information.

The minister should absolutely be supportive of this. We almost have here a similar situation to one we had just a few months ago with the potential importation of beef from countries that had had BSE—mad cow disease. That was about, at the time, the proper process not being in place. Fortunately—and congratulations to him—Minister Burke did a backflip and made sure that those proper processes could be put in place to determine the appropriateness of that beef coming in. The same thing applies here. We are asking the minister to ensure that the proper processes are in place—nothing more than that—because this country deserves to know that full, thorough and proper scientific analysis has been done on the risk of any potential pest in this country. I do not think it is too much to ask for a bit more time to make sure that we have had a thorough investigation into this. Bearing in mind what I said at the outset, we are nearly at the end of the IRA process and this could be ticked off any day, so the minister has to intervene now.

It is interesting that Biosecurity Australia says that this pest will not attack harvest-ready apples. But we are not sure. We do not have, and certainly the industry does not have, enough information to be absolutely sure that that is the case. It is very concerning that in the response from the Import Risk Analysis Appeals Panel to the claim from the apple growers that the *Drosophila suzukii* had not been included in the IRA process, they said:

The IRAAP agreed that any consideration of whether or not *D. suzukii* should have been added or omitted from the import risk analysis would be commenting on the scientific merits of the IRA, which is outside the IRAAP’s terms of reference.

They went on to say:

While the provisional final IRA report did not include *D. suzukii* in the IRA process, a pest initiated pest risk analysis is currently being conducted for *D. suzukii* by Biosecurity Australia.

‘Currently being conducted’ but, according to their briefing paper, that pest risk analysis is not going to be concluded until later in the year.

It is extremely important to note that this pest, *Drosophila suzukii*, has not been included in the import risk analysis for the potential importation of apples from China. At the same time, it has been noted that this pest poses a significant risk, subsequent to the discovery, in the United States. But the pest risk analysis in Australia has not been concluded yet. We have only had the emergency measures put in place, which is fumigation in the states and then some extra inspection. It is not good enough. All the industry is asking from the minister is to make sure that there is more time for this pest to be properly and scientifically investigated. The New South Wales Farmers Association came out today and the Horticulture Committee Chair, Peter
Darley, expressed extreme disappointment in the import risk analysis process. He has called on the government to intervene to make sure that the appropriate time is available to properly investigate this pest.

I do not think there could be anything more important than making sure that we have the proper biosecurity arrangements in place for this country. We are an island nation. We are a clean, green island nation. In answer to some questions on this pest just last Thursday, Minister Burke actually said:

... a decision will be made on the basis of the science ...

He went on to say:

... I have no doubt that the Director of Biosecurity will act according to the responsibilities he holds in that job by making sure that the level of risk that is dealt with for Australia is kept at the appropriate level of very low but not zero.

What the industry are concerned about at the moment is that the scientific analysis has not been done to be absolutely sure that that risk is indeed very low. Industry require that a greater amount of time is taken to look at this pest, D. suzukii, to make sure that it does not pose a risk. Biosecurity said it is not going to attack harvest-ready apples. Why would the minister not make sure that that is indeed the case by allowing some more time? Dr Grant from Biosecurity said that that is correct, that it will not go to harvest-ready apples:

... subject to there being no rotted fruit in a consignment.

Further evidence stated:

The only scientific evidence we have at the moment is for apples that are rotted or have been physically cut.

There is just too much out there at the moment that indicates we do not have the complete science on this pest. I ask the minister to support the industry in what they are trying to do.

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**Paid Parental Leave**

**Senator BILYK** (Tasmania) (8.01 pm)—I rise to speak about the advent of paid parental leave in Australia and the benefits it will provide to workers, children and businesses. I was proud to be in the Senate on the historic occasion last week when Australia adopted its first national paid parental leave scheme. Up until that day, Australia was in the embarrassing situation of being one of only two countries in the OECD to have not adopted a paid parental leave scheme—the other being the United States. Other OECD countries have adopted schemes providing, on average, 18 weeks paid leave for working parents.

The Rudd government’s scheme provides a minimum of 18 weeks parental leave paid at the minimum wage to at least one working parent following the birth or adoption of a child. The entitlement can, however, be shared between both parents and may also be supplemented by employer funded schemes. Contrary to the claims of Senator Fielding in this place last week, we are still looking after stay-at-home parents by continuing to offer the baby bonus and family tax benefit to those not participating in a paid parental leave scheme.

It is vital that parents do not have to suffer financial stress just to have the opportunity to look after their children. Paid parental leave gives working parents the opportunity to develop a relationship with their child during the early stages of its life, to take the time to make future arrangements for their care and for mothers to recover from pregnancy and childbirth. It has been a tradition in the recent past that parents, usually mothers, have had to leave the workforce to care for their newborn child. Paid parental leave offers the opportunity to working parents to take time off yet maintain their connection with their working life.
While it is a much-deserved benefit for working Australians, a more important outcome of paid parental leave is the benefit it provides to the child. We all know the first year of a baby’s life is such an important stage in their development. Paid parental leave recognises that while raising a child has in the past been deemed a personal responsibility, the care of our children is actually a national responsibility. It is a national responsibility because the outcomes of childhood development have implications for society as a whole.

Paid parental leave not only has benefits for babies and workers; it is also good for businesses. It reduces the financial impost on businesses if they want to retain employees but still offer them time off to care for their baby. These flexible staffing arrangements are especially important for small business, the engine of Australia’s economy. This is an example of how the Rudd government is looking after small business, and these flexible arrangements will help boost the productivity of our workforce. In conjunction with our income tax cut for small business from 30 to 28 per cent by 2012-13, paid parental leave will help to grow jobs and investment.

The Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, is to be congratulated for developing this scheme and introducing it to the parliament. The union movement in particular has been lobbying for paid parental leave for 30 years. I personally have pushed for employer funded paid parental leave schemes to be included in enterprise agreements on behalf of the workers I represented as an industrial officer for the Australian Services Union. But paid parental leave has much broader support, with representatives of women and business also determined to see a scheme introduced. So it is not surprising to see that the government’s scheme has been welcomed by a broad cross-section of the community.

The President of the Australian Council of Trade Unions, Sharan Burrow, said:

A new national standard that gives all women the right to take a period of paid leave will also be a major benefit to maternal and child health and development.

The Chief Executive of the Australian Industry Group, Heather Ridout, said:

... the Federal Government’s paid parental leave legislation marks the achievement of a hard won and important reform which will work well for families and work well for business.

In noting that the leave can be shared between parents, federal Sex Discrimination Commissioner Elizabeth Broderick said it was also a historic day for fathers.

Sensibly, the opposition supported the passage of our scheme through parliament. However, they say they have a better scheme, a claim I would like to address. The first thing to be questioned about the opposition’s cobbled-together scheme is whether the Leader of the Opposition truly believes in it. Let us not forget his famous address to a Liberal Party function in Victoria back in 2002. Mr Abbott’s words were:

... compulsory paid maternity leave, over this Government’s dead body, frankly ...

It seems that the commitment the Leader of the Opposition demonstrates towards paid parental leave is reflected in the haphazard fashion in which he has put his scheme together. It is little wonder it was roundly rejected by stakeholder groups when first announced. The opposition have failed to win the support of business groups, despite claiming to look after business, who are often regarded as their core constituency.

The opposition’s scheme has been opposed by the Business Council of Australia, the Australian Chamber of Commerce and Industry and the Australian Industry Group,
with AiG chief Heather Ridout describing the scheme as flawed, unrealistic and a deterrent to investment in Australia. Even the federal Sex Discrimination Commissioner, Elizabeth Broderick, who obviously would be expected to embrace paid parental leave, was cautious in her support. Ms Broderick said:

However the scheme is funded, it can’t be in such a way so as business says, well we won’t employ women.

The opposition’s scheme has even been attacked by Australia’s longest-serving Treasurer, Peter Costello. It is very unusual for former senior political figures to attack their own parties so publicly, but Mr Costello described the opposition’s paid parental leave scheme as ‘silly’. The scheme is so on the nose that the Liberals’ junior coalition partner cannot even bring itself to support it. A report in Sunday’s Age newspaper quoted a number of unnamed members of parliament, who were speaking at the Nationals federal conference on the weekend, as saying they would oppose the opposition leader’s plan. One MP was quoted as saying:

I would be surprised if anyone in the National Party saw it as a positive.

Hardly a resounding endorsement! The MP went on to say:

We won’t campaign against it, but we just won’t mention it.

It reminds me of the episode of Fawlty Towers where Basil tells his wife, ‘Don’t mention the war,’ and then continually drops references to it while serving their guests. Does that mean Nationals MPs will just stay mute when a journo pops a question about the opposition’s scheme? It really begs the question—and this is something I think the Australian people deserve to know—is it the coalition’s paid parental leave plan or just the Liberals’? Or is it just Tony Abbott’s? Is he a general leading the charge without his army behind him?

One of the problems with the opposition’s scheme is that it is clearly inequitable. Recipients receive their full pay, regardless of income. As one of the Nationals MPs at last weekend’s conference said:

Why should a woman in the city be paid $75,000 when a part-time nurse in a regional area would only get $25,000?

Another major flaw in the opposition leader’s plan is to fund the scheme with a 1.7 per cent levy on the profits of businesses with a turnover of more than $5 million. This proposal creates a strong disincentive for companies to grow and add jobs if their current turnover is just under that $5 million threshold. It also creates a disincentive for companies to merge if the merger lifts their turnover above $5 million.

The Rudd government have plans to reduce the tax burden on business to support investment and jobs, and we will do this by cutting company tax from 30 per cent to 28 per cent. When it comes to the next election, the employees in the 3,200 Australian companies who will be paying the opposition’s levy should consider that under a Rudd Labor government they will pay almost four per cent less tax than they will if Mr Abbott becomes Prime Minister. The opposition leader’s quixotic, slapdash, on-the-run approach to policy development demonstrates that he has no serious plans for the future of Australia. I made reference to Fawlty Towers earlier. Well, to quote another John Cleese classic, Monty Python’s pet shop sketch, the opposition may insist that their leader’s credibility is not dead but merely ‘resting’.

When it comes to paid parental leave, the Rudd Labor government is getting the balance right. We are delivering for children, delivering for working families and delivering for business. The federal opposition
seems to be delivering a slapstick comedy routine.

World War II: Papua New Guinea Campaign

Anzac Day

Senator WILLIAMS (New South Wales) (8.10 pm)—I rise tonight to speak about Anzac Day this year and our prisoners of war. But before going into that topic I will take this opportunity to express my sincere sympathy to the families, friends and loved ones of our three soldiers killed yesterday and our two soldiers who were killed a couple of weeks ago. I have had one dream in my life, and that is never to stand beside the grave of one of my children. Unfortunately, we do not live in a perfect world and many others in recent times have had to experience this terrible event. I extend my sincere condolences to those friends and families, especially the parents and siblings, for what they are having to go through at this time.

While speaking of history and war, I would like to make reference to the sinking of the Montevideo Maru during the Second World War. On 22 June 1942, having left Rabaul Harbour, this Japanese auxiliary ship, carrying an estimated 1,050 Australian prisoners of war and civilian internees, was tragically torpedoed 110 kilometres north-west of Cape Bojeador in the Philippines. All on board were killed. This is undoubtedly Australia’s worst naval catastrophe, and it is important that we formally acknowledge this disaster and offer sympathy to the relatives and descendants of those lost. It is time that a memorial to the Montevideo Maru was established within the grounds of the Australian War Memorial. It is vital to the Australian legend that these men be remembered and recognised for their ultimate sacrifice to our nation.

A couple of months ago I once again attended Anzac Day in Thailand on the Thai-Burma Railway at Hellfire Pass. This was in fact the fifth time I had attended Anzac Day at Hellfire Pass in the last six years and the fourth time that I had taken a group of Australians with me to Thailand for Anzac Day. This year was very special, as one of the men in my group was Cliff Lowien, a former prisoner of war, 87 years of age. Cliff actually, at the age of 17, worked as a prisoner of war on a big rock cutting at Hellfire Pass during the Second World War. It was such a privilege to have Cliff with us in our group. For Cliff, I am sure, returning to this place in Thailand after 67 years meant many sad memories. He is a terrific man, a great man to be around. What amazed me about these former prisoners of war is that they are simply humble, modest, nice gentlemen.

Also on the tour was Bill Haskell from Fremantle, ‘Snow’ Fairclough and Neil MacPherson, making a total of four former prisoners of war whom we had the privilege to be with on Anzac Day. I did request the minister to upgrade Cliff Lowien’s flight on Thai Airways from economy class—I always call it ‘cattle class’—to business class. Unfortunately, that would have set a precedent. So I put a request out to the New South Wales RSL, who gladly paid the $5,600 to upgrade Cliff and his son Jeff to business class. It was a great pleasure for me to phone Cliff one morning and say: ‘Cliff, last time you went to Thailand it would not have been very comfortable. This time, thanks to the New South Wales Returned and Services League, you will be sitting up the front of the plane with all the comfort, and spoilt, as you should be.’

On boarding the aircraft I pointed out to the flight attendants who Cliff was, where he had been and what he had done. I said, ‘You make sure you look after him.’ I know that during the flight one of the ladies went up and said, ‘Mr Lowien, would you like another glass of wine?’ He said, ‘Oh, no,
thanks. She said, ‘What about just a little one?’ The little one was a full glass, of course. Cliff really enjoyed his flight to Thailand.

On Friday, 23 April we travelled along the section of the Thai-Burma railway to Nam Tok station that was constructed by the prisoners of war. It was a wonderful experience for Cliff to look back in history. That afternoon we actually went down to Hellfire Pass. At this stage I would like to thank Bill Slape. Bill is the manager of the Hellfire Pass memorial in Thailand and Bill is always there to help in any way he can. He does a magnificent job of running the memorial facility. It was very hot, of course. There are only two temperatures in Thailand: hot and extremely hot. April is the hottest month. Bill organised a trike to carry Cliff down into Hellfire Pass cutting. What a moment it would have been for him to once again walk through Hellfire Pass. It is a huge long cutting of solid rock, on one side 200 metres long and probably 20 metres deep. It would have brought a lot of memories back for Cliff to once again return to Hellfire Pass after 67 years.

On Anzac Day we went to the dawn service and it was just terrific to have the four prisoners of war with us. The amazing thing was that a couple of months before we left to go to Thailand Cliff wrote me a letter saying, ‘While I am in Thailand, John, would I be able to meet up with someone from Boon Pong’s store?’ I had no idea who Boon Pong was and what the store was, so once again I relied on my friend Bill Slape at the Hellfire Pass memorial. He replied to an email explaining that the store was there during the war and Boon Pong, who ran the store, used to smuggle drugs in to people like Weary Dunlop. He repaired radios and put the drugs not only in radios but in the fruit and vegetables. He had a 14-year-old daughter who was apparently very easy on the eye and his daughter always went with him and so the Japanese soldiers would be looking at the daughter more than paying attention to what was in the radios or the fruit and vegetables. So Boon Pong helped save so many lives by smuggling drugs, bandages and medicines to magnificent, wonderful people like Sir (Ernest) Edward Dunlop, commonly known to us as Weary Dunlop.

After the 10 o’clock service at Kanchanaburi war cemetery we went to Boon Pong’s store, which is still there today, and we met Boon Pong’s sister-in-law. It was a great occasion for Cliff to walk into the store and see the photographs of Boon Pong and Weary Dunlop and look back in history. It was a magnificent time for Cliff. We had a translator with us from the Australian embassy in Bangkok and I thank them very much. Cliff was able to look back on his memories and thank those relatives of Boon Pong for what he did for our prisoners during that time.

After that we went back to the cemetery and Cliff said to me, ‘I would like to find the grave of a mate, Hector Martin. Hector was not very good at all and he knew he was going to die. He gave me his watch and he said, “When you return to Australia after the war, please return my watch to someone in my family.” That is exactly what Cliff did. Thanks to Mr Beattie, who runs the museum there at Kanchanaburi, we found Hector Martin’s grave and I am sure Cliff had a few solemn words to himself at that time. Then it was off to the museum and then to the bridge over River Kwai for lunch.

It amazes me that these men, as I said earlier, went through so much and experienced such a horrid time that we could never imagine in our wildest dream what they went through, with sickness, starvation, malaria, beri-beri and cholera, which took so many lives. To construct a railway line 415 kilometres long and to lose so many lives is simply
amazing. Twelve thousand Allied prisoners of war and some 90,000 Asian labourers, more than 100,000 men, died in the construction of that railway line. There are lots of sad memories there but of course the typical Australian humour, the mateship, the friendship, was what carried most of them through. To think that some men had left at 12 stone and came home weighing a bare six stone. You see the photographs and the movies in the memorial and you think, ‘How could they endure such times, in such heat and torrential monsoonal rain?’ They worked through the daylight hours and right through the night with lanterns burning, and hence the name Hellfire Pass. It just makes us appreciate what we have today. We have a whinge about this or that or something else not being right, but when you look back at what our ancestors went through and suffered as prisoners it is simply amazing.

I thank you for having the privilege to represent you at the dawn service and the 10 o’clock service in Kanchanaburi, Mr President. I look forward in a couple of years time to going back, but I want to thank everyone who came on the tour with us. I thank my wife, Nancy, who did so much work in organising the accommodation and the airfares and insurance and the travel and the buses. We were lucky to spend about 12 nights in Thailand and it was a magnificent trip. The people who came along on the tour with us thoroughly enjoyed themselves. It was a great learning experience for many and a great time of remembering for Cliff to go back to that place after 67 years, where I am sure he had some sad memories but some fond memories too. It is another chapter in his life. I thank the Senate for this opportunity to speak.

Miss Muriel Matters

Senator McEWEN (South Australia) (8.20 pm)—On 13 June 2010 I attended the premiere of a performance called Why Muriel Matters, a sell-out cabaret show held at the Adelaide Town Hall. Tonight I would like to pay tribute to Muriel Matters and reflect on why she matters, and also pay tribute to the group of people who have worked hard to bring her story to life on the stage.

Muriel Matters was a suffragist, a fighter and a creative campaigner who devoted her life to pursuing rights for women. She was born in Bowden, Adelaide on 12 November 1877 and was one of nine children. South Australia, of course, has a proud history of progressive politics. We were the first self-governing territory in the world to allow women the right to vote and stand for election as a member for parliament on the same terms as a man. That monumental achievement occurred in 1894.

Muriel Matters studied music at the University of Adelaide and became an elocution teacher, but she loved performing best of all and it was as an actress and recitalist that she made a name in Adelaide, in Sydney and in Perth. She was influenced in her political views by writers such as Walt Whitman and Henrik Ibsen.

By 1904, Matters had moved to Perth. Encouraged by her acting success, she took advice and moved to London in 1905. She struggled there to establish herself as an actress and recitalist, so she occasionally worked as a journalist. As well as struggling financially, Muriel also struggled with the very obvious divide in the United Kingdom between the enormously wealthy people in London and the very poor people living in the same city. It was a division that she had not seen in Adelaide. The fact that women in Britain did not have the right to vote surprised Muriel very much as well. She became an activist in the suffrage movement.

After making contact with both the National Union of Women’s Suffrage Societies
and the more radical Women’s Social and Political Union, she decided to join another suffrage group, the Women’s Freedom League. This group suited Muriel best. She liked them because they were militant but not violent. Her acting skills made her a natural orator, and she took to the road to advocate for votes for women. The Women’s Freedom League had a horse-drawn caravan that toured regional England and Wales. It was decorated with banners saying ‘Votes for Women’. Muriel and her comrade Violet Til-lard travelled for months handing out pamphlets in rural and regional England. Muriel was a great organiser. By 1908 the Women’s Freedom League had grown from 29 branches to 53 branches. She had many unusual organising techniques.

On 28 October 1908 Muriel Matters became the first woman to speak in the House of Commons. She did this by entering the House with some supporters and with some chains and padlocks secreted beneath her garments. She went to the ladies gallery and there she proceeded to chain herself to the grill. The grill was in place to hide the ladies in the ladies gallery from the view of the gentlemen members of parliament below on the floor of the House of Commons. While her male supporters showered the floor below with pamphlets, Muriel, chained to the grill, loudly proclaimed, ‘votes for women, votes for women’. She continued to call ‘votes for women’ until she was removed, still padlocked to the grill, which also had to be removed. For that transgression she served a month’s imprisonment in the terrible Holloway jail. That led to a lifetime interest in improving the lot of prisoners. It did not stop Muriel’s activities.

On 16 February 1909, parliament was due to resume sitting. King Edward would be making the procession to open parliament. The suffragists decided this was an ideal time to bring more attention to their cause and to do this they hired a dirigible, an 80-foot long hot-air balloon. It was piloted by the very brave Mr Herbert Spencer and it carried Muriel and 56 pounds of pamphlets. The dirigible took off and the idea was to distribute the pamphlets along the procession that King Edward was leading. Unfortunately, the dirigible was blown slightly off course and Mr Herbert Spencer had to climb out onto the apparatus of the dirigible to try to get it back on course. That was not particularly successful. Nevertheless, they did distribute most of the 56 pounds of pamphlets. But the ultimate success was that this established Muriel as an activist, a campaigner and a suffragist without peer.

In 1910 Muriel returned to Australia. On 13 June she lectured at the Adelaide Town Hall about her experiences, particularly about her prison experiences. She was billed at that public engagement as ‘that daring Australian girl’. She was famous in two hemispheres, according to the flyer for the event, and famous for her illuminating lecture, ‘The women’s war’. Muriel also toured other states and advocated for equal pay for equal work, for restoring the rights of women in the situation of marriage breakdown, for prison reform and of course for universal suffrage in Great Britain.

The efforts of Muriel Matters and the other suffragists paid off. On 2 July 1928 British women finally obtained suffrage on the same terms as men. Muriel Matters returned to England and continued her life pursuing equality for women. She married a dentist in 1914. She contested the seat of Hastings at a British general election at about the same time. She finally died at the age of 92 in 1969 in London.

The story of Muriel Matters was not well known in my home town and her home town of Adelaide. It took the efforts of a group of very determined women and men in Ade-
laide to secure her the recognition she deserved. I would like to pay tribute to the Muriel Matters Society and especially to state Labor members of parliament Steph Key and Frances Bedford, who have worked tirelessly to get the funding and commitment necessary to bring about the cabaret production of Muriel’s life.

At the performance on 13 June 2010, which was of course exactly 100 years after Muriel’s public lecture at the same venue, we were reminded of the long history of the campaign for votes for women and also reminded how important it is to exercise those votes and to never take it for granted. I can only imagine how impressed Muriel would be to learn that, in Australia now, we have the government’s paid parental leave scheme. Such a thing could only be imagined in the early 1900s, when Muriel was campaigning for rights for women. I am sure she would be pleased about paid parental leave. I think, however, she would possibly be very disappointed that in Australia we have still not secured equal pay for equal work. Those of us who continue to campaign for that can look to Muriel for inspiration. We will look to her for inspiration. I am not sure if we are going to take to the dirigible, but that is always an option, I suppose!

The PRESIDENT—I understand that Senator Crossin is seeking leave to speak for 20 minutes.

Leave granted.

Paid Parental Leave

Indigenous Communities

Senator CROSSIN (Northern Territory) (8.29 pm)—It seems fairly fitting and appropriate that I follow a speech about Muriel Matters, because I want to take my time this evening to talk about two pieces of legislation that we have passed in the federal parliament in the last week. Due to time constraints in the chamber I was not able to contribute to the second reading debates, so I will seek to speak on the legislation this evening. The first contribution I want to make is in relation to the Paid Parental Leave Bill 2010, which we passed last week. For far too long Australia has been left on the outer in supporting women at work and for too many years we have been one of only two countries in the OECD not to have a national government funded Paid Parental Leave scheme. The passage of this legislation last week corrects this and it gives babies the best start possible in their lives.

According to the Bureau of Statistics, in 2009 almost 25 per cent of women worked in casual jobs and received no paid leave entitlements. Many families, particularly where the woman is in a low-paid, part-time or casual job, often do not have the option of employer provided paid parental leave and do not have the option of one parent taking unpaid leave after the birth of a child. This government funded scheme will now give parents that option. It means one parent will have the financial security to take time off work to care for their baby at home during those vital early months of their baby’s life. It gives mums time to recover from the birth and precious time to bond with the baby. This sends a very strong signal to the community that having a child and taking leave from work during and after the birth or even the adoption of a child is part of the normal course of work and family life. It supports women to maintain their connection with the workforce and boosts workforce participation. It supports businesses, as they benefit from retaining skilled and experienced female staff but will not have to fund these parental leave payments.

While women’s workforce participation has substantially increased over the past 30 years, Australian women’s workforce participation during the peak child-bearing years is lower than for women in other leading
industrialised countries. As Minister Macklin said in her second reading speech:

As a nation, we cannot continue to ignore the barriers to greater participation by women, who now make up 45 per cent of the paid workforce. That is why the Labor Party, under the leadership of Kevin Rudd, committed before the 2007 election to exploring ways to make it as easy as possible for working parents to balance work with adjusting to parenthood and bonding with their children. The Paid Parental Leave Bill 2010 is the result. This legislation will set in place a government funded scheme providing up to 18 weeks of guaranteed parental leave payments, paid to mothers or adoptive parents who have been working and who have a baby or who adopt a child on or after 1 January 2011.

There is an eligibility requirement for this scheme. Claimants will need to meet the paid parental leave work test, income test and residency requirements to be eligible. In order to meet the work test, though, the claimant must have worked continuously for at least 10 of the 13 months prior to the birth of the child and worked at least 330 hours in that 10-month period. It might sound a lot, but in reality it works out to be just one day a week. This means that those who work part time or casually, who have multiple employers or who have recently changed jobs or are between jobs or on unpaid leave for no more than eight weeks at a time will not be left out of the scheme. This measure also means seasonal workers meeting that requirement will not be left out of the scheme.

Importantly, for those fortunate enough to have access to paid parental leave through their employers, this government funded scheme may be received before, after or at the same time as the employer provided paid parental leave, as well as annual or recreational leave. If a claimant wants to return to work before they have received all of their 18 weeks of government funded paid parental leave then the person’s partner may be able to receive the unused portion of the leave, subject to meeting the eligibility requirements. Otherwise, the government funded Paid Parental Leave scheme will stop once the claimant returns to work. I also want to note that in the case of multiple births—for example, twins or triplets—the claimant can take the government funded parental leave option and the baby bonus can be paid for the second child and subsequent children, subject to eligibility requirements. Otherwise, if you are taking the paid parental leave option for the birth of just one child, the baby bonus is not payable.

I think for Australian women and for Australian families this is a terrific outcome. We know that for 12 years the previous government refused to deliver a paid parental leave scheme for families—and the Leader of the Opposition, Mr Abbott, once said that he would only support paid parental leave ‘over his dead body’. Only recently have they come up with the idea of supporting this scheme but with a big new tax on business to fund it. They want business to fund their scheme, unlike the Rudd Labor government, who will be funding this scheme from government funds. Our scheme is fair. It is fair to families and it is fair to business.

Ms Heather Ridout, the chief executive of the Australian Industry Group, has come out in strong support of the scheme. At a doorstop in Melbourne on 4 May, she said:

It's been a long time in gestation … The Government have been very responsive to concerns about the implementation and the practical issues attached to it and we’re quite comfortable with the outcome.

She also said in relation to the embarrassing fact that Australia is one of two OECD countries that did not yet have a government funded paid parental leave scheme:
Personally I felt it was a league table Australia should not be on.

Ms Ridout also addressed comments made by the opposition that it was a ‘mickey mouse scheme’. She said:

… this isn’t a Mickey Mouse scheme. This is a substantial scheme … My concern about Tony Abbott’s scheme … As a representative of business putting a 1.7 per cent levy on the company tax rate which in another life I’ve been trying to reduce through the Henry process didn’t make an awful lot of sense to me.

She also stated that there are many employers putting in place schemes that add on to the government’s scheme, which women in the workplace can only benefit from.

I also want to acknowledge in my speech tonight the work of Ms Sharan Burrow, President of the Australian Council of Trade Unions, and use this as an opportunity to publicly thank her for her advocacy and work as leader of the trade union movement over many years and also to publicly wish her well in her move to Brussels, heading up the International Trade Union Confederation. It is a job I know she will do eminently well and we as Australians will be eminently proud of her taking up that role. She has been very vocal in her support for this scheme. On 4 May in Melbourne, when it was launched, she said:

But right now a Labor Government, this Labor Government, determined to put four and a half months in place, income in the hands of working Australians. We congratulate them.

It is important to remember that this scheme is fully costed and well thought out. In February 2008, the government asked the Productivity Commission to look at the economic, productivity and social costs and benefits of paid maternity, paternity and parental leave as well as to consider the health and developmental benefits of any scheme for babies and parents. The commission analysed evidence from surveys and international research. It undertook extensive public consultation on proposals for the scheme and sought submissions and conducted public hearings. In the end, the government recommended a government funded statutory scheme paid at the national minimum wage for up to 18 weeks, a recommendation based on extensive evidence and rigorous analysis. This is the scheme that this government has finally delivered. It is a scheme that is long overdue. I am particularly proud to be part of the federal government that introduced this bill and ensured that it was passed by the parliament.

I want to dedicate the second half of my speech to the legislation that we passed last night in relation to the restoration of the Racial Discrimination Act and to changes to the Northern Territory intervention. As a senator from the Northern Territory, this has taken up almost 310 per cent of my time in the last three years. I am very passionate about the outcome of this legislation. I was very keen to support its passage through the Senate and am keen to ensure that it is implemented fairly and properly as it rolls out around the Territory. The bill that we proposed followed very extensive consultation around the Northern Territory with Indigenous communities that were affected by the intervention in 73 regional towns and town camps, but we consulted much more broadly than that. Eight measures were discussed in the consultation process and there are many more changes in the legislation we passed last night than just income management. I know that has been the sole area of concentration by the national media and national non-government organisations, but the legislation we passed last night went much further than just changing the income management arrangements for people. It goes to alcohol restrictions, pornography restrictions, five-year leases, community stores licensing, controls on the use of publicly funded com-
puters, law enforcement powers and the roles of government business managers in these communities. The legislation was developed taking into account the views of Indigenous peoples affected by the intervention. The reforms in the bill tackled the destructive and intergenerational cycle of passive welfare. The reform of the welfare system so that it fosters responsibility and engagement was front and centre in our minds when this legislation was developed. It quarantines 50 per cent of regular welfare payments and 100 per cent of lump-sum payments to make sure that money is spent on life’s essentials and in the best interests of children. It sets out clear criteria that will determine whether an individual is subject to income management and offers evidence based incentives and responsibilities targeted at exemptions for families who demonstrate responsible parenting and for young people and long-term unemployed who take personal initiative through participation in education and training.

I want to place on the record that I very carefully monitored the way in which the consultations were conducted in the lead-up to this legislation. The Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, was probably not particularly happy at the way in which some of us diligently went about ensuring the consultations were done properly. But we worked cooperatively and I managed to get feedback from a significant number of those consultations. What has not been picked up in the national dialogue about the changes to income management and what has not been acknowledged is that this legislation truly reflects what the majority of the people on the ground wanted. It truly does reflect what people were asking for. They want income management to be optional and pensioners and people on a disability pension to be exempt, but they do want people who are not looking after their children, who are not sending their children to school or who are spending most of their Centrelink payments on grog and smokes to somehow have their money managed. The surveys that FaHCSIA has undertaken and the discussions that government business managers have had with their communities are all part and parcel of the constant dialogue that occurs in the Northern Territory. As I get around the Northern Territory, people often say to me—in fact more people than not—that they believe that the income management we instituted produced change for the better but they think it went too far. They think that there needs to be a rollback. People should have the option to be included and pensioners, people on a disability pension and families that are doing the right thing should come off it. This legislation truly reflects this. I can honestly and proudly say in this chamber that this legislation that Minister Macklin put together with her department is the one piece of legislation that does actually reflect what Indigenous people want. Far too often we listen to the half-dozen or so Indigenous people who speak the loudest and who speak often, but they do not often reflect what is happening on the ground with people in the communities on a day-to-day basis.

I want to make some comments about reinstating the RDA. In opposition the Rudd Labor government promised to reinstate the Racial Discrimination Act, so this legislation marks yet another election promise fulfilled by the Rudd Labor government. The former Howard government intentionally and expressly prevented the Racial Discrimination Act from applying to its legislation. It did so in two ways: by creating express provisions that said the RDA did not apply and by creating express provisions that would have effectively instructed courts to treat their actions as special measures.

This bill repeals those express provisions that prevent the RDA from applying. I have
heard the arguments that say it does not, but I do not believe that to be the case. I profoundly believe that this is major welfare reform in this country, and I wholeheartedly support it. What people need to understand and come to terms with from this day forward is that, if you are a Centrelink recipient in this country, we are going to change the way in which you receive that benefit from the government. We are not going to reduce the payment, but we are saying that Centrelink benefits from the federal government are going to be paid in a different way.

I hear the criticisms from ACOSS and some of the churches, but on the ground I firmly believe that this is a change this country needs to make in order to ensure that people spend their money in the right and proper way. I take it that some people will feel affronted and feel that their rights have been imposed upon. But this legislation provides that, if those people are actually doing the right thing by their children and by themselves in looking for work, studying, training and getting their kids to school, they will not have their income managed.

The new reform scheme, by its very nature, is designed to be nondiscriminatory. I know that when this rolls out across the Territory there will be problems and concerns. I imagine that the door of my office will become a revolving one as a result of the non-Indigenous people who did not expect that this would be the outcome of this legislation. But we have a duty as a government to inform and educate people. We need to make sure that they are aware that this is a change that has been supported by both major parties in this country and that it is a significant welfare reform.

There has been criticism from some quarters—from Amnesty International, for example—suggesting that this is not sufficient to fully reinstate the Racial Discrimination Act. Dr Sarah Pritchard, who appeared before the Senate Community Affairs Legislation Committee of which I am a member, said:

It is a fairly standard principle of statutory interpretation that the provision that specific provisions prevail over general provisions, and we consider that there is a real risk that the repeal of the suspending provisions will leave the specific provisions to operate and override the protections intended to be conferred by the Racial Discrimination Act.

In other words, what these people wanted to do was to ensure that this piece of legislation would say that the operation of the RDA would need to apply a notwithstanding clause—so: notwithstanding everything else, the RDA would apply. We found out during the committee hearings, of course, that the problem is that we do not have notwithstanding clauses in other pieces of legislation. It is not custom and practice to put those in other pieces of legislation, so why would we put it in this piece of legislation? The answer is that we have not. The fact that the legislation does not specifically refer to a notwithstanding clause has led people to a belief that the RDA has still not been properly lifted, but it is not common practice in other pieces of legislation.

During the minister’s second reading speech, she clearly stated that the provisions that modify the operations of the RDA and that deem the legislation and acts to be special measures are to be repealed, and they have been. The explanatory memorandum contains a number of statements about the effect of the repeal, including a clear statement that the RDA will no longer be excluded. If ever contested in a court, both of these documents would be used consistently with the Acts Interpretation Act to demonstrate the very clear intention of the minister and of this government.

In conclusion, I want to say that people also need to look at the other provisions of
the legislation that were part of what we passed through this parliament last night. One issue that has been picked up by the legislation, and which I know was raised extensively through the consultations, goes to alcohol restrictions. I have been following this debate in the House of Representatives and at estimates, and I think it is an issue that has not received as much attention as it deserves. What we have done is reinstate the Aboriginal communities’ right to develop their own alcohol management plans again. I think that this is a good way to go. This legislation empowers Indigenous communities to manage their lifestyles and their outcomes. A strong view emerged from the consultations that effective alcohol controls were an important part of the Closing the Gap strategy but that they had to be owned and controlled by the Indigenous people. This legislation does that. In finishing my contribution to the Senate tonight, I want to say that I believe this legislation takes the Northern Territory and the intervention to the next step. I hope the next step is that we stop calling it the intervention and that we start to normalise life in the Northern Territory, but it is legislation that I fully endorse.

Senate adjourned at 8.49 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Australian Bureau of Statistics Act—Proposals Nos—
8 of 2010—Livestock Slaughtered Survey.
9 of 2010—Livestock Coverage Survey.
Civil Aviation Act—
Civil Aviation Regulations—Instrument No. CASA 205/10—Instructions – for approved use of P-RNAV procedures [F2010L01566]*.

Civil Aviation Safety Regulations—
Airworthiness Directives—
AD/BEECH 65/64 Amdt 1—Wing Structural Fatigue Limitation [F2010L01658]*.
AD/F50/102—State of Design Airworthiness Directives [F2010L01613]*.
Instrument No. CASA EX45/10—Exemption – issue of export airworthiness approvals [F2010L01478]*.

Commonwealth Authorities and Companies Act—Notice under section 45—Australian Rail Track Corporation Limited.
Corporations Act—Select Legislative Instrument 2010 No. 135—Corporations Amendment Regulations 2010 (No. 5) [F2010L01585]*.
Health Insurance Act—Health Insurance (Positron Emission Tomography) Facilities Determination 2010 [F2010L01605]*.
Higher Education Support Act—Funding Agreement under section 30-25, in respect of grant years—2009, 2010 and 2011, dated 8 June 2010—The University of Western Australia.
Independent Contractors Act—Select Legislative Instrument 2010 No. 134—Independent Contractors Amendment Regulations 2010 (No. 1) [F2010L01586]*.
National Consumer Credit Protection Act—Select Legislative Instrument 2010 No. 137—National Consumer Credit Protection Amendment Regulations 2010 (No. 3) [F2010L01578]*.
National Health Act—Instruments Nos PB—
54 of 2010—Amendment declaration and determination – drugs and medicinal preparations [F2010L01623]*.
56 of 2010—Amendment determination – responsible persons [F2010L01631]*.
57 of 2010—Amendment determination – price determinations and special patient contributions [F2010L01635]*.
58 of 2010—Amendment determination – conditions [F2010L01622]*.
60 of 2010—Amendment Special Arrangements – Chemotherapy Pharmaceuticals Access Program [F2010L01644]*.
National Health Security Act—Select Legislative Instrument 2010 No. 128—National Health Security Amendment Regulations 2010 (No. 1) [F2010L01071]*.
Primary Industries and Energy Research and Development Act—Select Legislative Instrument 2010 No. 126—Fisheries Research and Development Corporation Amendment Regulations 2010 (No. 1) [F2010L01584]*.
Private Health Insurance Act—
Private Health Insurance (Benefit Requirements) Amendment Rules 2010 (No. 3) [F2010L01646]*.
Private Health Insurance (Complying Product) Amendment Rules 2010 (No. 2) [F2010L01647]*.
Therapeutic Goods Act—Select Legislative Instruments 2010 Nos—
129—Therapeutic Goods Amendment Regulations 2010 (No. 2) [F2010L01285]*.
130—Therapeutic Goods Amendment Regulations 2010 (No. 3) [F2010L01282]*.
* Explanatory statement tabled with legislative instrument.

Tabling

The following government documents were tabled:

Gene Technology Regulator—Quarterly report for the period 1 January to 31 March 2010.
Treaties—Bilateral—Text, together with national interest analysis—
Agreement between the Government of Australia and the Government of Saint


Agreement between the Government of Australia and the Kingdom of the Netherlands, in respect of Aruba, for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments, done at Canberra on 16 December 2009.


(ANZCERTA), done at Canberra on 28 March 1983.
The following answers to questions were circulated:

**Mobile Phones**

(Question No. 2771)

**Senator Bob Brown** asked the Minister representing the Minister for Health and Ageing, upon notice, on 29 March 2010:

1. (a) Has the Government commissioned any review of research into the health effects of mobile phone use; and
   
   (b) Is the Government aware of a greater health risk for children who use mobile phones.

2. (a) Has the Government considered health warnings for mobile phone use; if so, what was the outcome of each consideration; and
   
   (b) At what point would the Government consider there is enough research to warrant health warnings.

3. Is the Government aware of any increase in the incidence of brain tumours in Australia or other developed countries; if so, are there particular age groups where increases are more marked than others.

**Senator Ludwig**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

1. (a) The Australian Radiation and Nuclear Safety Agency (ARPANSA), as the Government’s primary advisor on radiation protection, maintain a continual review of international and Australian scientific research regarding the health effects of radiofrequency (RF) electromagnetic radiation (EMR) emitted by devices such as mobile phones. In 2002, ARPANSA published a scientifically based human exposure Standard that is closely aligned with international guidelines. The limits within this Standard form the basis of regulation by the Australian Communications and Media Authority. ARPANSA is currently undertaking a comprehensive assessment of the research published since the preparation of the Standard, including the latest publications from the Interphone Study Group, with the aim of formulating recommendations regarding the need to review or amend the Standard.
   
   (b) No health risk from exposures to RF EMR below the limits given in current exposure standards have been established for adults or children. Some theoretical studies have shown that absorption and penetration of the RF EMR into the body may be different in children due to differences in anatomy and composition of tissues but no clear relationship with health risk can be determined.

2. (a) The ARPANSA exposure standard includes a requirement to minimise unnecessary or incidental exposure to RF EMR but ARPANSA does not recommend the use of specific health warnings in regard to unknown health risks. ARPANSA continues to inform the Australian community about potential health risks from EMR, including recommending that children should be encouraged to limit exposure from mobile phones to their heads by reducing call time, by making calls where reception is good, by using hands-free devices or speaker options, or by texting.
   
   (b) If, and when, there is scientific evidence that demonstrated that a significant risk to health could be reduced through the use of health warnings, ARPANSA would expect to make recommendations in that respect together with other regulatory and policy responses.
(3) As reported by the International Agency for Research on Cancer (IARC), the incidence over the last few decades of brain tumours has increased in most developed countries, mainly in the older age groups. This increase was confined to the late 1970s and early 1980s and coincided with the introduction of improved diagnostic methods. IARC reports, in their World Cancer Report 2008, that ‘After 1983 and more recently during the period of increasing prevalence of mobile phone users, the incidence has remained relatively stable for both men and women.’ Data from the Australian Institute of Health and Welfare shows that the Australian age-standardised incidence rates of brain cancer, and gliomas and meningiomas specifically, (all age groups combined, as well as for 15–19 year olds and 20–24 year olds) have been stable over the 10-year period 1996–2005. A recent paper reported that an analysis of statistics from the Central Brain Tumor Registry of the United States (CBTRUS) showed a statistically significant increase in benign brain tumor incidence but commented that no firm conclusions can be drawn regarding the reasons for such changes. Others have noted that legal requirements for increased surveillance of benign tumours may explain why the CBTRUS figures do not represent international trends.

**Defence: Export Approvals**

*(Question No. 2792)*

Senator Ludlam asked the Minister for Defence, upon notice, on 27 April 2010:

With reference to the answers provided to questions on notice nos 2592 (Senate *Hansard*, 9 March 2010, p. 1454) and 2752:

(1) For the 2008-09 financial year, what were the ‘top 200’ defence export approvals by value, excluding duplicates that result from ‘a company applying to renew a six month permit within the year’ and the 116 entries for chemicals, none of which were approvals for foreign military customers.

(2) Is the duplication of $21 000 000 of military body armour sold to Israel in the answer to question on notice no. 2592, correct, therefore totalling the amount of military body armour to $49 500 000, or is the correct total $28 500 000.

(3) On what date was the export of military body armour to Israel cleared through Australia’s export control policy criteria.

(4) On what grounds was it was deemed that there was no identifiable risk that such military exports to Israel would be used to ‘commit or facilitate serious human rights abuses’ or ‘might contribute to instability in the region or aggravate a threat to international and regional peace and security or aggravate the situation in a region which becomes a cause of serious concern’.

Senator Faulkner — The answer to the honourable senator’s question is as follows:

(1) The ‘top 200’ export approvals by value of goods categorised under the Military List of the Defence and Strategic Goods List (DSGL), excluding duplicates for six month permit renewals and the 116 entries for chemicals, are listed below. The nature of the goods is listed under the relevant control category of the DSGL. The exports listed reflect the export approvals granted by Defence; this does not confirm that the goods were actually exported. Similarly, the values and quantities are those provided to Defence by applicants. Authoritative information on actual export transactions would need to be obtained from the Australian Customs and Border Protection Service.

(2) A review of data found that a duplicate permit had been issued for the export of goods to Israel. The duplication occurred due to two copies of the completed application being received by DECO. Excluding the duplicate, the permits issued for this category to Israel total $28 5000 000. On the list provided in answer to question on notice no. 2592 the goods were described as ‘military body armour’ instead of the full description ‘military armour and/or protective equipment’. The goods for export were in fact armour plate for use in the production of mine resistant vehicles.

(3) The two duplicate permits were issued on 11 and 15 July 2008.
(4) The stated end-use was for the goods to be used for production in Israel of mine resistant protected vehicles by an Israeli company under contract for a close ally of Australia. On this basis it was assessed that there was no identifiable risk that this military export to Israel would be used to ‘commit or facilitate serious rights abuses’, or ‘might contribute to instability in the region or aggravate a threat to international and regional peace and security or aggravate the situation in a region which becomes a cause of serious concern’.

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Employment and Workplace Relations: Compensation Payments
(Question No. 2819)

Senator Cash asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 3 May 2010:

(1) Are compensation payments under the Safety, Rehabilitation and Compensation Act 1988 payable to employees over 65 years of age; if not, why not?
(2) Is there any statutory barrier or impediment regarding compensation payments imposed on an employee over the age of 65 years compared to an employee less than 65 years; if so, what are they?

Senator Arbib—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

Under the Safety, Rehabilitation and Compensation Act 1988 (SRC Act), hospital, medical and rehabilitation costs as well as compensation for household and attendant care services are payable regardless of age. Lump sum compensation for permanent impairment and for non-economic loss are also payable regardless of age.

Weekly income replacement payments are limited to the age of 65, with the exception that payments are payable for a maximum of 104 weeks where an injury occurs at any age on or after age 63.

The age 65 limitation on income replacement payments under the SRC Act reflects the fact that, from this time, workers become eligible for the age pension and/or are able to access their superannuation.

The House of Representatives Standing Committee on Legal and Constitutional Affairs tabled a report on 20 September 2007, Older People and the Law, which included a recommendation that the Australian Government, in cooperation with state and territory governments, review the application of workers compensation legislation to ensure that older workers are not disadvantaged.

In its response, tabled on 26 November 2009, the Government accepted this recommendation and advised as follows:

The Australian Government believes there is nothing more important for working Australians and their families than ensuring the health and safety of Australian workers. When a worker is injured we must ensure they have appropriate support, both financially and in returning to work where possible.

The Australian Government has established Safe Work Australia as a new national independent tripartite body to lead the reform and implementation of nationally consistent occupational health and safety laws and streamlined access to workers’ compensation. Safe Work Australia’s functions include the development of national policy relating to workers’ compensation and the development of proposals for harmonising workers’ compensation arrangements across jurisdictions. The Australian Government will refer this recommendation to Safe Work Australia for consideration.

On 20 January 2010, this matter was formally referred to Safe Work Australia for consideration and appropriate action. Safe Work Australia’s Strategic Issues Group on Workers’ Compensation is considering this issue.

Global Currency
(Question No. 2827)

Senator Bob Brown asked the Minister representing the Treasurer, upon notice, on 20 May 2010:

What is the Government’s position on: (a) adopting a new global currency as advocated by the managing director of the International Monetary Fund (IMF) and Professor Robert Mundell; and (b) the IMF’s special drawing rights playing a greater role in the international monetary system.
Senator Sherry—The Treasurer has provided the following answer to the honourable senator’s question:

(a) The Managing Director of the International Monetary Fund (IMF) Mr Dominique Strauss-Kahn has not advocated the adoption of a new global currency. In his concluding remarks, at the High-Level Conference on the International Monetary System in Zurich, 11 May 2010, on the in-principle merits of moving to a new global currency, he said that “any such step requires considerably more debate on its merits,... as well as of its feasibility, given the very substantial multilateral effort required. I fear we are still very far from that level of global collaboration.”

The Australian Government believes that the dialogue on global reserve currency is still in its very early stages.

(b) The IMF allocated 182.6 billion Special Drawing Rights (SDRs) to its members on 28 August 2010 and 9 September 2010 to increase global liquidity, as called for by G20 Leaders as part of their global plan for recovery and reform. The increase in the number of SDRs on issue from 21.4 billion to 204.1 billion means that they will play a greater role in the international monetary system, although even after these allocations they represent only around 4 per cent of international reserves.

The IMF is currently reviewing its mandate, including policy options to affect the functioning of the international monetary system and will report to the International Monetary and Financial Committee (IMFC) in October 2010. As part of this review it will consider the role of the SDR. The Government supported the allocations of SDRs in 2009 and considers the long-term role of the SDR should be informed by the IMF’s review.